

1 [Settlement of Lawsuit]

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4 **Ordinance authorizing settlement of lawsuits filed by Transdyn/Cresci Joint Venture**
5 **("Joint Venture") against the City and County of San Francisco (the "City") seeking an**
6 **unspecified amount of damages; the first lawsuit was filed by JMB Construction, Inc.**
7 **against the Joint Venture on May 28, 2003 as *JMB Construction, Inc. v. Transdyn/Cresci***
8 ***Joint Venture et al.* Various cross-actions were filed, including an action filed by the**
9 **Joint Venture against the City. The actions were coordinated as the SCADA cases in**
10 **Alameda County Superior Court, JCCP 004364. The action between the Joint Venture**
11 **and the City went to trial. The jury awarded a net judgment to the Joint Venture, and**
12 **the trial court entered judgment (including costs) against the City in the amount of**
13 **\$4,874,200.16. Cross-appeals were filed by both the Joint Venture and the City. The**
14 **material terms of this settlement are: 1) The City will pay a total of \$4,973,143.27 to the**
15 **Joint Venture for the judgment and interest on the judgment; and 2) The City will pay**
16 **\$950,000 to settle all remaining issues, including the Joint Venture's claim for**
17 **attorney's fees.**

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19 Be it ordained by the People of the City and County of San Francisco:

20 Section 1. The City Attorney is hereby authorized to settle the action entitled *JMB*
21 *Construction v. Transdyn/Cresci Joint Venture et al. (the SCADA Cases)*, Alameda County
22 Superior Court Case No. JCCP 004364, as follows:

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1 1) The City will pay \$4,973,143.27 as judgment and interest on the jury verdict broken
2 down as follows:

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4 a) On the judgment of \$4,873,200.16, and

5 b) Interest of \$99,943.11.

6 2) The City will pay an additional \$950,000 in settlement of all appellate claims,
7 including any claims for attorney's fees.

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9 Section 2. The above-named actions were coordinated in the Alameda County
10 Superior Court with other actions on or about July 1, 2004. The following parties remained in
11 the lawsuits: 1) Transdyn/Cresci Joint Venture (cross-complainant and cross-defendant). and
12 2) the City And County of San Francisco (cross-defendant and cross-complainant).

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14 APPROVED AS TO FORM AND
15 RECOMMENDED:

16 DENNIS J. HERRERA
17 City Attorney

RECOMMENDED:

SAN FRANCISCO PUBLIC UTILITIES
COMMISSION

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19 DANNY CHOU
Supervising Deputy City Attorney

Edward Harrington
General Manager

20 FUNDS AVAILABLE:

APPROVED:

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Controller

SECRETARY
SAN FRANCISCO PUBLIC UTILITIES
COMMISSION

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