

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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25 OFFICE OF THE CITY ATTORNEY

BOARD OF SUPERVISORS

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

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

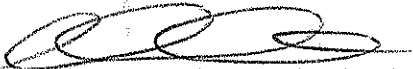
4 b) Interest of \$99,943.11.

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

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

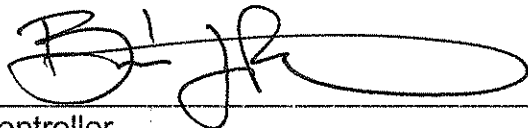
12
13 APPROVED AS TO FORM AND
14 RECOMMENDED:

15 DENNIS J. HERRERA
16 City Attorney

17 

18 DANNY CHOU
19 Supervising Deputy City Attorney

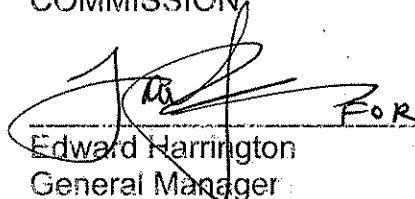
20 FUNDS AVAILABLE:

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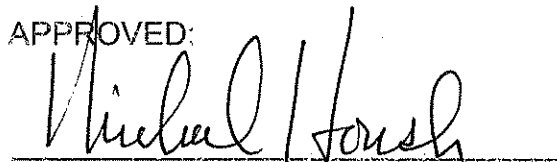
23 Controller
24 BEN ROSENFELD

RECOMMENDED:

SAN FRANCISCO PUBLIC UTILITIES
COMMISSION

25  For
Edward Harrington
General Manager

APPROVED:


SECRETARY
SAN FRANCISCO PUBLIC UTILITIES
COMMISSION

OFFICE OF THE CITY ATTORNEY

BOARD OF SUPERVISORS



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Ordinance

File Number: 090501

Date Passed:

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

June 16, 2009 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Mar, Maxwell,
Mirkarimi

Excused: 1 - Elsbernd

June 23, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar,
Maxwell, Mirkarimi

File No. 090501

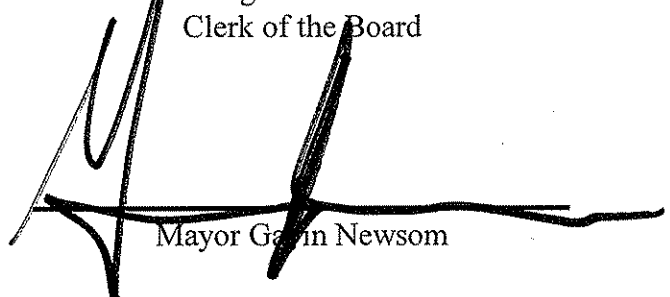
I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on June 23, 2009 by
the Board of Supervisors of the City and
County of San Francisco.



Angela Calvillo
Clerk of the Board



Date Approved



Mayor Gavin Newsom