

1 [Settlement Of Lawsuit]

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3 **Ordinance authorizing settlement of the lawsuit filed by the City and County of San**  
4 **Francisco against Mirant Potrero L.L.C. on June 19, 2001 in United States District Court**  
5 **– Northern District of California, Case No. C-01-2356 PJH; entitled City and County of**  
6 **San Francisco, et al., v. Mirant Potrero L.L.C.; which settlement provides that Mirant**  
7 **will pay the City \$100,000, and that Mirant will not operate the Peaker units located at**  
8 **the Potrero Power Plant, known as Units 4, 5, and 6, beyond their permitted operational**  
9 **hours of 877 hours per year, except as expressly permitted by or pursuant to the Bay**  
10 **Area Air Quality Management District Rule 9-9, Mirant’s permits, and all other**  
11 **applicable laws, rules, regulations and order.**

12  
13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The City Attorney is hereby authorized to settle the action entitled "City and  
15 County of San Francisco, et al., v. Mirant Potrero L.L.C.", United States District Court –  
16 Northern District of California, Court No. C-01-2356 PJH by Mirant’s payment to the City of  
17 \$100,000, of which \$ 25,000 will reimburse the City Attorney’s Office for a portion of the costs  
18 and attorneys’ fees incurred prosecuting this case, and \$ 75,000 will be used for community  
19 health programs in the neighborhoods affected by emissions from the peakers. In addition,  
20 under the settlement Mirant must comply with the following terms: (1) for the remainder of  
21 2001, Mirant (i) will not run Potrero Units 5 and 6; and (ii) will run Potrero Unit 4 only up to  
22 877 operating hours for each engine; and (2) for 2002, Mirant will not operate Potrero Units 4,  
23 5, and 6 in excess of 877 hours per engine , except as expressly permitted under Bay Area  
24 Air Quality Management District Rule 9-9, as incorporated into the Clean Air Act State  
25 Implementation Plan, Mirant’s permits, and all other applicable laws, rules, regulations and

1 orders, excluding (i) Bay Area Air Quality Management District, Compliance and Mitigation  
2 Agreement with Mirant Potrero LLC (March 30, 2001) and (ii) In re Mirant Potrero LLC,  
3 Potrero Generating Facility, United States Environmental Protection Agency, Administrative  
4 Order on Consent, Docket No. R9-2001-04 (April 6, 2001).

5 Section 2. The above-named action was filed in United States District Court – Northern  
6 District of California on June 19, 2001, and the following parties were named in the lawsuit:  
7 City and County of San Francisco and the People of the State of California, by and through  
8 Louise H. Renne, City Attorney for the City and County of San Francisco, Plaintiffs, and Mirant  
9 Potrero LLC, Defendant.

10 Section 3. Within 60 days after the City receives payment of the \$100,000 from Mirant,  
11 the Department of Public Health shall select a community-based public health program to  
12 receive the \$75,000, and shall establish a mechanism to ensure that the money is used  
13 appropriately by the program. The program shall address public health impacts related to air  
14 pollution in the communities affected by emissions from Units 4, 5 and 6. After selection of a  
15 program, the Department of Public Health shall report to the Public Health and Environment  
16 Committee on how the money will be used.

17 APPROVED AS TO FORM AND  
18 RECOMMENDED:

19 LOUISE H. RENNE  
20 City Attorney

21   
22 THERESA L. MUELLER  
23 Deputy City Attorney  
24  
25



# City and County of San Francisco

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

## Tails Ordinance

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**File Number:** 011940

**Date Passed:**

Ordinance authorizing settlement of the lawsuit filed by the City and County of San Francisco against Mirant Potrero L.L.C. on June 19, 2001 in United States District Court - Northern District of California, Case No. C-01-2356 PJH; entitled City and County of San Francisco, et al., v. Mirant Potrero L.L.C.; which settlement provides that Mirant will pay the City \$100,000, and that Mirant will not operate the Peaker units located at the Potrero Power Plant, known as Units 4, 5, and 6, beyond their permitted operational hours of 877 hours per year, except as expressly permitted by or pursuant to the Bay Area Air Quality Management District Rule 9-9, Mirant's permits, and all other applicable laws, rules, regulations and order.

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January 7, 2002 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,  
Newsom, Peskin, Sandoval

Absent: 1 - Yee



# City and County of San Francisco

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January 7, 2002 Board of Supervisors — PASSED, ON FIRST READING

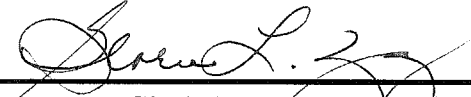
Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,  
Newsom, Peskin, Sandoval  
Absent: 1 - Yee

January 14, 2002 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, McGoldrick, Newsom, Peskin,  
Sandoval, Yee  
Absent: 1 - Maxwell

File No. 011940

I hereby certify that the foregoing Ordinance was FINALLY PASSED on January 14, 2002 by the Board of Supervisors of the City and County of San Francisco.

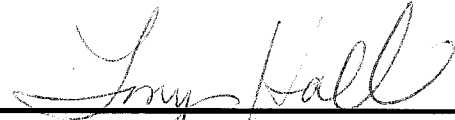


Gloria L. Young  
Clerk of the Board

JAN 25 2002

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Date Approved



Mayor Willie L. Brown Jr.