

FILE NO. 010512

RESOLUTION NO. 277-01

1 [Settlement Obligation Bond Issuance.]
2

3 **Resolution providing for the issuance of not to exceed \$69,060,000 aggregate principal**
4 **amount of City and County of San Francisco Settlement Obligation Bonds, Series 2001**
5 **(Business Tax Judgment); authorizing the execution, authentication and registration of**
6 **said bonds; providing for an annual appropriation to pay the principal and interest**
7 **thereof; providing for the appointment of depositories and other agents for said bonds;**
8 **providing for the establishment of accounts relating thereto; ratifying certain actions**
9 **previously taken; and granting general authority to City officials to take necessary**
10 **actions in connection with the authorization, issuance, sale and delivery of said bonds.**

11
12 WHEREAS, The City and County of San Francisco (the "City") is subject to a final
13 judgment to be rendered pursuant to Section 998 of the Code of Civil Procedure of the State
14 of California by the Superior Court of the County of San Francisco in connection with various
15 business tax cases as more fully described in Ordinance No. 62-01 adopted by the
16 Board of Supervisors on April 23, 2001 (the "Judgment"), pursuant to which the City is
17 obligated to pay, together with interest on the Judgment and related attorneys' fees, an
18 amount expected to be not less than \$64,000,000; and,

19 WHEREAS, The City is authorized pursuant to the provisions of Section 9.111 of the
20 Charter of the City and County of San Francisco (the "Charter") and Articles 10 and 11 of
21 Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California,
22 commencing with Section 53570 of said Code (the "Refunding Law" and, together with the
23 Charter, the "Law"), to issue its bonds for the purpose of refunding certain outstanding
24 obligations of the City, including the Judgment; and,

25
SUPERVISOR AARON PESKIN
BOARD OF SUPERVISORS

1 WHEREAS, This Board of Supervisors has determined, and does hereby declare that it
2 is necessary and desirable to issue Bonds of the City to be designated "City and County of
3 San Francisco Settlement Obligation Bonds, Series 2001 (Business Tax Judgment)" (the
4 "Bonds") in an aggregate principal amount not to exceed \$69,060,000, in order to refund the
5 Judgment, and to institute judicial proceedings to determine the validity thereof on the
6 conditions set forth in this Resolution of the Board of Supervisors (this "Resolution"); and,

7 WHEREAS, The Bonds will be payable from proceeds of annual appropriations from
8 any source of legally available funds of the City, including the General Fund of the City, as
9 provided herein;

10 NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the City and
11 County of San Francisco, as follows:

12 Section 1. Recitals. All of the recitals herein are true and correct.

13 Section 2. Conditions Precedent. All conditions, things and acts required by law to
14 exist, to happen and to be performed precedent to and in the issuance of the Bonds exist,
15 have happened and have been performed in due time, form and manner in accordance with
16 the Law, and the City is now authorized pursuant to the Law to incur indebtedness in the
17 manner and form provided in this Resolution.

18 Section 3. Issuance of Bonds. The Board of Supervisors hereby authorizes the
19 issuance and sale of not to exceed \$69,060,000 aggregate principal amount of the Bonds,
20 payable from the General Fund of the City for the purpose of refunding the Judgment and
21 paying certain expenses relating to the issuance of the Bonds as set forth in Section 4 of this
22 Resolution.

23 Section 4. Payment of Costs of Issuance. The Board of Supervisors hereby
24 authorizes the expenditure of a portion of the proceeds of the Bonds for the payment of
25 certain costs of issuance incurred in connection with the issuance and sale of the Bonds.

1 Section 5. Sale of Bonds. The Bonds shall be sold on the terms and conditions
2 approved by the Board of Supervisors in this Resolution and in the resolution of the Board of
3 Supervisors authorizing and directing the sale of the Bonds.

4 Section 6. Execution and Authentication. The resolution of the Board of Supervisors
5 authorizing and directing the issuance and sale of the Bonds shall set forth the form of the
6 Bonds, with such necessary or appropriate variations, omissions and insertions as may be
7 permitted by such resolution. "CUSIP" identification numbers may be imprinted on the Bonds,
8 but such numbers shall not constitute a part of the contract evidenced by the Bonds and any
9 error or omission with respect thereto shall not constitute cause for refusal of any purchaser to
10 accept delivery of and pay for the Bonds. In addition, failure on the part of the City to use
11 such CUSIP numbers in any notice to Owners of the Bonds shall not constitute an event of
12 default or any violation of the City's contract with such Owners and shall not impair the
13 effectiveness of any such notice.

14 The Bonds shall be signed by the Mayor of the City and the City Treasurer (the "City
15 Treasurer"), and countersigned by the Clerk of the Board of Supervisors whose signature
16 shall be countersigned by a Deputy Clerk of the Board of Supervisors pursuant to
17 Section 2.40 of the San Francisco Administrative Code. Except for the countersignature of a
18 Deputy Clerk of the Board of Supervisors, which shall be a manual signature, all signatures
19 hereinbefore referred to may be facsimile or manual. The Clerk of the Board of Supervisors
20 shall cause the official seal of the Board of Supervisors to be impressed or printed on each of
21 the specimen Bonds, the City Treasurer shall authenticate the Bonds, and when so executed
22 and authenticated, the Clerk of the Board of Supervisors shall deliver the Bonds to or for the
23 account of the purchaser in exchange for the purchase price thereof.

24 If any officer whose signature or countersignature appears on the specimen Bonds
25 shall cease to be an officer before the delivery of such Bonds to the purchaser, such signature

1 or countersignature shall nevertheless be valid and sufficient for all purposes as if such officer
2 had remained in office until the delivery of the Bonds.

3 Section 7. Judicial Validation. In order to determine the validity of the Bonds, the
4 Board of Supervisors hereby authorizes the City Attorney and Jones Hall, A Professional Law
5 Corporation, Bond Counsel to the City, to prepare and cause to be filed and prosecuted to
6 completion all proceedings required for the judicial validation of the Bonds in the Superior
7 Court of the County of San Francisco, under and pursuant to the provisions of Sections 860
8 *et. seq.* of the Code of Civil Procedure of the State of California.

9 Section 8. Transfer or Exchange and Registration of Bonds. Any Bond may be
10 transferred or exchanged in accordance with its terms and the resolution of the Board of
11 Supervisors authorizing and directing its sale. Each Bond shall be registered in accordance
12 with the resolution of the Board of Supervisors authorizing and directing its sale.

13 Section 9. General Redemption Provisions. The terms of redemption (whether
14 optional redemption or mandatory redemption), if any, of any Bonds and the manner
15 prescribed for notice of any redemption of such Bonds shall be set forth in the resolution of
16 the Board authorizing and directing the sale of the Bonds to be redeemed.

17 The resolution of the Board authorizing and directing the sale of the Bonds shall
18 provide that the City Treasurer shall establish a Redemption Account for such Bonds and
19 shall further provide for the deposit and application of moneys in such Redemption Account.

20 Section 10. Annual Appropriation. For the purpose of paying the principal of and
21 interest on the Bonds, the Board of Supervisors of the City shall take such actions annually as
22 are necessary or appropriate to cause the debt service on the Bonds due in any fiscal year to
23 be included in the budget for such fiscal year and to make the necessary appropriations
24 therefor from any legally available funds, including the General Fund, to ensure that sufficient
25 sums are available to pay the annual principal of and interest on the Bonds as the same

1 become due. The obligations of the City under the Bonds, including the obligation to make all
2 payments of interest and principal when due, are obligations of the City imposed by law and
3 are absolute and unconditional. The Bonds do not constitute an obligation of the City for
4 which the City is obligated to levy or pledge any form of taxation. Neither the Bonds nor the
5 obligation of the City to make payments on the Bonds constitute an indebtedness of the City,
6 the State of California, or any of its political subdivisions within the meaning of any
7 constitutional or statutory debt limitations or restriction.

8 All monies set aside pursuant to this Section 10 shall be deposited forthwith in a
9 special account to be designated as the "Settlement Obligation Bonds, Series 2001 (Business
10 Tax Judgment) Bond Account" (the "Bond Account"). Such account shall be administered by
11 the City Treasurer and kept separate and apart from all other accounts. Pursuant to the
12 resolution of the Board of Supervisors authorizing and directing the issuance and sale of the
13 Bonds, the City Treasurer may establish such additional accounts and subaccounts within the
14 Bond Account or with any agent, including but not limited to any paying agent or fiscal agent,
15 as may be necessary or convenient in connection with the administration of the Bonds.

16 The City Treasurer shall also deposit in the Bond Account from the proceeds of sale of
17 the Bonds, any moneys received on account of interest accrued on the Bonds to the date of
18 payment of the purchase price thereof, and such other moneys, if any, as may be specified in
19 the resolution of the Board of Supervisors authorizing and directing the sale of the Bonds. So
20 long as any of the Bonds are outstanding, moneys in the Bond Account shall be used and
21 applied by the City Treasurer solely for the purpose of paying the principal of and interest on
22 the Bonds as such principal and interest shall become due and payable, or for purchase of
23 Bonds if permitted by the Resolution providing for the sale of the Bonds; provided, however,
24 that when all of the principal of and interest on the Bonds have been paid, any moneys then
25 remaining in said account shall be transferred to the General Fund of the City.

1 Section 11. Administration and Disbursements From Bond Account.

2 (a) Interest. On or before March 15 and September 15 in each year that any Bond is
3 outstanding, commencing March 15, 2002 (or such ~~later year~~ other dates as shall be designated
4 in a certificate of the Director of Public Finance), the City Treasurer shall transfer from the
5 General Fund and set aside in the Bond Account an amount which, when added to the
6 amount contained in the Bond Account on that date, if any, will be equal to the aggregate
7 amount of the interest becoming due and payable on the Bonds outstanding on such interest
8 payment date.

9 (b) Principal. On or before March 15 in each year that any Bond is outstanding,
10 commencing March 15, 2002 (or such ~~later year~~ other dates as shall be designated in a
11 certificate of the Director of Public Finance), the City Treasurer shall transfer from the General
12 Fund and set aside in the Bond Account an amount which will be equal to the principal on the
13 Bonds outstanding that will become due and payable on such March 15, including those
14 Bonds subject to mandatory redemption on such date pursuant to the provisions of the
15 resolution authorizing the issuance and sale of such Bonds.

16 All moneys in the Bond Account shall be used and withdrawn by the City Treasurer
17 solely for the purpose of paying the principal of and interest on the Bonds as the same shall
18 become due and payable. Unless other provisions shall have been made pursuant to this
19 Resolution for the payment of any Bond, all amounts held in the Bond Account shall be used
20 and applied by the City Treasurer to pay principal of, premium, if any, and interest due on the
21 Bonds, as and when due.

22 Section 12. Appointment of Depositories and Other Agents. The City Treasurer is
23 hereby authorized and directed to appoint one or more depositories as he or she may deem
24 desirable and may authorize such depository to perform any of the duties and responsibilities
25 of the City Treasurer under this Resolution under the supervision of the City Treasurer, to the

1 extent permitted by applicable law. The City will not have any responsibility or obligation to
2 any purchaser of a beneficial ownership interest in any Bonds or to any participants in such a
3 depository with respect to (i) the accuracy of any records maintained by such securities
4 depository or any participant therein; (ii) any notice that is permitted or required to be given to
5 the owners of the Bonds under this Resolution; (iii) the selection by such securities depository
6 or any participant therein of any person to receive payment in the event of a partial
7 redemption of the Bonds; (iv) the payment by such securities depository or any participant
8 therein of any amount with respect to the principal or redemption premium, if any, or interest
9 due with respect to the Bonds; (v) any consent given or other action taken by such securities
10 depository as the owner of the Bonds; or (vi) any other matter.

11 The City Treasurer is hereby also authorized and directed to appoint one or more
12 agents as he or she may deem necessary or desirable. To the extent permitted by applicable
13 law and under the supervision of the City Treasurer, such agents may serve as paying agent,
14 fiscal agent, escrow agent or registrar for the Bonds or may assist the City Treasurer in
15 performing any or all of such functions and such other duties as the City Treasurer shall
16 determine including such duties and responsibilities of the City Treasurer provided for in this
17 Resolution. Such agents shall serve under such terms and conditions as the City Treasurer
18 shall determine. The City Treasurer may remove or replace agents appointed pursuant to this
19 paragraph at any time.

20 Section 13. Payment Account. There is hereby established an account to be
21 designated as the "Settlement Obligation Bonds, Series 2001 (Business Tax Judgment)
22 Payment Account" (the "Payment Account"). The Payment Account shall be maintained by
23 the City Treasurer, as a separate account, segregated and distinct from all other accounts.
24 The City Treasurer may establish such accounts and subaccounts within the Payment
25

1 Account as may be necessary or convenient in connection with the administration of the
2 Bonds.

3 All of the proceeds of the sale of the Bonds, excluding any premium and accrued
4 interest received thereon, shall be deposited by the City Treasurer to the credit of the
5 Payment Account and shall be applied exclusively to refund the Judgment as set forth in
6 Section 3 hereof and to pay the cost of issuance of the Bonds as set forth in Section 4 hereof.
7 When such objects and purposes have been accomplished, any moneys remaining in such
8 account shall be transferred to the Bond Account established pursuant to Section 10 hereof
9 and applied to the payment of the principal of and interest on any Bond. Amounts in the
10 Payment Account may be applied to the payment of costs of issuance of the Bonds, including,
11 without limitation, bond and financial printing expenses, mailing and publication expenses,
12 rating agency fees, and the fees and expenses of paying agents, registrars, financial
13 consultants and bond counsel.

14 Section 14. Defeasance Provisions. The resolution of the Board authorizing and
15 directing the sale of the Bonds may provide for the defeasance of the Bonds. Any Bonds
16 which have been deemed paid in accordance with the defeasance provisions of the Board
17 resolution authorizing and directing their sale shall no longer be deemed outstanding under
18 this Resolution.

19 Section 15. Tax Covenants. The Bonds shall be issued as bonds the interest on which
20 is excluded from gross income for federal or state income tax purposes and the City shall
21 make such covenants and representations as are necessary or convenient to comply with
22 applicable laws and regulations.

23 Section 16. Other Terms and Provisions Relating To the Bonds. The resolution of the
24 Board providing for the sale of the Bonds may provide for (a) the purchase of bond insurance
25 or other credit enhancement relating to the Bonds and to the establishment of such additional

1 terms and procedures as may be necessary to provide for the application of such bond
2 insurance or other credit enhancement for the benefit of the Bondholders; and (b) the
3 investment of moneys held in any fund or account relating to the Bonds in specific categories
4 or types of investments, so long as such investments are legal investments for the City and in
5 compliance with any policy or guideline of the City applicable thereto.

6 Section 17. Supplemental Resolutions. For any one or more of the following purposes
7 and at any time or from time to time, a supplemental resolution of the City may be adopted,
8 which, without the requirement of consent of the owners of the Bonds, shall be fully effective
9 in accordance with its terms:

10 (a) To add to the covenants and agreements of the City in this Resolution or other
11 covenants and agreements to be observed by the City which are not contrary to or
12 inconsistent with this Resolution;

13 (b) To add to the limitations and restrictions in this Resolution or other limitations and
14 restrictions to be observed by the City which are not contrary to or inconsistent with this
15 Resolution;

16 (c) To confirm, as further assurance, any pledge under, and the subjection to any lien
17 or pledge created or to be created by, this Resolution, of any moneys, securities or funds, or
18 to establish any additional funds or accounts to be held under this Resolution;

19 (d) To cure any ambiguity, supply and omission, or cure or correct any defect or
20 inconsistent provision in this Resolution; or

21 (e) To make such additions, deletions or modifications as may be necessary to assure
22 compliance with applicable provisions of law.

23 Any modification or amendment of this Resolution and of the rights and obligations of
24 the City and of the owners of the Bonds, in any particular, may be made by a supplemental
25 resolution, with the written consent of the owners of at least a majority in aggregate principal

1 amount of the Bonds outstanding at the time such consent is given. No such modification or
2 amendment shall permit a change in the terms or maturity of the principal of any outstanding
3 Bonds or of any interest payable thereon or a reduction in the principal amount thereof or in
4 the rate of interest thereon, or shall reduce the percentage of Bonds the consent of the
5 owners of which is required to effect any such modification or amendment, or shall reduce the
6 amount of moneys for the repayment of the Bonds without the consent of all the owners of
7 such Bonds.

8 Section 18. Ratification. All actions heretofore taken by officials, employees and
9 agents of the City with respect to the sale and issuance of the Bonds are hereby approved,
10 confirmed and ratified.

11 Section 19. General Authority. The Clerk of the Board of Supervisors, the Mayor, the
12 City Treasurer, the City Administrator, the City Attorney, the Controller, the Director of Public
13 Finance, and their respective designees, are each hereby authorized and directed in the
14 name and on behalf of the City to take any and all steps and to issue and deliver any and all
15 certificates, requisitions, agreements, notices, consents, and other documents, including but
16 not limited to, letters of representations to any depository or depositories which they or any of
17 them might deem necessary or appropriate in order to consummate the lawful issuance, sale
18 and delivery of the Bonds and otherwise to give effect to this Resolution.

19
20 APPROVED AS TO FORM:

21 LOUISE H. RENNE, City Attorney

22
23 By: 
24 THERESA ALVAREZ
Deputy City Attorney

25
SUPERVISOR AARON PESKIN
BOARD OF SUPERVISORS



City and County of San Francisco

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

Tails Resolution

File Number: 010512

Date Passed:

Resolution providing for the issuance of not to exceed \$69,060,000 aggregate principal amount of City and County of San Francisco Settlement Obligation Bonds, Series 2001 (Business Tax Judgment); authorizing the execution, authentication and registration of said bonds; providing for an annual appropriation to pay the principal and interest thereof; providing for the appointment of depositories and other agents for said bonds; providing for the establishment of accounts relating thereto; ratifying certain actions previously taken; and granting general authority to City officials to take necessary actions in connection with the authorization, issuance, sale and delivery of said bonds.

April 2, 2001 Board of Supervisors — CONTINUED

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

Excused: 1 - Newsom

April 9, 2001 Board of Supervisors — CONTINUED

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

Excused: 1 - Newsom

April 16, 2001 Board of Supervisors — ADOPTED

Ayes: 6 - Ammiano, Hall, Leno, Maxwell, McGoldrick, Peskin

Noes: 4 - Daly, Gonzalez, Sandoval, Yee

Excused: 1 - Newsom

File No. 010512

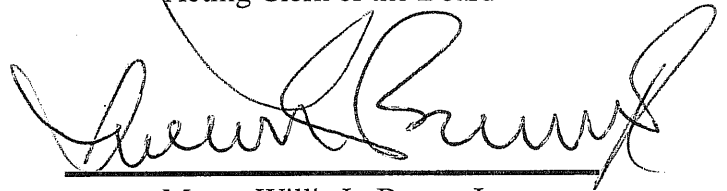
I hereby certify that the foregoing Resolution was ADOPTED on April 16, 2001 by the Board of Supervisors of the City and County of San Francisco.



Jean Lum
Acting Clerk of the Board

APR 20 2001

Date Approved



Mayor Willie L. Brown Jr.