

1 [Settlement of San Francisco's potential claims against companies for advertisements
2 stenciled on city sidewalks for reimbursement to city in the amount of \$19,685.93 and
3 \$100,000 payment to the San Francisco Clean City Program.]

4 **Resolution approving settlement of San Francisco's potential claims for fines,**
5 **penalties and damages against IBM, Ogilvy & Mather and Mindshare arising out of their**
6 **participation in the stenciling of advertisements on City sidewalks. Under the**
7 **settlement, the companies shall: (1) pay \$19,685.93 to San Francisco to reimburse the**
8 **City for its out-of-pocket costs arising out of the incident; (2) make a \$100,000.00**
9 **payment to the San Francisco Clean City Program; (3) clean and remove any stenciled**
10 **images found to be remaining on City property; and (4) refrain from participating in**
11 **similar acts in the future. In exchange, San Francisco shall release the companies from**
12 **potential claims arising out of the stencils and rescind a previous resolution relating to**
13 **this subject.**

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15 WHEREAS, On April 18, 2001, the Department of Public Works began to receive
16 complaints about advertising images stenciled on City sidewalks without the permission of the
17 City and County of San Francisco; and

18 WHEREAS, The City publicly expressed its disapproval of the images by enacting
19 Resolution No. 010783, which, among other things, required the Department of Public Works
20 to track its costs in responding to the images and urged the City Attorney's Office to take
21 certain action; and

22 WHEREAS, When International Business Machine Corporation, Ogilvy & Mather, a
23 Division of the Ogilvy Group, and Mindshare USA, Inc. (hereafter, the "Companies") learned
24 of the City's reaction to the images, they took immediate steps to cease the stenciling and to
25 clean and remove the existing images from City sidewalks; and

1 WHEREAS, The Companies have expressed their commitment to cleaning and
2 removing from City property any image not yet so cleaned and removed at no further expense
3 to the City; and

4 WHEREAS, The Companies have also expressed their commitment to ameliorating
5 any harm that the images caused to the City; and

6 WHEREAS, The Department of Public Works incurred costs and expenses in the
7 amount of \$10,755.93 in connection with the stenciled images; and

8 WHEREAS, The Office of the City Attorney performed services in connection with the
9 incident in the amount of \$8,930.00; and

10 WHEREAS, The Companies and the City desire and have agreed to resolve any and
11 all of the City's potential claims against the Companies for fines, penalties and damages
12 arising out of their participation in the stenciling of advertisements on City sidewalks; and

13 WHEREAS, Under an agreement between the Companies and the City, the
14 Companies shall (1) pay the city \$19,685.93 to reimburse the City for its out-of-pocket costs
15 arising out of the images, (2) make a \$100,000.00 payment to the San Francisco Clean City
16 Program, a nonprofit organization, (3) clean and remove any images reported to be remaining
17 on City property through December 31, 2001, and (4) refrain from participating in similar acts
18 in the future.

19 WHEREAS, Under the Agreement the City, in turn, shall release and discharge the
20 Companies from any and all claims for fines, penalties and damages as a consequence of the
21 images and rescind Board Resolution 010783; and

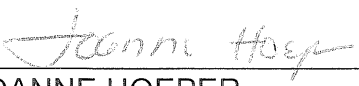
22 WHEREAS, On file with the Clerk of the Board of Supervisors in File No. 012136, which
23 sets forth the specific terms of the agreement between the Companies and the City, and
24 which is hereby declared to be a part of this resolution as if set forth fully herein; and
25

1 WHEREAS, The issues and concerns that were stated in Board Resolution 010783
2 have been addressed and resolved to the City's satisfaction pursuant to this agreement; now,
3 therefore, be it

4 RESOLVED, That the agreement between the City and the Companies set forth herein
5 is approved and that Board Resolution 010783 is rescinded.
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12 APPROVED AS TO FORM AND RECOMMENDED:

13 LOUISE H. RENNE
14 City Attorney

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16 _____
17 JOANNE HOEPER
18 Chief Trial Deputy
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City and County of San Francisco

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

Tails

Resolution

File Number: 012136

Date Passed:

Resolution approving settlement of San Francisco's potential claims for fines, penalties and damages against IBM, Ogilvy & Mather and Mindshare arising out of their participation in the stenciling of advertisements on City sidewalks. Under the settlement, the companies shall: (1) pay \$19,685.93 to San Francisco to reimburse the City for its out-of-pocket costs arising out of the incident; (2) make a \$100,000.00 payment to the San Francisco Clean City Program; (3) clean and remove any stenciled images found to be remaining on City property; and (4) refrain from participating in similar acts in the future. In exchange, San Francisco shall release the companies from potential claims arising out of the stencils and rescind a previous resolution relating to this subject.

January 28, 2002 Board of Supervisors — ADOPTED

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

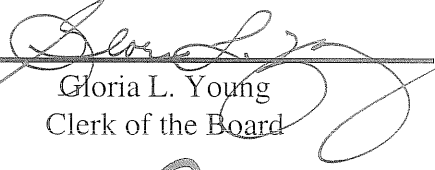
Absent: 1 - Newsom

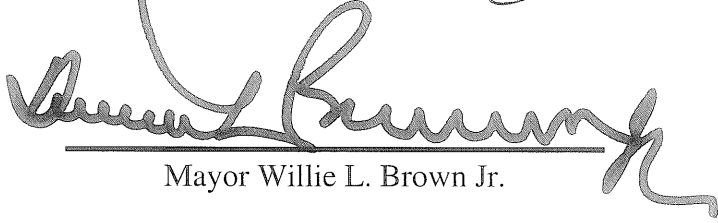
File No. 012136

I hereby certify that the foregoing Resolution was ADOPTED on January 28, 2002 by the Board of Supervisors of the City and County of San Francisco.

FEB 08 2002

Date Approved


Gloria L. Young
Clerk of the Board


Mayor Willie L. Brown Jr.