March 7, 2003

Honorable Matt Gonzalez, President
Members, San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Dear President Gonzalez and Members:

I am returning the ordinance appropriating funding for the investigation and litigation against Tutor-Saliba Construction (File No. 030132).

I believe it is in the best interest of the City to proceed with a different funding mechanism for this litigation—one that would allow the City to achieve the objectives articulated by the City Attorney, but in a manner that would be fair and equitable to the Airlines and Airport users, who provide revenue to the Airport. The City Attorney has informed me that he is willing to explore such an arrangement with me, the Board of Supervisors, the Airport Commission and the Airport Director.

Instead of appropriating only $2.5 million in funding, I propose that the Airport advance the entire amount requested by the City Attorney for the Tutor-Saliba litigation. The Airport Commission, with the consent and approval of the Mayor and Board of Supervisors, would advance the total amount of the estimated funds ($7.5 million) from the Airport Revenue Fund to the City Attorney’s budget. The advance would be reimbursed with interest, through quarterly deductions from the Annual Service Payments paid to the City pursuant to the 1981 City/Airline Settlement Agreement and Lease and Use Agreements. The terms and conditions of this Advance Agreement would be in writing and could follow the general parameters of the 1992 $25 million Advance Agreement entered into among the Mayor, the Airport Commission, the Board of Supervisors and certain airlines.

A key provision of this Advance Agreement would be that any extra winnings in the case beyond general, compensatory damages accrue primarily to the General Fund. As such, it would benefit the General Fund and allow the City Attorney to manage the litigation without budgetary oversight by the Airport at no financial risk to the Airport or Airlines.

I believe that above Agreement structure allows the City to proceed with the Tutor-Saliba litigation in a fair and equitable manner that all parties can embrace.

Sincerely,

WILLIE L. BROWN, Jr.
Mayor
[To appropriate funding for the investigation and litigation against Tutor-Saliba Construction.]

Ordinance appropriating, retroactive to July 1, 2002, $2,500,000 of Airport fund balance for investigation and litigation expense by the City Attorney against Tutor-Saliba Construction for fiscal year 2002-03.

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

Section 1. Funds are hereby appropriated, retroactive to July 1, 2002, for FY 2002-03 as follows:

<table>
<thead>
<tr>
<th>Department and Number</th>
<th>Sources of Funds and Purpose of Appropriation</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIR</td>
<td>Use of Fund Balance</td>
<td>$2,500,000</td>
</tr>
</tbody>
</table>

Supervisors Aaron Peskin, Chris Daly, Tom Ammiano, Matt Gonzalez, Jake McGoldrick, Sophie Maxwell
<table>
<thead>
<tr>
<th>Department And Number</th>
<th>Sources of Funds and Purpose of Appropriation</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>081-081 CT (AIRLEGAL)</td>
<td>Services of Other Departments</td>
<td>$2,500,000</td>
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<tr>
<td></td>
<td>Total 5A-AAA-AAA</td>
<td>$2,500,000</td>
</tr>
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</table>

**Funding Uses**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Department</th>
<th>Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>5A-AAA-AAA</td>
<td>AIR</td>
<td>BGF</td>
</tr>
<tr>
<td>SF International</td>
<td>SF International Airport Administration, Business</td>
<td></td>
</tr>
</tbody>
</table>

**Project**

Legal Services

**Funding Use**

PACA08

**APPROVED AS TO FORM:**

DENNIS J. HERRERA, City Attorney

By: [Signature]

Deputy City Attorney

EDWARD M. HARRINGTON

Controller

By: [Signature]

SUPERVISOR AARON PESKIN

BOARD OF SUPERVISORS
Ordinance appropriating, retroactive to July 1, 2002, $2,500,000 of Airport fund balance for investigation and litigation expense by the City Attorney against Tutor-Saliba Construction for fiscal year 2002-03.

February 18, 2003  Board of Supervisors — PASSED ON FIRST READING  
Ayes: 10 - Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Peskin, Sandoval  
Absent: 1 - Newsom

February 25, 2003  Board of Supervisors — FINALLY PASSED  
Ayes: 10 - Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, Newsom, Peskin, Sandoval  
Excused: 1 - McGoldrick

March 7, 2003  Mayor — VETOED

March 25, 2003  Board of Supervisors — FINALLY PASSED  
Ayes: 10 - Ammiano, Daly, Dufty, Gonzalez, Ma, Maxwell, McGoldrick, Newsom, Peskin, Sandoval  
Noes: 1 - Hall
The foregoing measure, having been finally passed by the Board of Supervisors at the meeting on February 25, 2003 was referred to his Honor, the Mayor, in accordance with the provisions of Section 3.103 of the Charter and was returned by him under the date of March 7, 2003, with his disapproval and veto hereon.

The Board of Supervisors, on March 25, 2003, overrode the Mayor's disapproval and veto by the following votes:

AYES: 10 - Ammiano, Daly, Dufty, Gonzalez, Ma, Maxwell, McGoldrick, Newsom, Peskin, Sandoval

NOES: 1 - Hall