

OFFICE OF THE MAYOR  
SAN FRANCISCO



File No. 030132  
ORD. No. 35-03  
WILLIE LEWIS BROWN, JR.  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2003 MAR 10 AM 8:01  
BY \_\_\_\_\_ *BR*

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,

A handwritten signature in black ink, appearing to read "Willie Brown", written over a horizontal line.

WILLIE L. BROWN, Jr.  
Mayor

1 DR. CARLTON B. GOODLETT PLACE, ROOM 200 SAN FRANCISCO, CALIFORNIA 94102

(415) 554-6141

RECYCLED PAPER

1 [To appropriate funding for the investigation and litigation against Tutor-Saliba Construction.]

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

6  
7 Be it ordained by the People of the City and County of San Francisco:

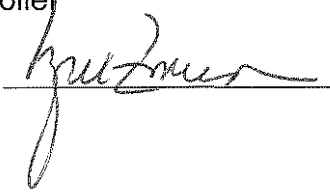
8 Section 1. Funds are hereby appropriated, retroactive to July 1, 2002, for FY 2002-03 as  
9 follows:


11 Department	12 Sources of Funds		13 Amount
14 And Number	15 and Purpose of	16 Debit	17 Credit
	18 <u>Appropriation</u>		
19 <u>Fund</u>	20 <u>Department</u>	21 <u>Program</u>	
22 5A-AAA-AAA	AIR	BGF	
23 SF International	SF International Airport	Administration,	
24 Airport Fund		Business	
25 <u>Funding Sources</u>			
999-99999B	Use of Fund Balance	\$2,500,000	
(AIROPRIND)			

ck  
Supervisors Aaron Peskin, Chris Daly , Tom Ammiano, Matt Gonzalez, Jake McGoldri  
Board of Supervisors Sophie Maxwell

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Department And Number	Sources of Funds and Purpose of Appropriation	Debit	Amount Credit
<u>Fund</u>	<u>Department</u>	<u>Program</u>	
5A-AAA-AAA	AIR	BGF	
SF International Airport Fund	SF International Airport	Administration, Business	
<u>Funding Uses</u>			
<u>Project</u>	Legal Services		
PACA08			
<u>Funding Use</u>			
081-081CT (AIRLEGAL)	Services of Other Departments		\$2,500,000
	Total 5A-AAA-AAA	\$2,500,000	\$2,500,000

FUNDS AVAILABLE  
EDWARD M. HARRINGTON  
Controller  
By: 

APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney  
By:   
Deputy City Attorney



# 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:** 030132

**Date Passed:**

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.

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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

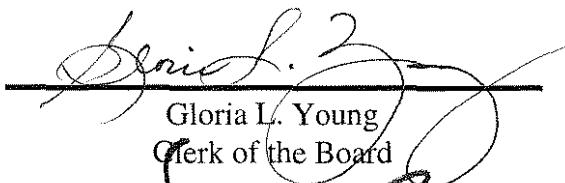
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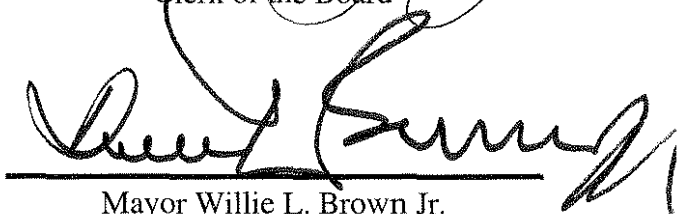
I hereby certify that the foregoing Ordinance was FINALLY PASSED on February 25, 2003 by the Board of Supervisors of the City and County of San Francisco.

MAR 07 2003

Date Approved

Veto

  
Gloria L. Young  
Clerk of the Board

  
Mayor Willie L. Brown Jr.


The foregoing measure, having been finally passed by the Board of Supervisors at the meeting on February 25, 3003 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

I hereby certify that the foregoing Ordinance was FINALLY PASSED by the Board of Supervisors of the City and County of San Francisco

  
Gloria L. Young  
Clerk of the Board