As amended in Board
4/16/01

FILE NO. 01-0437 ORDINANCE NO. 62-01

[Settlement of business tax lawsuits; authorization to make binding settlement offers; authorization to settle unlitigated claims.]

Ordinance authorizing settlement of the lawsuits filed by Eastman Kodak Company and General Motors Corporation versus the City and County of San Francisco by payment of a total amount not to exceed $102,628.10 ~~$112,889.78~~, plus interest; the Eastman Kodak lawsuit was filed on April 22, 1999 in San Francisco Superior Court, Case No. 302983 (Court of Appeal No. A091910), entitled Eastman Kodak Company v. City and County of San Francisco; the General Motors lawsuit was filed on February 24, 1999 in San Francisco Superior Court, Case No. 301510 (Court of Appeal No. A091914), entitled General Motors Corporation v. City and County of San Francisco; the other material terms of the settlements are that the settlements shall include any claims for the 2000 tax year, plaintiffs shall not file any claims for refunds otherwise due pursuant to any repeal of the gross receipts tax ordinance for the 2000 tax year, and plaintiffs shall agree to join in an application for a stipulated reversal of the trial court decisions pursuant to California Code of Civil Procedure Section 128; authorizing the City Attorney to make offers to allow judgment pursuant to California Code of Civil Procedure Section 998 in various business tax cases, for a total amount not to exceed $58,164,317.15 ~~$63,980,109.06~~; and further authorizing settlement of unlitigated claims, for a total amount not to exceed $345,981.79 ~~$380,576.16~~.

Note: Additions are *single-underline italics Times New Roman*; deletions are ~~*strikethrough italics Times New Roman*~~.
Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

Supervisors Peskin, Leno, Hall, Maxwell, Yee
BOARD OF SUPERVISORS

Section 1. The City Attorney is hereby authorized to settle the court action entitled Eastman Kodak Company v. City and County of San Francisco, San Francisco Superior Court No. 302-983 (Court of Appeal No. A091910), and the court action entitled General Motors Corporation v. City and County of San Francisco, San Francisco Superior Court No. 301-510 (Court of Appeal No. A091914), by payment of a total amount not to exceed $102,628.10 ~~$112,889.78~~, plus interest. The settlements shall be subject to the following terms:

Interest on the settlement amounts shall run from January 1, 2001, at the rate of 7 percent per annum, simple interest;

The settlements shall include any claims for the 2000 tax year, and plaintiffs shall agree not to file any claims for refunds otherwise due pursuant to any repeal of the gross receipts tax ordinance for the 2000 tax year; and,

Plaintiffs shall agree to join in an application for a stipulated reversal of the trial court judgments pursuant to California Code of Civil Procedure Section 128.

Section 2. The Eastman Kodak lawsuit was filed in San Francisco Superior Court on April 22, 1999, and the following parties were named in the lawsuit: Eastman Kodak Company as plaintiff and City and County of San Francisco as defendant. The General Motors lawsuit was filed in San Francisco Superior Court on February 24, 1999, and the following parties were named in the lawsuit: General Motors Corporation as plaintiff and City and County of San Francisco as defendant.

Section 3. The City Attorney is hereby authorized to make offers to allow judgment pursuant to California Code of Civil Procedure Section 998 in the following cases:

ABM Industries, Inc.; ABM Janitorial Services – Northern California; ABM Security Services, Inc.; American Commercial Security Services, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 316-369 (filed November 2, 2000).

Baker & McKenzie v. City and County of San Francisco, San Francisco Superior Court No. 317-682 (filed December 26, 2000).

BEA Systems, Inc., BEA Webxpress, LLC, v. City and County of San Francisco, San Francisco Superior Court No. 317-617 (filed December 21, 2000) [GM-related claims only].

Peter A. Casciato v. City and County of San Francisco, San Francisco Superior Court No. 317-439 (filed December 14, 2000).

Chevron Corp.; Pacific Gas & Electric Co.; PG&E Corp.; PG&E Generating Co. (fka U.S. Generating Company) v. City and County of San Francisco, San Francisco Superior Court No. 317-416 (filed December 14, 2000).

The Chronicle Publishing Co., dba The Chronicle Broadcasting Co.; Bay TV Joint Venture v. City and County of San Francisco, San Francisco Superior Court No. 315-910 (filed October 16, 2000).

The Chronicle Publishing Co. v. City and County of San Francisco, San Francisco Superior Court No. 313-611 (filed July 14, 2000).

The Chronicle Publishing Co. v. City and County of San Francisco, San Francisco Superior Court 315-911 (filed October 16, 2000).

Costco Wholesale Corp. v. City and County of San Francisco, San Francisco Superior Court No. 307-277 (filed October 19, 1999).

Costco Wholesale Corp. v. City and County of San Francisco, San Francisco Superior Court No. 316-367 (filed November 2, 2000).

Cost Plus, Inc.; Dorsett & Jackson, Inc.; The Good Guys, Inc.; Calbody Steel Forming, LLC; EBSS-West, Inc.; Edison Brothers Stores, Inc.; FML, Inc.; Kelly-Moore Paint Company,

Inc.; Portco, Inc.; SFO Forecast, Inc.; Vivande, Inc. dba Vivande Porta Via; Vivande Ristorante, LP; J.N. Zippers and Supplies Corporation; Williams-Sonoma, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 310-692 (filed March 15, 2000).

DFS Group, LP, (aka DFS North America); Sephora USA, LLC; DFS Group Ltd.; DFS Merchandising Ltd. v. City and County of San Francisco, San Francisco Superior Court No. 319-184 (filed February 28, 2001).

Donaldson, Lufkin & Jenrette Securities Corp. v. City and County of San Francisco, San Francisco Superior Court No. 317-469 (filed December 15, 2000).

EOP-580 California Street, LLC; EOP-60 Spear Street, LLC; EOP-One Market, LLC; EOP-Mission Street, LLC; EOP-Maritime, LLC; EOP-301 Howard Street, LLC, v. City and County of San Francisco, San Francisco Superior Court No. 315-704 (filed October 10, 2000).

Fremont Investors, Inc.; Fremont Investment Advisors, Inc.; Fremont Group, LLC; Fremont Properties, LP; Fremont Realty Capital, LP; Fremont Partners, LLC; Fremont Properties, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 309-043 (filed January 6, 2000).

The Gap, Inc.; Banana Republic v. City and County of San Francisco, San Francisco Superior Court No. 315-696 (filed October 6, 2000).

General Motors Corp.; Eastman Kodak Co.; Bechtel Construction Co.; Bechtel Power Corp.; Bechtel Financing Services, LLC; Bechtel National, Inc.; Bechtel Group, Inc.; Bechtel Environmental, Inc.; Bechtel Construction Operations, Inc.; Bechtel Enterprises, Inc.; Bechtel Enterprises Holding, Inc.; Bechtel Infrastructure Corp.; Bechtel Personnel & Operation Services; Chevron Corp.; Levi Strauss & Co.; Pacific Gas & Electric Co.; PG&E Corp.; PG&E Generating Co. (fka U.S. Generating Company); PG&E Energy Services Corp.; Pacific Telesis Group; Pacific Bell Information Services; Pacific Bell Internet Services; Pacific Bell Directory; Pacific Bell Wireless (successor in interest to Pacific Bell Mobile Services); Safeway, Inc. v.

City and County of San Francisco, San Francisco Superior Court No. 312-487 (filed May 30, 2000).

The Hearst Corp.; Hearst Communications, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 310-062 (filed February 18, 2000).

The Hearst Corp.; Hearst Communications, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 313-976 (filed July 28, 2000).

The Hearst Corp.; Hearst Communications, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 316-950 (filed November 27, 2000).

Hewlett-Packard Co. v. City and County of San Francisco, San Francisco Superior Court No. 306-787 (filed November 24, 1999).

International Business Machines Corp. v. City and County of San Francisco, San Francisco Superior Court No. 313-648 (filed September 8, 2000).

International Business Machines Corp. v. City and County of San Francisco, San Francisco Superior Court No. 316-044 (filed October 20, 2000).

Littler Mendelson, PC v. City and County of San Francisco, San Francisco Superior Court No. 319-267 (filed February 28, 2001).

McKesson HBOC, Inc. (fka McKesson Corp.) v. City and County of San Francisco, San Francisco Superior Court No. 313-435 (filed July 6, 2000).

McKesson HBOC, Inc. (fka McKesson Corp.) v. City and County of San Francisco, San Francisco Superior Court No. 315-999 (filed October 19, 2000).

The Neiman Marcus Group, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 310-061 (filed February 18, 2000).

Nordstrom, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 311-355 (filed April 10, 2000).

Nordstrom, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 316-365 (filed November 2, 2000).

One California Street Partners; 50 Fremont Center Partners; Fifty California Street Associates; Forty-Five Fremont Associates; 333 Market Street Associates; 425 Market Street Associates; 555 California Street Partners; Main and Mission Associates; Russ Building Partnership; Shorenstein Co., LP; Shorenstein Construction Co., LP; Shorenstein Management, Inc.; Shorenstein Realty Investors, LP; Shorenstein Realty Services, LP v. City and County of San Francisco, San Francisco Superior Court No. 315-858 (filed October 12, 2000).

Pacific Union Real Estate Group; Pacific Union Residential Brokerage Co., Inc.; Union Trust Mortgage Sevices, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 319-823 (filed March 22, 2001).

Panther Creek Leasing, Inc.; Bechtel Construction Co.; Bechtel Power Corp.; Bechtel Financial Services, Inc.; Bechtel National, Inc.; Bechtel Corp.; Bechtel Group, Inc.; Bechtel Environmental Inc.; Bechtel Software, Inc.; Bechtel Construction Operations, Inc.; Genuity, Inc.; Bechtel Enterprises, Inc.; Bechtel Infrastructure Corp.; PMB Engineering, Inc.; Chevron Corp.; Levi Strauss & Co.; Levi Strauss Associates, Inc.; Pacific Gas & Electric Co.; PG&E Corp.; PG&E Generating Co. (fka U.S. Generating Co.); PG&E Energy Services Corp.; PG&E Enterprises; Pacific Telesis Group; Pacific Telesis Legal Group; Pacific Bell; Pacific Bell Information Services; Pacific Bell Internet Services; Pacific Bell Directory; Pacific Bell Wireless (successor in interest to Pacific Bell Mobile Services); Safeway, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 307-873 (filed November 12, 1999).

Pillsbury Madison & Sutro LLP v. City and County of San Francisco, San Francisco Superior Court No. 313-793 (filed July 21, 2000).

Pillsbury Madison & Sutro LLP v. City and County of San Francisco, San Francisco Superior Court No. 315-772 (filed October 11, 2000).

Providian Financial Corp.; Providian Bankcorp Services; Interstate Brands West Corp. v. City and County of San Francisco, San Francisco Superior Court No. 316-461 (filed November 6, 2000).

Salomon Smith Barney, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 313-974 (filed July 28, 2000).

Salomon Smith Barney, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 316-251 (filed October 30, 2000).

San Francisco Baseball Associates, LP; China Basin Ballpark Co., LLC v. City and County of San Francisco, San Francisco Superior Court No. 313-610 (filed July 14, 2000).

San Francisco Baseball Associates, LP; China Basin Ballpark Co., LLC v. City and County of San Francisco, San Francisco Superior Court No. 316-380 (filed November 2, 2000).

Signatures Network, Inc.; Union Pacific Railroad Co.; Atlantic Richfield Co.; Prestige Stations, Inc.; Charles Schwab & Co., Inc.; Charles Schwab Investment Management, Inc.; Hewlett-Packard Co.; The Neiman Marcus Group, Inc.; Xerox Corp. v. City and County of San Francisco, San Francisco Superior Court No. 312-489 (filed May 30, 2000).

Southern Wine and Spirits of America, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 316-368 (filed November 2, 2000).

TECHTV (fka ZDTV, LLC) v. City and County of San Francisco, San Francisco Superior Court No. 318-519 (filed January 31, 2001).

Union Pacific Railroad Co. (fka Southern Pacific Transportation Co.); Atlantic Richfield Co.; Prestige Stations, Inc.; Charles Schwab & Co., Inc.; Charles Schwab Investment Management, Inc.; Signatures Network, Inc. (fka Sony Signatures, Inc.); Whitmire Distribution

Corp.; Xerox Corp. v. City and County of San Francisco, San Francisco Superior Court No. 309-421 (filed February 7, 2000).

URS Corp.; URS Greiner Woodward-Clyde, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 313-471 (filed July 7, 2000).

URS Corp.; URS Greiner Woodward-Clyde, Inc. v. City and County of San Francisco, San Francisco Superior Court No. 317-218 (filed December 7, 2000).

Walgreen Co. v. City and County of San Francisco, San Francisco Superior Court No. 315-605 (filed October 4, 2000).

The total amount of the offers in the cases listed above shall not exceed $58,164,317.15 ~~$63,980,109.06~~, plus interest as provided in San Francisco Business and Tax Regulations Code Section 6.15-2, payable from the effective date of this ordinance. For the Chevron Corp. (Superior Court No. 317-416), EOP-580 California Street (Superior Court No. 315-704), General Motors Corp. (Superior Court No. 312-487), Hewlett-Packard Co. (Superior Court No. 306-787), Neiman Marcus Group (Superior Court No. 310-061), Pacific Union (Superior Court No. 319-823), Panther Creek (Superior Court No. 307-873), Providian Financial Corp. (Superior Court No. 316-461), Signatures Network, Inc. (Superior Court No. 312-489), and Union Pacific Railroad Co. (Superior Court No. 309-421) cases, interest shall be paid from January 1, 2001 at the rate of 7 percent per annum, simple interest.

The offers shall include any claims for the 2000 tax year, and claimants shall agree not to file any claims for refunds otherwise due pursuant to any repeal of the gross receipts tax ordinance for the 2000 tax year.

Section 4. The City Attorney is hereby authorized to settle the following unlitigated claims:

ABC, Inc. (filed September 30, 1999 & July 27, 2000).

American Drugstores, Inc. (filed March 1, 1999).

Hellman & Friedman Administration; Hellman & Friedman Investors; Hellman & Friedman, LLC (filed October 10, 2000 & November 15, 2000).

KGO-AM (filed February 26, 1999 & August 30, 2000).

Leemah ~~Lee~~ Electronics, Inc. (filed September 15, 2000).

Lucky Stores, Inc. (filed January 7, 2000).

~~Pacific Union Real Estate Group; Pacific Union Residential Brokerage (filed August 18, 2000).~~

Textainer Equipment Mfg US Ltd. (filed November 6, 2000).

The total amount of the settlements of the unlitigated claims listed above shall not exceed $345,981.79 ~~$380,576.16~~, plus interest as provided in San Francisco Business and Tax Regulations Code Section 6.15-2, payable from the effective date of this ordinance. ~~For the Pacific Union claims, interest shall be paid from January 1, 2001 at the rate of 7 percent per annum, simple interest.~~

The settlements shall include any claims for the 2000 tax year, and claimants shall agree not to file any claims for refunds otherwise due pursuant to any repeal of the gross receipts tax ordinance for the 2000 tax year.

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Section 5. The Board authorizes the City Attorney to make settlement or 998 offers to any plaintiffs and claimants who agree to reduce their settlement figures by 9.09 percent, for a proportionate amount of the totals authorized in the ordinance.

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By: _____
THOMAS J. OWEN
Deputy City Attorney

City and County of San Francisco

Tails

Ordinance

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

**File Number:** 010437 **Date Passed:**

Ordinance authorizing settlement of the lawsuits filed by Eastman Kodak Company and General Motors Corporation versus the City and County of San Francisco by payment of a total amount not to exceed $102,628.10 plus interest; the Eastman Kodak lawsuit was filed on April 22, 1999 in San Francisco Superior Court, Case No. 302983 (Court of Appeal No. A091910), entitled Eastman Kodak Company v. City and County of San Francisco; the General Motors lawsuit was filed on February 24, 1999 in San Francisco Superior Court, Case No. 301510 (Court of Appeal A091914), entitled General Motors Corporation v. City and County of San Francisco; the other material terms of the settlements are that the settlements shall include any claims for the 2000 tax year, plaintiffs shall not file any claims for refunds otherwise due pursuant to any repeal of the gross receipts tax ordinance for the 2000 tax year, the plaintiffs shall agree to join in an application for a stipulated reversal of the trial court decisions pursuant to California Code of Civil Procedure Section 128; authorizing the City Attorney to make offers to allow judgment pursuant to California Code of Civil Procedure Section 998 in various business tax cases, for a total amount not to exceed $58,164,317.15; and further authorizing settlement of unlitigated claims, for a total amount not to exceed $345,981.79.

March 12, 2001 Board of Supervisors — SUBSTITUTED

April 2, 2001 Board of Supervisors — CONTINUED ON FIRST READING

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

April 9, 2001 Board of Supervisors — CONTINUED ON FIRST READING

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

April 16, 2001 Board of Supervisors — AMENDED

Ayes: 8 - Ammiano, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Peskin, Yee
Noes: 2 - Daly, Sandoval
Excused: 1 - Newsom

April 16, 2001 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 7 - Ammiano, Hall, Leno, Maxwell, McGoldrick, Peskin, Yee
Noes: 3 - Daly, Gonzalez, Sandoval
Excused: 1 - Newsom

April 23, 2001 Board of Supervisors — FINALLY PASSED

Ayes: 6 - Hall, Leno, Maxwell, McGoldrick, Peskin, Yee
Noes: 3 - Daly, Gonzalez, Sandoval
Absent: 2 - Ammiano, Newsom

File No. 010437

**I hereby certify that the foregoing Ordinance was FINALLY PASSED on April 23, 2001 by the Board of Supervisors of the City and County of San Francisco.**

Jean Lum
Acting Clerk of the Board

APR 2 4 2001

**Date Approved**

Mayor Willie L. Brown Jr.