

1 [Settlement of Lawsuit]
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3 **Ordinance authorizing settlement of the class-action lawsuit filed by the City and**
4 **County of San Francisco against Microsoft Corporation for \$1,000,000; the lawsuit was**
5 **filed on August 27, 2004 in San Francisco Superior Court; entitled City and County of**
6 **San Francisco, et al., v. Microsoft Corporation, et al.; Microsoft removed the action to**
7 **federal court and then transferred the action to the United States District Court for the**
8 **District of Maryland.**

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

10 Section 1. Findings:

11 (1) The City and County of San Francisco and five other class representatives brought
12 a class action lawsuit against Microsoft Corp. ("Microsoft") in August 2004, entitled City and
13 County of San Francisco, et al. v. Microsoft Corp., United States District Court, District of
14 Maryland, MDL Docket No. 1332, Civil No. JFM-04-3705 ("the action"), on behalf of the class
15 of all governmental entities, agencies and political subdivisions of the State of California,
16 alleging violations of the Cartwright Act, Cal. Bus. & Prof. Code § 16720ff, and unfair and
17 unlawful business practices, Cal. Bus. & Prof. Code § 17200ff;

18 (2) The action, originally filed in San Francisco Superior Court, was removed to the
19 United States District Court for the Northern District of California, and subsequently
20 transferred to the United States District Court for the District of Maryland;

21 (3) In August, 2005, after several private mediation sessions, counsel for Microsoft and
22 for the plaintiff class reached a tentative settlement ("the settlement"), subject to approval by
23 the governing bodies of the plaintiff class representatives and subject to Court approval;

24 (4) The settlement includes the following essential terms:
25

1 (a) Microsoft will pay \$70 million in settlement benefits, which will be distributed
2 to class members on a pro rata basis based on an equitable distribution method approved by
3 the Court;

4 (b) Each class member may redeem its settlement benefits for cash after it
5 purchases eligible computer hardware or software;

6 (c) Eligible hardware includes desktop, laptop or tablet computers (using any
7 operating system platform) alone or together with any of the following devices or components
8 ("peripheral devices"): printer, scanner, monitor, keyboard, pointing device (*e.g.*, mouse,
9 trackball, etc.). Eligible software includes any non-custom software (created or sold by any
10 vendor of software products for use on any operating system platform chosen by the Class
11 member) that is designed for use on eligible hardware;

12 (d) Settlement benefits will be redeemable over a five (5) year period. After five
13 (5) years, any unredeemed benefits will be redistributed equitably by a process to be
14 approved by the Court. There will be no reversion of unredeemed benefits to Microsoft;

15 (e) Class members shall be given an opportunity to opt out of the settlement.
16 The total amount of the settlement benefits shall be reduced proportionally by the number of
17 class members that opt out of the settlement class. In the event that 10% or more of the class
18 should opt out, Microsoft shall have the right, in its sole discretion, to terminate the settlement.
19 These determinations shall be made based upon the amount of settlement benefits to which
20 the opt-outs would be entitled, not simply the numerical ratio between opt-outs and the total
21 number of class members;

22 (f) Attachment A hereto describes the Class members' release of claims against
23 Microsoft;

24 (g) Costs of claims administration and notice will be paid by Microsoft on top of
25 the settlement benefits;

1 (h) The Class' legal fees and costs will be paid by Microsoft on top of the
2 settlement benefits described above. If agreement on the appropriate amount of legal fees
3 can be reached, a joint submission will be made to the Court. If the parties do not agree,
4 each party will make its own submission for determination by the Court;

5 (i) The settlement is contingent upon approval by the governing boards of the
6 named class representatives;

7 (j) The settlement is subject to Court approval;

8 (k) The settlement is subject to the parties agreeing upon detailed settlement
9 terms in a full written agreement; and

10 (l) The existence and terms of the settlement are not to be disclosed to anyone
11 other than the named class representatives and their governing boards until the parties issue
12 a joint press release;

13 Section 2. The Board of Supervisors authorizes the San Francisco City Attorney's
14 Office to settle the class action lawsuit against Microsoft Corp. according to the terms set forth
15 herein.

16 Section 3. The Board of Supervisors of the City and County of San Francisco hereby
17 authorizes the Controller of the City and County of San Francisco to accept all the payments
18 made to the City and County of San Francisco pursuant to the terms of the settlement.

19 APPROVED AS TO FORM AND
20 RECOMMENDED:

21 DENNIS J. HERRERA
22 City Attorney

23 
24 _____
25 JOANNE HOEPER
Chief Trial Deputy



City and County of San Francisco

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

Tails Ordinance

File Number: 051586

Date Passed:

Ordinance authorizing settlement of the class-action lawsuit filed by the City and County of San Francisco against Microsoft Corporation for \$1,000,000; the lawsuit was filed on August 27, 2004 in San Francisco Superior Court; entitled City and County of San Francisco, et al., v. Microsoft Corporation, et al.; Microsoft removed the action to federal court and then transferred the action to the United States District Court for the District of Maryland.

November 15, 2005 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Ma, Maxwell, McGoldrick,
Mirkarimi, Peskin, Sandoval

Excused: 1 - Elsbernd

November 22, 2005 Board of Supervisors — FINALLY PASSED

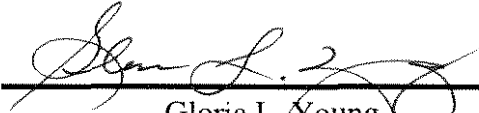
Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 051586

I hereby certify that the foregoing Ordinance was FINALLY PASSED on November 22, 2005 by the Board of Supervisors of the City and County of San Francisco.

NOV 30 2005

Date Approved


Gloria L. Young
Clerk of the Board


Mayor Gavin Newsom