

1 (Grant - Private)

2
3 AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH, POPULATION HEALTH
4 AND PREVENTION DIVISION, HIV RESEARCH SECTION, TO ACCEPT
5 RETROACTIVELY AND EXPEND A GRANT IN THE AMOUNT OF \$321,317 FROM
6 PUBLIC HEALTH FOUNDATION ENTERPRISES, INC. TO CONDUCT A PREVENTIVE
7 HIV VACCINE PHASE III EFFICACY TRIAL AND TO ENTER INTO AN AGREEMENT
8 WHICH INCLUDES INDEMNIFICATION AND RIGHTS IN DATA CLAUSES AND WHICH
9 DOES DOES NOT INCLUDE PATENT INFRINGEMENT INDEMNIFICATION AND FALSE
10 CLAIMS CLAUSES.

11 WHEREAS, The Department of Public Health has applied for and been awarded a grant
12 from Public Health Foundation Enterprises, Inc. in the amount of \$321,317 to fund a preventive
13 HIV vaccine Phase III efficacy trial in adults at risk of HIV infection; and,

14 WHEREAS, As a condition of receiving the grant funds, Public Health Foundation
15 Enterprises, Inc. requires the City to enter into an agreement (the "Agreement"), a copy of which
16 is on file with the Clerk of the Board of Supervisors in File No. 98-1703; and,

17 WHEREAS, Public Health Foundation Enterprises, Inc. has indicated that it will not
18 agree to any modification to the form of the Agreement; and,

19 WHEREAS, The Agreement contains certain provisions described below, which require
20 the approval of the Board of Supervisors; and,

21 WHEREAS, The Agreement does not contain certain provisions described below, which
22 are required under the Administrative Code unless waived by the Board of Supervisors; and,

23 WHEREAS, The Board of Supervisors desires to authorize the Department of Public
24 Health, on behalf of the City, to enter into the Agreement in order to receive and expend the
25 grant funds for this and any future years; now, therefore, be it

RESOLVED, That the Department of Public Health is hereby authorized to accept
retroactively and expend the grant funds pursuant to San Francisco Administrative Code section
10.170-1; and, be it

1 FURTHER RESOLVED, That the Director of Health is authorized to enter into the
2 Agreement on behalf of the City; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors hereby approves the provision
4 in the Agreement pursuant to which the City indemnifies Public Health Foundation Enterprises,
5 Inc. and VaxGen, Inc.; and, be it

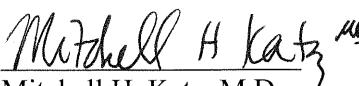
6 FURTHER RESOLVED, That the Board of Supervisors hereby approves the provision
7 in the Agreement pursuant to which the City agrees to transfer and assign any and all rights to
8 any inventions, data, discoveries, patents, etc. relating to the vaccine; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors hereby waives the requirement
10 contained in Sections 6.21 and 21.19 of the Administrative Code that the Agreement include an
11 indemnification of the City by for the infringement of patent rights; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors hereby waives the requirement
13 contained in Section 6.57 (c) of the Administrative Code that the Agreement include a paragraph
14 reciting the false claim provisions contained in Section 6.57 (a) of the Administrative Code; and,
15 be it

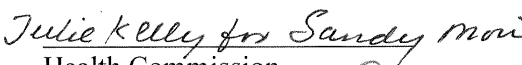


16 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
17 Public Health to enter into similar agreements with Public Health Foundation Enterprises, Inc. if
18 the grant recurs or is renewed.

19 RECOMMENDED:

20 
21 Mitchell H. Katz, M.D.
22 Director of Health

23 Department of Public Health
24
25

APPROVED:


Health Commission

Office of the Mayor

Office of the Controller



City and County of San Francisco

Veterans Building
401 Van Ness Avenue, Room 308
San Francisco, CA 94102-4532

Tails

Resolution

File Number: 981703

Date Passed:

Resolution authorizing the Department of Public Health, Population Health and Prevention Division, HIV Research Section, to accept retroactively and expend a grant in the amount of \$321,317 from Public Health Foundation Enterprises, Inc. to conduct a preventive HIV vaccine Phase III efficacy trial and to enter into an agreement which includes indemnification and rights in data clauses and which does not include patent infringement indemnification and false claims clauses.

November 2, 1998 Board of Supervisors — ADOPTED

Ayes: 11 - Ammiano, Bierman, Brown, Katz, Kaufman, Leno, Medina, Newsom, Teng, Yaki, Yee

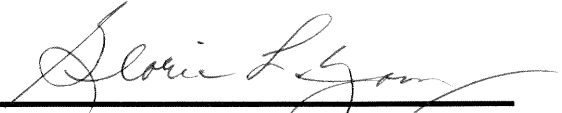
File No. 981703

I hereby certify that the foregoing Resolution was ADOPTED on November 2, 1998 by the Board of Supervisors of the City and County of San Francisco.

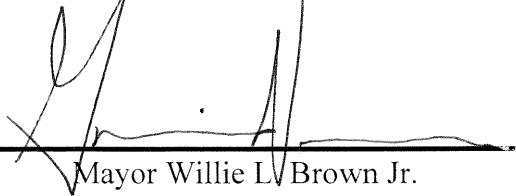
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Date Approved



Gloria L. Young
Clerk of the Board



Mayor Willie L. Brown Jr.