

File No. 230494

Committee Item No. 18

Board Item No. 2

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: June 1, 2023

Board of Supervisors Meeting:

Date: June 27, 2023

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU - FY2022-2024 - Clean
- MOU - FY2022-2024 - Redline
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract / DRAFT Mills Act Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

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Prepared by: Stephanie Cabrera

Date: May 25, 2023

Prepared by: John Carroll

Date: June 8, 2023

Prepared by: _____

Date: _____

1 [Settlement of Lawsuit - Esquivel Grading & Paving, Inc. and Con-Quest Contractors, Inc. -
2 \$250,000]

3 **Ordinance authorizing settlement of the lawsuit filed by Esquivel Grading & Paving,**
4 **Inc. against the City and County of San Francisco by the payment of \$250,000; the**
5 **action against the City was filed on April 12, 2022, in the Superior Court of California,**
6 **County of San Francisco, Case No. CGC-20-587321; entitled Con-Quest Contractors,**
7 **Inc. v. Esquivel Grading & Paving, Inc., et al.; the lawsuit involves alleged breach of**
8 **contract; material terms of the settlement are that the City will pay Con-Quest**
9 **Contractors, Inc. \$250,000 and Esquivel will pay Con-Quest \$150,000.**

10
11 Be it ordained by the People of the City and County of San Francisco:

12 Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby
13 authorizes the City Attorney to settle the action entitled Con-Quest Contractors, Inc. v.
14 Esquivel Grading & Paving, Inc., et al., Superior Court of California, County of San Francisco,
15 Case No. CGC-20-587321 by the payment of \$250,000 in exchange for Esquivel Grading &
16 Paving, Inc. and Con-Quest Contractors, Inc. dismissing the lawsuit in its entirety with
17 prejudice and releasing the City from certain claims. The lawsuit involves the alleged breach
18 of San Francisco Public Works Contract No. 2267J[R], Columbus Avenue Pavement
19 Renovation and Water Main Replacement Project. Under the terms of the settlement, (1) the
20 City will pay Con-Quest \$250,000; (2) Esquivel will pay Con-Quest \$150,000; (3) Con-Quest
21 and Esquivel will file a joint dismissal with prejudice of the lawsuit within 15 days of payment
22 of the settlement sum; and (4) the parties agree to certain specified releases.

23 Section 2. The above-named action was filed in Superior Court of California, County of
24 San Francisco, on April 12, 2022, and the following parties were named in the lawsuit:
25 plaintiff Con-Quest Contractors, Inc.; defendant and cross-complainant Esquivel Grading &

1 Paving, Inc.; defendant Fidelity & Deposit Company; and cross-defendant City and County of
2 San Francisco.

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APPROVED AS TO FORM AND
RECOMMENDED:

DAVID CHIU
City Attorney

/s/
ELAINE M. O'NEIL
Construction and Public Contracting Team
Leader

FUNDS AVAILABLE:

/s/ Michelle Allersma for Ben Rosenfield
BEN ROSENFELD
Controller

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RECOMMENDED:

San Francisco Public Utilities Commissions

/s/
DENNIS J. HERRERA
General Manager

/s/
DONNA HOOD
Commission Secretary