

File No. 231105

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: November 16, 2023

Board of Supervisors Meeting:

Date: _____

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

☐	☐	_____
☐	☐	_____
☐	☐	_____
☐	☐	_____
☐	☐	_____
☐	☐	_____
☐	☐	_____

Prepared by: Stephanie Cabrera

Date: November 7, 2023

Prepared by: _____

Date: _____

Prepared by: _____

Date: _____

1 [Settlement of Lawsuit - International Business Machines Corporation - \$1,361,454.60]

2
3 **Ordinance authorizing settlement of the lawsuit filed by International Business**
4 **Machines Corporation against the City and County of San Francisco for \$1,361,454.60;**
5 **the lawsuit was filed on February 25, 2022, in San Francisco Superior Court, Case**
6 **No. CGC-22-598342; entitled International Business Machines Corporation v. City and**
7 **County of San Francisco; the lawsuit involves a claim for refund of payroll expense and**
8 **gross receipts taxes, and related penalties and interest, for the tax year ended**
9 **December 31, 2018; other material terms of the settlement are that International**
10 **Business Machines Corporation and its related entities shall take certain filing**
11 **positions with respect to their gross receipts, homelessness gross receipts, and**
12 **overpaid executive gross receipts taxes, as applicable, for tax year 2019 and**
13 **subsequent tax years, and the City will not impose penalties arising from those filing**
14 **positions for tax years 2019 through 2022.**

15
16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby
18 authorizes the City Attorney to settle the action entitled International Business Machines
19 Corporation v. City and County of San Francisco, San Francisco Superior Court, Case
20 No. CGC-22-598342 by the payment of \$1,361,454.60, International Business Machines
21 Corporation's and its related entities' agreement to take certain filing positions with respect to
22 their gross receipts, homelessness gross receipts, and overpaid executive gross receipts
23 taxes, as applicable, for tax year 2019 and subsequent tax years, and the City's agreement
24 not to impose penalties arising from those filing positions for tax years 2019 through 2022.

1 The lawsuit involves a claim for refund of payroll expense and gross receipts taxes, and
2 related penalties and interest, for the tax year ended December 31, 2018.

3
4 Section 2. The above-named action was filed in San Francisco Superior Court on
5 February 25, 2022, and the following parties were named in the lawsuit: Plaintiff International
6 Business Machines Corporation and defendant City and County of San Francisco.

7
8 APPROVED AS TO FORM AND
9 RECOMMENDED:

10 DAVID CHIU
11 City Attorney

RECOMMENDED:

Office of the Treasurer and Tax Collector

12 /s/ Scott M. Reiber
13 SCOTT M. REIBER
14 Chief Tax Attorney

15 /s/
16 JOSÉ CISNEROS
17 Treasurer

18 FUNDS AVAILABLE:

19 /s/ Michelle Allersma for Ben Rosenfield
20 BEN ROSENFELD
21 Controller

22
23
24
25
n:\tax\lit\li2023\220703\01699982.docx