

1 [Settlement of Lawsuit - *West Bay Builders, Inc.* - \$900,000]

2
3 **Ordinance authorizing settlement of the lawsuit entitled *West Bay Builders, Inc. v. City***
4 ***and County of San Francisco*, San Francisco Superior Court Case No. CGC-10-503366,**
5 **arising from a breach of contract dispute regarding Contract No. 6159A for**
6 **construction of a new Recreation and Park Department (RPD) facility known as the**
7 **Minnie and Lovie Ward Recreation Center and Ocean View Park, for which West Bay**
8 **Builders, Inc. (West Bay) served as the prime contractor, calling for the RPD to retain**
9 **\$900,000 from the contract balance and including other material terms of said**
10 **settlement.**

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

12 Section 1. The City Attorney is hereby authorized to settle the action entitled *West Bay*
13 *Builders, Inc. v. City and County of San Francisco*, San Francisco Superior Court Case No.
14 CGC-10-503366, on the following terms:

- 15 • RPD will retain \$900,000 in contract balance and retention funds and release
16 remaining contract sums subject to the satisfactory resolution of pending stop
17 notices;
- 18 • West Bay will replace all defective heat reflectors and/or ballasts in the
19 Gymnasium lights;
- 20 • The City reserves all rights to pursue claims against West Bay for, and West Bay
21 shall retain responsibility for, latent defects;
- 22 • All express and implied warranties under the contract which are not yet
23 expended shall remain in full force and effect;
- 24 • All parties will execute a mutual release;
- 25

- All parties will execute and file dismissals of all claims with prejudice; and
- All parties will bear their own fees and costs.

APPROVED AS TO FORM AND
RECOMMENDED:

DENNIS J. HERRERA
City Attorney

See File for Signature
LOUISE S. SIMPSON
Deputy City Attorney

RECOMMENDED:

SAN FRANCISCO RECREATION AND
PARK DEPARTMENT

See File for Signature
Philip A. Ginsburg, General Manager
San Francisco Recreation and Park
Department

FUNDS AVAILABLE:

Signature Not Required
BEN ROSENFELD
Controller

APPROVED:

See File for Signature
Secretary, Recreation and Park Commission



City and County of San Francisco
Tails
Ordinance

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

File Number: 110692

Date Passed: October 04, 2011

Ordinance authorizing settlement of the lawsuit entitled West Bay Builders, Inc. v. City and County of San Francisco, San Francisco Superior Court Case No. CGC-10-503366, arising from a breach of contract dispute regarding Contract No. 6159A for construction of a new Recreation and Park Department (RPD) facility known as the Minnie and Lovie Ward Recreation Center and Ocean View Park, for which West Bay Builders, Inc., served as the prime contractor, calling for the RPD to retain \$900,000 from the contract balance and including other material terms of said settlement.

September 15, 2011 Rules Committee - RECOMMENDED..

September 27, 2011 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

October 04, 2011 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 110692

I hereby certify that the foregoing
Ordinance was **FINALLY PASSED** on
10/4/2011 by the Board of Supervisors of the
City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Edwin Lee

10/11/11

Date Approved