

1 [Settlement of Lawsuit - CF Contracting, Inc. - Up to \$120,000]

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3 **Ordinance authorizing settlement of the lawsuit filed by CF Contracting, Inc. (“CFC”)**
4 **against the City and County of San Francisco for \$110,000, plus \$10,000 if CFC reaches**
5 **substantial completion of the Mountain Lake Park Playground Renovation with Public**
6 **Works by February 14, 2017; the lawsuit was filed on March 22, 2016, in the Superior**
7 **Court of California, County of San Francisco, Case No. CGC-16-551060; entitled CF**
8 **Contracting, Inc. v. City and County of San Francisco; the lawsuit involves CFC’s**
9 **allegation that the City wrongfully denied bid relief and rejected of one of the**
10 **subcontractors CFC listed in its bid; other material terms of the settlement are 1) the**
11 **City will release claims for delay and extend the Contract’s completion dates, 2) the**
12 **City will retain certain rights to assess liquidated damages if CFC does not achieve**
13 **substantial completion by February 28, 2017, and 3) CFC will release the City from**
14 **claims, with limited exceptions.**

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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 CF Contracting, Inc. v. City and
19 County of San Francisco, Superior Court of California, County of San Francisco, Case No.
20 CGC-16-551060 by the payment of \$110,000 to CF Contracting, Inc. (“CFC”), plus \$10,000 if
21 CFC reaches substantial completion of San Francisco Public Works Contract No. 3204V, the
22 Mountain Lake Park Playground Renovation (“Contract”), by February 14, 2017. Other
23 material terms of the settlement include the City’s release of all claims for delay under the pre-
24 settlement project schedule for the Contract; the City’s extension of the substantial and final
25 completion dates for the Contract to February 28, 2017, and March 30, 2017, respectively,

1 with the exception that the City will retain the right to assess liquidated damages starting from
2 February 1, 2017, if CFC does not achieve substantial completion by February 28th, 2017;
3 CFC's dismissal of the lawsuit with prejudice and release of the City from all claims related to
4 the action; and, with the exception of the claim at issue in Proposed Change Order #17.2(R3),
5 CFC's release of all asserted claims under the Contract that CFC was aware of prior to
6 December 19, 2016, and all claims under the Contract, known or unknown, related to any
7 costs incurred or work performed by CFC prior to December 19, 2016. The lawsuit involves
8 the demand of the prime contractor for the Contract, CFC, that the City compensate it for the
9 City's allegedly wrongful denial of bid relief and rejection of one of the subcontractors CFC
10 listed in its bid.

11 Section 2. The above-named action was filed in the Superior Court of California,
12 County of San Francisco on March 22, 2016, and the following parties were named in the
13 lawsuit: CF Contracting, Inc. and the City and County of San Francisco.

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APPROVED AS TO FORM AND
RECOMMENDED:

DENNIS J. HERRERA
City Attorney

Elaine M. O’Neil
Construction and Public Contracting Team
Leader, Deputy City Attorney

FUNDS AVAILABLE:

BEN ROSENFELD
Controller

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RECOMMENDED:

RECREATION AND PARK DEPARTMENT

Phil Ginsburg
General Manager

APPROVED:

Margaret McArthur
Secretary, Recreation and Park Commission