

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

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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;

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- 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

LOUISE S. SIMPSON
Deputy City Attorney

RECOMMENDED:

SAN FRANCISCO RECREATION AND
PARK DEPARTMENT

Philip A. Ginsburg, General Manager
San Francisco Recreation and Park
Department

FUNDS AVAILABLE:

BEN ROSENFELD
Controller

APPROVED:

Secretary, Recreation and Park Commission