

1 [Open Space Fund Financing.]

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3 **Ordinance approving the issuance and sale of lease revenue bonds payable from the**
4 **Park, Recreation and Open Space Fund to finance various park projects as further**
5 **described herein; approving the form of a Site Lease by and between the City and**
6 **County of San Francisco Finance Corporation (the “Corporation”) and the City and**
7 **County of San Francisco (the “City”) relating to certain City-owned properties located**
8 **in the City (as further described herein); approving the form of a First Supplemental**
9 **Lease by and between the Corporation and the City; approving the form of a First**
10 **Supplemental Trust Agreement by and between the Corporation and a trustee**
11 **(including certain indemnities contained therein); approving the form of an Assignment**
12 **Agreement by and between the Corporation and a trustee; approving the form of an**
13 **official notice of sale and a notice of intention to sell the lease revenue bonds;**
14 **directing the publication of the notice of intention to sell the lease revenue bonds;**
15 **approving the form of an official statement in preliminary and final form; approving the**
16 **form of a continuing disclosure certificate; authorizing the payment of costs of**
17 **issuance; authorizing reimbursement of certain expenditures; authorizing the**
18 **establishment of a contingency fund; adopting findings under the California**
19 **Environmental Quality Act and findings pursuant to City Planning Code Section 101.1;**
20 **and ratifying previous actions taken in connection therewith.**

21

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

23 Section 1. FINDINGS. The Board of Supervisors of the City and County of San
24 Francisco hereby finds and declares as follows:

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1 A. On March 2000 the voters of the City and County of San Francisco (the “City”)
2 approved Proposition C which extended the Park, Recreation and Open Space Fund (the
3 “Fund”), as codified in Section 16.107 of the City Charter, and authorized the Board of
4 Supervisors of the City (the “Board”) to issue bonds and other evidences of indebtedness,
5 including lease financing, payable from the Fund for the purposes set forth in Section
6 16.107(d) of the City Charter; and,

7 B. The City and County of San Francisco Finance Corporation (the “Corporation”),
8 a California nonprofit public benefit corporation, has been formed among other purposes to
9 facilitate lease financings for the City; and,

10 C. In 2006, the Corporation issued \$27,005,000 of its Lease Revenue Bonds,
11 Series 2006 (Open Space Fund – Various Park Projects) on behalf of the City pursuant to a
12 Master Lease (the "Master Lease") between the Corporation and the City and a Master Trust
13 Agreement (the "Master Trust Agreement") between the Corporation and U.S. Bank National
14 Association as trustee (the "Trustee") to finance the construction, reconstruction, rehabilitation
15 and/or improvement of various park, recreation and open space improvements; and,

16 D. The Recreation and Park Department (the "Department") proposes, in
17 accordance with Charter Section 16.107(d), to acquire, construct, reconstruct, rehabilitate
18 and/or improve certain additional real property and/or facilities, and purchase equipment
19 related to neighborhood playgrounds, neighborhood parks and squares, community pools,
20 neighborhood recreation centers, and clubhouses (together, the “Project”) to be used for City
21 purposes and leased to the City pursuant to the Lease (as defined herein); and,

22 E. In order to finance the costs of the Project, the Board now desires to authorize
23 the issuance and sale by the Corporation of lease revenue bonds pursuant to Charter Section
24 16.107 (the “Bonds”); and,

1 F. The Board has selected certain City-owned properties under the jurisdiction of
2 the Department (as set forth and further described in Section 3 below, the "Property") for
3 purposes of leasing in connection with the issuance and sale of the Bonds to provide funds for
4 the Project; and,

5 G. In connection with the proposed issuance and sale of the Bonds, the City shall
6 lease the Property to the Corporation pursuant to a site lease, and the Corporation shall lease
7 back the Property to the City pursuant to a first supplement to the Master Lease (the "First
8 Supplemental Lease" and together with the Master Lease, "the Lease"); and,

9 H. In connection with the issuance and sale of the Bonds and financing of the
10 Project, the City shall enter into a site lease, a First Supplemental Lease, a first supplement to
11 the trust agreement (the "First Supplemental Trust Agreement" and together with the Master
12 Trust Agreement, the "Trust Agreement") and certain other related agreements; and,

13 I. It is anticipated that the Bonds will be sold by competitive sale in accordance
14 with the terms of the official notice of sale; and,

15 J. The City reasonably expects to reimburse certain expenditures incurred prior to
16 the issuance and sale of the Bonds with proceeds of such Bonds; and,

17 K. On [April 2, 2004], August 22, 2005, February 28, 2007, and May 17, 2007 the
18 Department of City Planning adopted and issued General Plan Consistency Findings for the
19 Project, copies of which are on file with the Clerk of the Board, wherein the Department of City
20 Planning found that the Project is consistent with the Eight Priority Policies under Planning
21 Code Section 101.1; and,

22 L. The Department of City Planning has determined that the Bonds do not
23 constitute a project under the California Environmental Quality Act, as set forth in letters dated
24 April 2, 2004, August 22, 2005, February 28, 2007 and May 17, 2007, copies of which are on
25 file with the Clerk of the Board.

1 Section 2. Approval of the Bonds. The Board hereby approves the issuance and
2 sale of the Bonds by the Corporation in accordance with the Trust Agreement. The Bonds
3 shall be comprised of, and designated as, the “City and County of San Francisco Finance
4 Corporation Lease Revenue Bonds, Series 2007 (Open Space Fund – Various Park Projects)”
5 or such other designation as determined by the Director of Public Finance or her designee
6 (together with the Director of Public Finance, the “Director of Public Finance”). The Bonds
7 shall have an aggregate principal amount not to exceed \$45,000,000 with an interest rate not
8 to exceed twelve percent (12%) per annum. To the extent deemed necessary by the Director
9 of Public Finance, this Board authorizes the procurement of credit enhancement for the
10 Bonds, including, but not limited to, municipal bond insurance and/or a debt service reserve
11 fund surety bond. Notwithstanding Section 15 hereof, the documents authorized herein may
12 be modified or amended to permit the procurement of credit enhancement for the Bonds, to
13 the extent deemed necessary by the Director of Public Finance, upon consultation with the
14 City Attorney.

15 Section 3. Asset Transfer; Description of Property. The execution of the Bonds and
16 lease financing of the Project hereby approved may involve the lease and leaseback by the
17 City of the following real property, as well as any other real property, under the jurisdiction of
18 the Department.

19 Property:

- 20 • Dolores Park, San Francisco, CA.
- 21 • Buena Vista Park, San Francisco, CA.
- 22 • India Basin Shoreline Park, San Francisco, CA.
- 23 • Bernal Heights Park, San Francisco, CA.
- 24 • Balboa Park, San Francisco, CA.
- 25 • Mt. Davidson Park, San Francisco, CA.

- 1 • Bayview Park, San Francisco, CA.
- 2 • Alamo Square, San Francisco, CA.
- 3 • Glen Canyon Park, San Francisco, CA.
- 4 • McLaren Park, San Francisco, CA.

5 Section 4. Approval of the Form of Site Lease. The form of a site lease (the “Site
6 Lease”) between the City and Corporation, as presented to this Board, a copy of which is on
7 file with the Clerk of the Board, or her designee (together with the Clerk of the Board, the
8 “Clerk of the Board”), is hereby approved. The Mayor, or his designee (together with the
9 Mayor, the “Mayor”), is hereby authorized to execute the Site Lease, and the Clerk of the
10 Board is hereby authorized to attest to and to affix the seal of the City on the Site Lease, with
11 such changes, additions, modifications or deletions as the Mayor may make or approve in
12 accordance with Section 15 hereof.

13 Section 5. Approval of the Form of First Supplemental Lease. The form of a First
14 Supplemental Lease between the City and the Corporation, as presented to this Board, a
15 copy of which is on file with the Clerk of the Board, is hereby approved. The Mayor is hereby
16 authorized to execute the Supplemental Lease, and the Clerk of the Board is hereby
17 authorized to attest and to affix the seal of the City on the Supplemental Lease with such
18 changes, additions, modifications or deletions as the Mayor may make or approve in
19 accordance with Section 15 hereof, provided however, that the maximum Base Rental in
20 connection with the Bonds scheduled to be paid under the Supplemental Lease in any fiscal
21 year shall not exceed \$3,500,000 and the term of the Lease shall not extend beyond 2031,
22 except as such date may be extended by future ordinance.

23 Section 6. Approval of the Supplemental Trust Agreement. The form of a First
24 Supplemental Trust Agreement between the Corporation and the Trustee, as presented to this
25 Board, a copy of which on file with the Clerk of the Board, is hereby approved.

1 Section 7. Approval of the form of Assignment Agreement. The form of an
2 assignment agreement between the Corporation and the Trustee (the “Assignment
3 Agreement”), as presented to this Board, a copy of which is on file with the Clerk of the Board,
4 is hereby approved.

5 Section 8. Approval of the Form of Official Notice of Sale. The form of an official
6 notice of sale relating to the Bonds (the “Official Notice of Sale”), as presented to this Board, a
7 copy of which is on file with the Clerk of the Board, is hereby approved. The Director of Public
8 Finance is hereby authorized to approve the distribution of an Official Notice of Sale, with
9 such changes, additions, modifications or deletions as the Director of Public Finance may
10 approve upon consultation with the City Attorney; such approval to be conclusively evidenced
11 by the distribution of the Official Notice of Sale to potential purchasers of the Bonds.

12 Section 9. Approval of the Notice of Intention to Sell relating to the Bonds. The form
13 of a notice of intention to sell relating to the Bonds (the “Notice of Intention to Sell”), as
14 presented to this Board, a copy of which is on file with the Clerk of the Board, is hereby
15 approved. The Director of Public Finance is hereby authorized to approve the publication of
16 the Notice of Intention to Sell, with such changes, additions, modifications or deletions as the
17 Director of Public Finance may approve upon consultation with the City Attorney; such
18 approval to be conclusively evidenced by the publication of the Notice of Intention to Sell.

19 Section 10. Approval of the Official Statement in Preliminary and Final Form. The
20 form of an official statement relating to the Bonds (the “Official Statement”), as presented to
21 this Board, a copy of which is on file in preliminary form with the Clerk of the Board, is hereby
22 approved. The Director of Public Finance is hereby authorized to approve the distribution of
23 the preliminary Official Statement, with such changes, additions, modifications or deletions as
24 the Director of Public Finance may approve upon consultation with the City Attorney; such
25 approval to be conclusively evidenced by the distribution of the preliminary Official Statement

1 to potential purchasers of the Bonds. The Controller of the City, or his designee (together with
2 the Controller of the City, the “Controller”), is hereby authorized to execute, and the Director of
3 Public Finance is hereby further authorized to approve the distribution of, the Official
4 Statement in final form.

5 Section 11. Approval of the Continuing Disclosure Certificate. The form of a
6 continuing disclosure certificate of the City (the “Continuing Disclosure Certificate”), as
7 presented to this Board, a copy of which is on file with the Clerk of the Board, is hereby
8 approved. The Controller is hereby authorized to execute the Continuing Disclosure
9 Certificate, with such changes, additions, modifications or deletions as the Controller may
10 approve upon consultation with the City Attorney; such approval to be conclusively evidenced
11 by the execution and delivery of the Continuing Disclosure Certificate.

12 Section 12. Payment of Cost of Issuance. The Board hereby authorizes the
13 expenditure of a portion of the proceeds of the Bonds for the payment of certain costs of
14 issuance incurred in connection with the issuance and sale of the Bonds.

15 Section 13. Approval of Reimbursement. Pursuant to Treasury Regulation Section
16 1.150-2, the City hereby declares its intent to reimburse from proceeds of the sale of the
17 Bonds capital expenditures of the Project paid within sixty (60) days prior to the date of
18 adoption of this Ordinance, costs of issuance of the Bonds and other expenditures permitted
19 to be reimbursed pursuant to Treasury Regulation Section 1.150-2. Any reimbursement
20 allocation of proceeds of the Bonds to be made with respect to expenditures incurred prior to
21 the issuance of the Bonds (excluding certain de minimis expenditures and preliminary
22 expenditures in an amount not to exceed twenty percent (20%) of the issue price of the
23 Bonds) will occur not later than eighteen (18) months after the later of (i) the date on which the
24 expenditure is paid, or (ii) the date on which the facilities are placed in service, but in no event
25 more than three (3) years after the expenditure is paid.

1 Section 14. Contingency Fund. The Board hereby authorizes the Department to
2 establish a Contingency Fund (the "Contingency Fund"), such Contingency Fund to be
3 financed out of a portion of the proceeds of the Bonds. Expenditures from the Contingency
4 Fund (the "Expenditures") shall be made only if (i) the Expenditure is on a project that is
5 CEQA compliant; (ii) the Expenditure is on a project that is eligible to be paid out of the Fund;
6 and (iii) the Expenditure does not violate applicable tax covenants.

7 Section 15. General Authority. The Mayor, the City Attorney, the Controller, the
8 Director of Public Finance, the General Manager for the Department, the Director of Real
9 Estate and the Clerk of the Board and other officers of the City and their duly authorized
10 deputies and agents are hereby authorized and directed, jointly and severally, to take such
11 actions and to execute and deliver such certificates, agreements, requests or other
12 documents, as they may deem necessary or desirable to facilitate the execution and delivery
13 of the Bonds and, to obtain bond insurance or other credit enhancements with respect to the
14 Bonds and otherwise to carry out the provisions of this Ordinance.

15 Section 16. Modifications, Changes and Additions. The Mayor is hereby authorized to
16 approve and make such modifications, changes, additions or deletions to the Site Lease or
17 the Lease, upon consultation with the City Attorney, as may be necessary or desirable in the
18 interests of the City, and which changes do not materially increase the obligations of the City
19 under the Site Lease or the Lease. The Mayor's approval of such modifications, changes,
20 additions or deletions shall be conclusively evidenced by the execution and delivery by the
21 Mayor and the Clerk of the Board of the Site Lease and the Lease.

22 Section 17. Adoption of Finding of Department of Planning. The Board hereby adopts
23 and incorporates herein by reference the findings of the Department of City Planning in the
24 General Plan Consistency Finding that the proposed Project is in conformity with the Master
25 Plan and is consistent with the Eight Priority Policies of Planning Code Section 101.1. The

1 Board further adopts and incorporates by reference the findings of the Department of City
2 Planning that the Project is not subject to environmental review.

3 Section 18. Ratification of Prior Actions. All actions authorized and directed by this
4 Ordinance and heretofore taken are hereby ratified, approved and confirmed by this Board.

5 Section 19. File Documents. All documents referred to as on file with the Clerk of the
6 Board are in File No. _____.

7 Section 20. Immediate Effect. Pursuant to Section 2.105 of the City's Charter, this
8 Ordinance shall take effect immediately following the date of passage.

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APPROVED AS TO FORM:

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DENNIS J. HERRERA, City Attorney

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By:

Kenneth David Roux
Deputy City Attorney

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