

1 [Wild parrots of Telegraph Hill – Tree preservation adjacent to 233 Greenwich Street.]

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3 **Ordinance waiving certain provisions of Public Works Code Section 809 to assume**
4 **responsibility for the preservation of two (2) Monterey Cypress trees adjacent to 233**
5 **Greenwich Street (Assessor's Block 85, Lot 32) that provide habitat for the wild parrots**
6 **of Telegraph Hill, including pruning and removal as set forth herein, imposing specified**
7 **tree replanting requirements on the property owner of 233 Greenwich Street in**
8 **furtherance of Public Works Code Section 809's tree replacement provisions;**
9 **authorizing the Director of Public Works to enter into a sole source agreement with Ted**
10 **Kipping, Tree Shapers, LLC, for professional services relating to the pruning of said**
11 **trees; accepting a gift from the Northeast San Francisco Conservancy to offset the cost**
12 **of pruning the trees; and authorizing official acts in connection thereto.**

13 Note: Additions are *single-underline italics Times New Roman*;
14 deletions are *strikethrough italics Times New Roman*.
15 Board amendment additions are double underlined.
16 Board amendment deletions are ~~strikethrough normal~~.

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

17 Section 1. Findings.

18 (a) The documentary and book entitled "The Wild Parrots of Telegraph Hill" brought
19 national and international attention to the unique parrot population of Telegraph Hill and the
20 habitat, protection, and foraging opportunities that certain trees provide in this location.

21 (b) These wild parrots have become a valued aspect of the identity and culture of the
22 Telegraph Hill neighborhood, bringing curiosity and joy to both residents and visitors to San
23 Francisco.

24 (c) The parrots' presence has helped to expand the public's interest in urban wildlife
25 and to engage local residents in preserving the urban forest of Telegraph Hill.

1 (d) The two (2) remaining Monterey Cypress trees adjacent to 233 Greenwich Street
2 provide valuable habitat to the wild parrots and other wildlife on Telegraph Hill; however, the
3 current condition of these trees require immediate steps to both reduce the danger of their
4 failure from weather and other natural causes and to replace their habitat value with new
5 trees.

6 (e) The property owners of 233 Greenwich Street (the "property owner") (Assessor's
7 Block 85, Lot 32) also own the adjacent vacant property where the subject Monterey Cypress
8 trees are located (assessor's Block 85, Lot 33). The property owner, the Northeast San
9 Francisco Conservancy, and City representatives have worked tirelessly to reach a
10 compromise that will both reduce dangers facing the property owner, neighbors, and the
11 general public and allow for the preservation and replacement of this valuable habitat.

12 (f) Based on site visits, analysis as set forth in a December 9, 2005 letter from Ted
13 Kipping of Tree Shapers, LLC, and approaching winter conditions, the Director of the
14 Department of Public Works (the "Director") has determined, pursuant to Public Works Code
15 Section 809, that major pruning and dimensional reduction of these trees consistent with
16 International Society of Arboriculture standards is necessary to avoid characterization of said
17 trees as hazard trees, which are defined in Public Works Code Section 802(o). A copy of said
18 letter is on file with the Clerk of the Board of Supervisors in File No. _____ and is
19 incorporated herein by reference.

20 (g) After communication with the property owner of 233 Greenwich Street, the Director
21 has determined that said owner proposes immediate removal of the trees instead of major
22 pruning and dimensional reduction. In order to temporarily preserve the trees and benefit the
23 parrots in the near term, the Director has proposed to combine major pruning with
24 replacement tree plantings and, once the replacement plantings have become established, to
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1 remove the Monterey Cypress trees. Due to the unique circumstances of this site, in
2 furtherance of the abatement process set forth in Public Works Code Section 809, and in lieu
3 of the lien procedures in Section 809 the Director recommends that the City assume costs
4 associated with the tree pruning, eventual tree removal, and liability for the trees during this
5 time. In exchange, the Director recommends that the property owner install and assume all
6 costs associated with replacement plantings in accordance with plans subject to the Director's
7 approval. Said plan shall include up to six (6) replacement trees and such trees shall be
8 located on the western side of the vacant property (Assessor's Block 85, Lot 33) within the
9 property's setback area. The replacement plantings shall include, or accomplish a similar
10 habitat replacement as, the following general palette of plant materials: a suitable tree to
11 serve as a look out or sentry tree; Japanese Stewartia, Golden Chain, Pyrocanthus,
12 Hawthorne, or any of the plant materials recommended in Mr. Kipping's December 9, 2005
13 letter to provide shelter, food, and nectar for the parrots and other birds on Telegraph Hill.
14 Such plantings shall occur within three (3) months of the conclusion of the pruning work.

15 (h) Given the important role of these trees in the lives of the wild parrots of Telegraph
16 Hill and the benefits to the public at large in temporarily preserving said trees, the City
17 considers it in the public interest to assist in facilitating the trees' preservation for a period of
18 at least three (3) years while replacement trees can be grown that provide suitable habitat for
19 the parrots and other wildlife.

20 Section 2. Urban Forestry Ordinance. This Section of the Ordinance is uncodified.

21 (a) Notwithstanding the requirements of Public Works Code Section 809, the Board
22 hereby authorizes the Director of the Department of Public Works to assume the costs
23 associated with major tree pruning and dimensional reduction of the two (2) Monterey
24 Cypress trees on Assessor's Block 85, Lot 33, which is adjacent to 233 Greenwich Street, as
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1 described above, and the removal of said trees three (3) years from the effective date of this
2 legislation or longer if extended as provided below. Further, the Board, on behalf of the City
3 and County of San Francisco, agrees to assume liability for any and all claims related to said
4 trees, including all City or City-contracted work on the trees, beginning on the effective date of
5 this legislation and terminating automatically after the Department of Public Works ("DPW")
6 removes the trees and disposes of the tree debris at an appropriate off-site location; provided,
7 however, that the provisions of this legislation may be extended in six (6) month increments
8 beyond the initial term if agreed to in writing by the property owner and the Director of the
9 Department of Public Works (the "Director").

10 (b) In exchange for the City's assumption of the abovementioned obligations and in
11 furtherance of the abatement provisions of Public Works Code Section 809, the property
12 owner of 233 Greenwich shall install and assume the costs of replacement plantings on
13 Assessor's Block 85, Lot 33 as specified above.

14 (c) Notwithstanding the term of this legislation as set forth above, the Director, in the
15 exercise of his or her authority under Public Works Code Section 809, may determine at any
16 time that said trees become hazard trees and require further abatement or removal in a period
17 shorter than that specified. If the Director makes such a determination, DPW shall assume all
18 costs associated with such work. If the Director determines that the trees must be removed
19 less than three (3) years from the effective date of this legislation, the terms of this legislation
20 shall terminate automatically after DPW has removed the trees and disposed of the tree
21 debris at an appropriate off-site location. If the trees fail during the term of this legislation,
22 DPW shall remove the trees or any remaining portions of such trees, dispose of the debris at
23 an appropriate off-site location, and assume any costs associated with these actions. Should
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1 this occur, the legislation shall terminate automatically after DPW has removed the trees and
2 disposed of the debris at an appropriate off-site location.

3 Section 3. Sole Source Contract. (a) The two remaining Monterey Cypress trees
4 adjacent to 233 Greenwich Street are facing imminent decline and possible failure unless the
5 situation is properly abated. The trees are a critical component in the ecosystem of the wild
6 parrots of Telegraph Hill.

7 (b) For approximately eighteen (18) months, City representatives, the property owner,
8 and the NESFC have relied upon the advice and input of Ted Kipping of Tree Shapers LLC, a
9 certified arborist, who designed a tree pruning plan to address the problem affecting these
10 trees. Mr. Kipping developed this plan after numerous site visits to 233 Greenwich Street and
11 Assessor's Block 85, Lot 33, extensive investigation of the trees, and discussions with all
12 affected parties. In doing so, Mr. Kipping developed a thorough knowledge of the site, the
13 trees' conditions, and the unique relationship between the parrots and the subject trees.

14 (c) With winter climatic conditions approaching and the trees' current condition, the
15 pruning project must proceed immediately or the trees or portions thereof may fail causing
16 potential personal and property damage. Procuring a new professional contractor at this late
17 stage would be a waste of time and public funds. Given his expertise, familiarity with the site
18 and site conditions, and national recognition in the practice of arboriculture, Mr. Kipping is
19 uniquely qualified to perform the tree pruning services for the Monterey Cypress trees on
20 Assessor's Block 85, Lot 33.

21 (d) The San Francisco Board of Supervisors hereby determines that it is in the best
22 interests of the City and County of San Francisco for Ted Kipping of Tree Shapers LLC, to
23 undertake the tree pruning project adjacent to 233 Greenwich Street, as sole source, on
24 behalf of the City's Department of Public Works.

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1 (e) The competitive procurement requirements of San Francisco Administrative Code
2 Chapter 6 are hereby waived with respect to Ted Kipping, Tree Shapers LLC, for the sole
3 purpose of the tree pruning project adjacent to 233 Greenwich Street.

4 (f) The Board of Supervisors authorizes the Director to enter into the abovementioned
5 personal services contract .

6 Section 4. Gift Acceptance. The Board of Supervisors acknowledges the Northeast
7 San Francisco Conservancy's commitment to make a generous gift of funds toward the tree
8 pruning work of the subject Monterey Cypress trees adjacent to 233 Greenwich Street. A
9 letter from the Conservancy making such offer is on file with the Clerk of the Board of
10 Supervisors in File No. _____ and is incorporated herein by reference. The Board
11 accepts such gift of funds on behalf of the City and County of San Francisco and authorizes
12 the Director of Public Works to apply such funds to offset any City costs incurred related to the
13 abovementioned pruning work of the Monterey Cypress trees adjacent to 233 Greenwich
14 Street.

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16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: _____
19 John D. Malamut
20 Deputy City Attorney

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