

1 [This ordinance prohibits subsurface development on property adjacent to the Embarcadero,
2 owned by the City and dedicated as open space.]

3 **Ordinance prohibiting subsurface development on certain real property located at**
4 **Drumm Street, between Clay and Washington Streets, described generally as**
5 **Assessor’s Block 202, Lots 6, 14 and a portion of 15, and a portion of Block 203, Lot 14,**
6 **partial jurisdiction over which has previously been transferred from the Department of**
7 **Public Works to the Recreation and Park Commission, and transferring to the**
8 **Recreation and Park Commission the subsurface area of property previously**
9 **transferred.**

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

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

16 Section 1. The Board of Supervisors of the City and County of San Francisco hereby
17 makes the following findings:

18 A. SB 181, codified in 1991 as California Streets and Highways Code Section 72,
19 authorized the conveyance by the State of California, Department of Transportation
20 (“CalTrans”) to the City and County of San Francisco (the “City”), at no cost to the City, of
21 portions of the right of way of the damaged former Route 480, commonly known as the
22 Embarcadero Freeway, not needed by CalTrans for right-of-way purposes.

23 B. Pursuant to Street and Highway Code Section 72 and Board of Supervisors
24 Resolution No. 636-94, adopted on July 18, 1994, the City acquired from the State, among
25 other things, certain real property comprised of Assessor’s Block 202, Lots 6, 14 and a portion
of 15 (“Lot 15”), and a portion of Assessor’s Block 203, Lot 14, as more particularly described

1 by the legal descriptions on file with the Clerk of the Board of Supervisors in File No. 010620
2 (collectively, the "Property").

3 C. The Property, excluding the subsurface area of Assessor's Block 202, Lots 6, 14
4 and a portion of 15, is now held by the City under the jurisdiction of the Recreation and Park
5 Commission. The subsurface area of Assessor's Block 202, Lots 6, 14 and a portion of 15, is
6 under the jurisdiction of the Department of Public Works.

7 D. The Recreation and Park Commission has jurisdiction within the meaning of
8 San Francisco Charter Section 4.113 over Assessor's Block 202, Lot 18, as more particularly
9 described by the legal description on file with the Clerk of the Board of Supervisors in File No.
10 010620 ("Lot 18"), which adjoins the Property.

11 E. On September 16, 1996, the Board of Supervisors by Resolution No. 828-96
12 preliminarily endorsed construction of a proposed underground public parking facility (the
13 "Underground Parking Facility") on the southern half of Assessor's Block 202, that portion of
14 the block not already under the jurisdiction of the Recreation and Park Commission, to be
15 included as part of the preferred alternative for the Mid-Embarcadero Replacement Project.
16 At that time, this Board had not taken a position on the advisability of such Underground
17 Parking Facility.

18 F. The Property and Lot 18 are zoned "P" under Planning Code Section 234, which
19 includes open space.

20 G. The height and bulk designation for the Property and Lot 18 is "OS" (Open
21 Space), for which Planning Code Section 290 provides that "no building or structure or
22 addition shall be permitted [in an OS district] unless in conformity with the Master [General]
23 Plan." Section 290 further provides that "the inclusion of land in [OS] Districts is intended to
24 indicate its principal or exclusive purpose as open space, with future development of any
25 character strictly limited."

1 H. On November 4, 1996, the Board of Supervisors adopted Resolution
2 No. 1022-96, which endorsed the urban design concepts of the Mid-Embarcadero Roadway
3 project. Resolution No. 1022-96 limited “improvements” on the Property to “landscape
4 improvements until such time as additional public uses that may be proposed in the future are
5 further analyzed by the Planning Commission and the Board of Supervisors.”

6 J. On May 7, 2001, the Board of Supervisors adopted Ordinance No. 109-01. The
7 Ordinance transferred the Property from jurisdiction of the Department of Public Works to the
8 Recreation and Park Commission, prohibited surface improvements on the Property and the
9 adjacent Lot 18 already under the jurisdiction of the Commission (with some exceptions), and
10 dedicated the Property to recreational purposes within the meaning of San Francisco Charter
11 Section 4.113. The subsurface area of Assessor’s Block 202, Lots 6, 14 and 15 was
12 specifically excluded from the jurisdictional transfer to the Recreation and Park Commission
13 and the transfer of property was subject to and therefore limited by the proposed Underground
14 Parking Facility if constructed.

15 K. The Board finds that the public will substantially benefit if no building,
16 improvement or structure is constructed on the subsurface of the Property and Lot 18.

17 Section 2. Notwithstanding Article II of Chapter 23 of the San Francisco
18 Administrative Code regarding interdepartmental transfers of jurisdiction of City property, the
19 Board of Supervisors hereby transfers jurisdiction of the subsurface of Assessor’s Block 202,
20 Lots 6, 14 and 15 thereof, to the Recreation and Park Commission, and dedicates that
21 property to recreational purposes within the meaning of San Francisco Charter Section 4.113.

22 Section 3. As of the date hereof and for so long as the Property and Lot 18 are held
23 by the City, and in addition to San Francisco Charter Section 4.113’s restrictions of use on the
24 park land, no building, improvement or structure may be constructed on the Property and
25 Lot 18, including their subsurfaces, provided that the following improvements, if such

1 improvements satisfy applicable local laws, shall not be prohibited: landscape improvements,
2 including, but not limited to, pedestrian pathways, gazebos, tables, benches, lighting fixtures,
3 trash receptacles, automatic public toilets, bicycle racks and drinking fountains.

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5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

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7 By: _____
8 JUDITH A. BOYAJIAN
9 Deputy City Attorney

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