

FILE NO. 041175

ORDINANCE NO.

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 Master Lease by and**
9 **between the Corporation and the City; approving the form of a Master Trust Agreement**
10 **by and between the Corporation and a trustee (including certain indemnities contained**
11 **therein); authorizing the selection of a trustee; 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 cost of**
17 **issuance; authorizing reimbursement of certain expenditures; adopting findings under**
18 **the California Environmental Quality Act and findings pursuant to City Planning Code**
19 **Section 101.1; and ratifying previous actions taken in connection therewith.**

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

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

24 A. On March 2000 the voters of the City and County of San Francisco (the “City”)
25 approved Proposition C which extended the Park, Recreation and Open Space Fund (the

1 “Fund”), as codified in Section 16.107 of the City Charter, and authorized the Board of
2 Supervisors of the City (the “Board”) to issue bonds and other evidences of indebtedness,
3 including lease financing, payable from the Fund for the purposes set forth in Section
4 16.107(d) of the City Charter; and,

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

8 C. The Recreation and Park Department proposes, in accordance with Charter
9 Section 16.107(d), to acquire, construct, reconstruct, rehabilitate and/or improve certain real
10 property and/or facilities, and purchase equipment related to neighborhood playgrounds,
11 neighborhood parks and squares, community pools, neighborhood recreation centers, and
12 clubhouses (together, the “Project”) to be used for City purposes and leased to the City
13 pursuant to a master lease agreement (as defined herein); and,

14 D. In order to finance the costs of the Project, the Board now desires to authorize
15 the issuance and sale by the Corporation of lease revenue bonds pursuant to with Charter
16 Section 16.107 (the “Bonds”); and,

17 E. The Board has selected certain City-owned properties under the jurisdiction of
18 the Recreation and Parks Department (as set forth and further described in Section 3 below,
19 the “Property”) for purposes of leasing in connection with the issuance and sale of the Bonds
20 to provide funds for the Project; and,

21 F. In connection with the proposed issuance and sale of the Bonds, the City shall
22 lease the Property to the Corporation pursuant to a site lease, and the Corporation shall lease
23 back the Property to the City pursuant to a master lease; and,

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1 G. In connection with the issuance and sale of the Bonds and financing of the
2 Project, the City shall enter into a site lease, master lease, master trust agreement and certain
3 other related agreements; and,

4 H. It is anticipated that the Bonds will be sold by competitive sale in accordance
5 with the terms of the official notice of sale; and,

6 I. The City reasonably expects to reimburse certain expenditures incurred prior to
7 the issuance and sale of the Bonds with proceeds of such Bonds; and,

8 J. On September 28, 1999, the Department of City Planning adopted and issued a
9 General Plan Consistency Finding for the Project, a copy of which is on file with the Clerk of
10 the Board, wherein the Department of City Planning found that the Project is consistent with
11 the Eight Priority Policies under Planning Code Section 101.1; and,

12 K. The Department of City Planning has determined that the Bonds do not
13 constitute a project under the California Environmental Quality Act, as set forth in a letter
14 dated September 28, 1999, a copy of which is on file with the Clerk of the Board.

15 Section 2. Approval of the Bonds. The Board hereby approves the issuance and
16 sale of the Bonds by the Corporation in accordance with the master trust agreement (as
17 defined herein). The Bonds shall be comprised of, and designated as, the "City and County of
18 San Francisco Finance Corporation Lease Revenue Bonds, Series 2004 (Open Space Fund –
19 Various Park Projects)" or such other designation as determined by the Director of Public
20 Finance or her designee (together with the Director of Public Finance, the "Director of Public
21 Finance"). The Bonds shall have an aggregate principal amount not to exceed ~~\$23,470,000~~
22 \$27,005,000, with an interest rate not to exceed twelve percent (12%) per annum. To the
23 extent deemed necessary by the Director of Public Finance, this Board authorizes the
24 procurement of credit enhancement for the Bonds, including, but not limited to, municipal
25 bond insurance and/or a debt service reserve fund surety bond. Notwithstanding Section 15

1 hereof, the documents authorized herein may be modified or amended to permit the
2 procurement of credit enhancement for the Bonds, to the extent deemed necessary by the
3 Director of Public Finance, upon consultation with the City Attorney.

4 Section 3. Asset Transfer; Description of Property. The execution of the Bonds and
5 lease financing of the Project hereby approved may involve the lease and leaseback by the
6 City of the following real property, as well as any other real property, under the jurisdiction of
7 the Recreation and Parks Department.

8 Property:

- 9 • Esprit Park located on Potrero Hill between Minnesota, Indiana, 19th and 20th
10 Streets, San Francisco, CA.
- 11 • Fay Park located at 2366 Leavenworth, at the corner of Chestnut Street, San
12 Francisco, CA.
- 13 • Ferry Park (exc. Lot 013 in Block 0203) located at Drumm Street, between Clay and
14 Washington Streets, San Francisco, CA.
- 15 • Hoff Street Park located at 45 Hoff Street between 16th and 17th Streets, San
16 Francisco, CA.
- 17 • Justin Herman Plaza located on the Embarcadero at the foot of Market Street, San
18 Francisco, CA.
- 19 • Parque Ninos Unidos located between Folsom and Treat Streets and 23rd Street,
20 San Francisco, CA.
- 21 • Richmond Recreation Center located at 251 18th Avenue, San Francisco, CA.
- 22 • Sigmund Stern Recreation Grove located at the intersection of 19th Avenue and
23 Sloat Boulevard, San Francisco, CA.
- 24 • Soma Park located at Folsom Street between Seventh Street and Sherman
25 Avenue, San Francisco, CA.

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

10 Section 5. Approval of the Form of Project Lease. The form of a master lease
11 between the City and the Corporation (the "Lease"), as presented to this Board, a copy of
12 which is on file with the Clerk of the Board, is hereby approved. The Mayor is hereby
13 authorized to execute the Project Lease, and the Clerk of the Board is hereby authorized to
14 attest and to affix the seal of the City on the Lease with such changes, additions,
15 modifications or deletions as the Mayor may make or approve in accordance with Section 15
16 hereof, provided however, that the maximum Base Rental in connection with the Bonds
17 scheduled to be paid under the Lease in any fiscal year shall not exceed \$2,000,000 and the
18 term of the Lease shall not extend beyond 2031, except as such date may be extended by
19 future ordinance.

20 Section 6. Approval of the Master Trust Agreement and Authorization of Selection of
21 the Trustee. The form of a master trust agreement between the Corporation and a trustee (the
22 "Trust Agreement"), as presented to this Board, a copy of which on file with the Clerk of the
23 Board, is hereby approved. The Director of Public Finance is hereby authorized to select a
24 trustee to serve as trustee under the Trust Agreement (the "Trustee").

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

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

16 Section 16. Adoption of Finding of Department of Planning. The Board hereby adopts
17 and incorporates herein by reference the findings of the Department of City Planning in the
18 General Plan Consistency Finding that the proposed Project is in conformity with the Master
19 Plan and is consistent with the Eight Priority Policies of Planning Code Section 101.1. The
20 Board further adopts and incorporates by reference the findings of the Department of City
21 Planning that the Project is not subject to environmental review.

22 Section 17. Ratification of Prior Actions. All actions authorized and directed by this
23 Ordinance and heretofore taken are hereby ratified, approved and confirmed by this Board.

24 Section 18. File Documents. All documents referred to as on file with the Clerk of the
25 Board are in File No.041175.

1 Section 19. Immediate Effect. Pursuant to Section 2.105 of the City's Charter, this
2 Ordinance shall take effect immediately following the date of passage.

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

6 By: Theresa Alvarez Hackett
7 Deputy City Attorney
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