FILE NO. 010620

ORDINANCE NO.

109-01

[This ordinance transfers property adjacent to the Embarcadero from the Department of Public Works to the Recreation and Park Department and requires that the transferred parcels and adjoining park land remain open space.]

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Ordinance transferring jurisdiction over certain real property located at Drumm Street, between Clay and Washington streets, described generally as Assessor's Block 202, Lots 6, 14 and a portion of 15, excluding the subsurface thereof, and a portion of Block 203, Lot 14, from the department of Public Works to the Recreation and Park Commission; and providing that no building, improvement or structure may be constructed on the surfaces of such parcels and adjoining Assessor's Block 202, Lot 18.

Note:

Additions are <u>single-underline italics Times New Roman</u>; deletions are <u>strikethrough italics Times New Roman</u>. Board amendment additions are <u>double underlined</u>. Board amendment deletions are <u>strikethrough normal</u>.

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

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

- A. SB 181, codified in 1991 as California Streets and Highways Code Section 72, authorized the conveyance by the State of California, Department of Transportation ("CalTrans") to the City and County of San Francisco (the "City"), at no cost to the City, of portions of the right of way of the damaged former Route 480, commonly known as the Embarcadero Freeway, not needed by CalTrans for right-of-way purposes.
- B. Pursuant to Street and Highway Code Section 72 and Board of Supervisors Resolution No. 636-94, adopted on July 18, 1994, the City acquired from the State, among 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

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

- C. The Property is held by the City under the jurisdiction of the Department of Public Works.
- D. The Recreation and Park Commission has jurisdiction within the meaning of San Francisco Charter Section 4.113 over Assessor's Block 202, Lot 18, as more particularly described by the legal description on file with the Clerk of the Board of Supervisors in File No. 010620 ("Lot 18"), which adjoins the Property.
- E. On September 16, 1996, the Board of Supervisors by Resolution No. 828-96 preliminarily endorsed construction of a proposed underground public parking facility (the "Underground Parking Facility") on the southern half of Assessor's Block 202, that portion of the block not already under the jurisdiction of the Recreation and Park Commission, to be included as part of the preferred alternative for the Mid-Embarcadero Replacement Project.

 This Board has not taken a position on the advisability of such Underground Parking Facility.
- F. On November 4, 1996, the Board of Supervisors by Resolution No. 1028-96, approved the Final Environmental Impact Report for the Alternatives to Replacement of the Embarcadero Freeway and the Terminal Separator Structure, File No. 92,202E/94,060E (the "Final EIR"), which sets forth several traffic and transit improvements including reserving right-of-way necessary to widen Washington and Clay Streets between Davis and Drumm Streets for potential light rail expansion. To widen Washington and Clay Streets the property line for Assessor's Block 203, Lot 14 will be shifted approximately 17.40 feet to the south on the Washington Street frontage and approximately 17.61 feet to the north on the Clay Street frontage and two portions of Assessor's Block 203 (collectively the "Reserved Street Widening Parcels") will thereby be a part of the widened Washington and Clay Streets. The legal

descriptions of the Reserved Street Widening Parcels are on file with the Clerk of the Board of Supervisors in File No. 010620.

- G. The Property and Lot 18 are zoned "P" under Planning Code Section 234, which includes open space.
- H. The height and bulk designation for the Property and Lot 18 is "OS" (Open Space), for which Planning Code Section 290 provides that "no building or structure or addition shall be permitted [in an OS district] unless in conformity with the Master [General] Plan." Section 290 further provides that "the inclusion of land in [OS] Districts is intended to indicate its principal or exclusive purpose as open space, with future development of any character strictly limited."
- I. On November 4, 1996, the Board of Supervisors adopted Resolution

 No. 1022-96, which endorsed the urban design concepts of the Mid-Embarcadero Roadway

 project. Resolution No. 1022-96 limited "improvements" on the Property to "landscape
 improvements until such time as additional public uses that may be proposed in the future are
 further analyzed by the Planning Commission and the Board of Supervisors."
- J. The Board finds that the public will substantially benefit if no building, improvement or structure is constructed on the surface of the Property and Lot 18.

Section 2. Notwithstanding Article II of Chapter 23 of the San Francisco Administrative Code regarding interdepartmental transfers of jurisdiction of City property, the Board of Supervisors hereby transfers jurisdiction of the Property, including any and all improvements thereon and excluding the subsurface of Assessor's Block 202, Lots 6, 14 and 15 thereof, to the Recreation and Park Commission, and dedicates that property to recreational purposes within the meaning of San Francisco Charter Section 4.113. Such transfer shall be subject to and therefore limited by the Underground Parking Facility as set forth in Resolution No. 828-96, if such Underground Parking Facility is constructed.

Section 3. The Reserved Street Widening Parcels may be utilized only for the purpose of expanding the City's light rail system. In the event that Washington and Clay Streets are not widened for that purpose within five (5) years after the effective date of this Ordinance, the Director of Property shall recommend to the Board of Supervisors that, subject to the California Environmental Quality Act and other applicable laws, the jurisdiction of the Reserved Street Widening Parcels be transferred to the Recreation and Park Commission and subjected to the limitations of Section 4 below.

Section 4. As of the date hereof and for so long as the Property, excluding the subsurface of Assessor's Block 202, Lots 6, 14 and 15, and Lot 18 are held by the City, and in addition to San Francisco Charter Section 4.113's restrictions of use on the park land (subject to Section 5 below), no building, improvement or structure may be constructed on the surfaces of the Property and Lot 18, provided that the following improvements, if such improvements satisfy applicable local laws, shall not be prohibited: (a) landscape improvements, including, but not limited to, pedestrian pathways, gazebos, tables, benches, lighting fixtures, trash receptacles, automatic public toilets, bicycle racks and drinking fountains, and (b) improvements necessary to the functioning of the Underground Parking Facility that cannot be constructed underground (the "Parking Facility Improvements") so long as the Parking Facility Improvements are designed to minimize to the greatest extent feasible the intrusion upon the public open space use of the Property and Lot 18, and so long as the Recreation and Park Commission is not responsible for maintenance of the Parking Facility Improvements.

Section 5. Any proposed development of the Underground Parking Facility will require prior approval of the Board of Supervisors. However, notwithstanding anything to the contrary in Section 4 of this Ordinance, by reserving the subsurface of Assessor's Block 202, Lots 6, 14 and 15 in the Department of Public Works, this Board of Supervisors intends that the

limitations contained in Section 4.113(2) of the San Francisco Charter regarding operation and revenues of underground parking stations shall not apply to the proposed Underground Parking Facility. The operation and allocation of revenues of such proposed Underground Parking Facility shall instead be determined by an agreement among the Department of Public Works and other relevant City agencies, subject to Board of Supervisors approval.

APPROVED AS TO FORM: LOUISE H. RENNE, City Attorney

By: Maran M. Morley

Mariam M. Morley Deputy City Attorney



City and County of San Francisco Tails

City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4689

Ordinance

File Number:

010620

Date Passed:

Ordinance transferring jurisdiction over certain real property located at Drumm Street, between Clay and Washington Streets, described generally as Assessor's Block 202, Lots 6, 14 and a portion of 15, excluding the subsurface thereof, and a portion of Block 203, Lot 14, from the Department of Public Works to the Recreation and Park Commission; and providing that no building, improvement or structure may be constructed on the surfaces of such parcels and adjoining Assessor's Block 202, Lot 18.

April 30, 2001 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

May 7, 2001 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

File No. 010620

I hereby certify that the foregoing Ordinance was FINALLY PASSED on May 7, 2001 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young

Clerk of the Board

Mayor Willie L. Brown Jr.

MAY 18 2001

Date Approved