

Amendment of the Whole
March 19, 2007.

FILE NO. 061217

ORDINANCE NO.

1 [Trinity Plaza Development Agreement; Property at 1167 Market St., 670-693 Stevenson St.,
2 and 1164 Mission St.]

3 **Ordinance approving a development agreement between the City and County of**
4 **San Francisco, and 1169 Market Street, LP, Trinity Properties, Inc., a California limited**
5 **partnership corporation, for certain real property located at 1167 Market Street**
6 **(Assessor's Block 3702/Lot 053), 670 Stevenson Street (Assessor's Block 3702/Lot**
7 **051), 693 Stevenson Street (Assessor's Block 3702/Lot 052), 1164 Mission Street**
8 **(Assessor's Block 3702/Lot 039), and a portion of former Jessie Street between 7th and**
9 **8th Streets, altogether consisting of approximately 177,295 square feet (4.07 acres) and**
10 **commonly known as Trinity Plaza, for a term of fifteen (15) years with a five (5) year**
11 **extension option; adopting environmental, General Plan, and Planning Code Section**
12 **101.1(b) findings; amending Administrative Code Chapters 37 and 37A by amending**
13 **Sections 37.2(r)(5) and 37A.1(g) and by adding Section 37.9(a)(15), to provide that**
14 **specified residential units constructed pursuant to the terms of a development**
15 **agreement are subject to the City's residential rent stabilization and arbitration**
16 **ordinance; and ratifying previous actions taken in connection therewith.**

17 Note: Additions are *single-underline italics Times New Roman*;
18 deletions are *~~strikethrough italics Times New Roman~~*.
19 Board amendment additions are double underlined.
20 Board amendment deletions are ~~strikethrough normal~~.

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

22 Section 1. Findings. The Board of Supervisors makes the following findings:

23 (a) California Government Code Section 65864 et seq. authorizes any city, county,
24 or city and county to enter into an agreement for the development of real property within the
25 jurisdiction of the city, county, or city and county.

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1 (b) Chapter 56 of the San Francisco Administrative Code sets forth the procedure
2 by which any request for a development agreement will be processed and approved in the
3 City and County of San Francisco.

4 (c) 1169 Market Street, LP Trinity Properties, Inc. ("Developer") owns the real
5 property located in the City and County of San Francisco, California located at 1167 Market
6 Street (Assessor's Block 3702/Lot 053), 670 Stevenson Street (Assessor's Block 3702/Lot
7 051), 693 Stevenson Street (Assessor's Block 3702/Lot 052), 1164 Mission Street (Assessor's
8 Block 3702/Lot 039), and a portion of former Jessie Street between 7th and 8th Streets,
9 altogether consisting of approximately 177,295 square feet (4.07 acres) and commonly known
10 as Trinity Plaza (the "Project Site").

11 (d) On June 28, 2005, the Board of Supervisors adopted Resolution No. 507-05 (the
12 "Trinity Plaza Resolution"), which created policy of the Board of Supervisors that any
13 development agreement presented to the Board for approval concerning the Project Site
14 should contain specified unit affordability, tenant protection provisions, and required project
15 amenities.

16 (e) Developer filed an application with the City's Department of Planning for
17 approval of a development agreement under Administrative Code Chapter 56. Developer also
18 filed applications with the Department of Planning for (1) a Planning Code amendment to
19 create the Trinity Plaza Special Use District; (2) a General Plan Amendment under Planning
20 Code Section 340; (3) a Zoning Map amendment under Planning Code Section 302;
21 (4) Conditional Use Authorization under Planning Code Section 303; (5) C-3 District Review,
22 including exceptions, under Planning Code Section 309; and (6) a determination of
23 insignificant shadow impact under Planning Code Section 29.

24 (f) The Developer proposes to demolish all existing improvements on the Project
25 Site and to develop on the Project Site a mixed-use residential and commercial development

1 with accessory parking, loading and open space. The City wishes to ensure appropriate
2 development of the Project Site as an important part of the City's ongoing effort to revitalize
3 the Mid-Market area, to provide for the replacement of the 360 rent-controlled units in the
4 residential structure currently existing on the Project Site, to provide certain amenities for the
5 benefit of these existing tenants, and to protect these existing tenants from displacement due
6 to the proposed future development of the Project Site.

7 (g) The City's Department of Planning has negotiated a development agreement for
8 the Project Site, a copy of which is on file with the Clerk of the Board under File No. 061217
9 _____(the "Development Agreement"). The proposed mixed-use project, as more
10 particularly described in the Development Agreement (the "Project"), generally conforms to,
11 and includes the amenities set forth in, the Trinity Plaza Resolution.

12 Section 2. CEQA Findings. The Board makes the following findings:

13 (a) On August 3, 2006, at a duly noticed public hearing, the Planning Commission
14 certified the Final Environmental Impact Report ("Final EIR") for the proposed Project, by
15 Motion No. 17291 finding that the Final EIR reflects the independent judgment and analysis of
16 the City and County of San Francisco, is adequate, accurate and objective, contains no
17 significant revisions to the Draft EIR, and the content of the report and the procedures through
18 which the Final EIR was prepared, publicized and reviewed comply with the provisions of the
19 California Environmental Quality Act (California Public Resources Code Sections 21000 et
20 seq., "CEQA"), the State CEQA Guidelines (California Code of Regulations Title 14 Sections
21 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). A
22 copy of the Final EIR is on file with the Clerk of the Board in File No. _____.

23 (b) At the same hearing during which the Planning Commission certified the Final
24 EIR, the Planning Commission adopted CEQA Findings with respect to the approval of the
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1 proposed Project in Motion 17292, and adopted the proposed Planning Code amendment
2 creating the Trinity Plaza Special Use District in Resolution No. 17295.

3 (c) The letter from the Department of Planning transmitting the Development
4 Agreement to the Board of Supervisors, the Final EIR and supplemental material described
5 above, the CEQA Findings adopted by the Planning Commission with respect to the approval
6 of the Project, including a mitigation monitoring and reporting program and a statement of
7 overriding considerations, are on file with the Clerk of the Board in File No. _____.
8 These and any and all other documents referenced in this Ordinance have been made
9 available to, and have been reviewed by, the Board of Supervisors, and may be found in
10 either the files of the City Department of Planning, as the custodian of records, at
11 1660 Mission Street in San Francisco, or in File No. _____ with the Clerk of the
12 Board of Supervisors at 1 Dr. Carlton B. Goodlett Place, San Francisco and are incorporated
13 herein by reference.

14 (d) The Board of Supervisors has reviewed and considered the Final EIR and the
15 environmental documents on file referred to herein, and the CEQA Findings adopted by the
16 Planning Commission in support of the approval of the proposed Project, including the
17 mitigation monitoring and reporting program and the statement of overriding considerations.
18 As set forth in the related Ordinance Approving a General Plan Amendment Related to the
19 Trinity Plaza Project at Market and 8th Street, Ordinance No. _____, the Board of
20 Supervisors has adopted the Planning Commission's CEQA findings as its own and
21 incorporated them by reference. The Board of Supervisors hereby incorporates all of the
22 findings related to CEQA contained in the Ordinance Approving a General Plan Amendment
23 Related to the Trinity Plaza Project at Market and 8th Street, Ordinance No. _____,
24 located in Board File No. _____, by reference as though such findings were fully set
25 forth in this Ordinance.

1 Section 3. Adoption of General Plan and Planning Code Section 101.1(b) Findings.

2 (a) The Board of Supervisors finds, pursuant to Planning Code Section 302, that the
3 proposed Development Agreement will serve the public necessity, convenience and general
4 welfare for the reasons set forth in Planning Commission Resolution No. 17298 and
5 incorporates those reasons herein by reference.

6 (b) The Board of Supervisors finds that the proposed Development Agreement is in
7 conformity with the General Plan, as amended, and the eight priority policies of Planning
8 Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. 17298.
9 The Board hereby adopts the findings set forth in Planning Commission Resolution No. 17298
10 and incorporates those findings herein by reference.

11 Section 4. Approval of the Development Agreement.

12 (a) The Board of Supervisors approves all of the terms and conditions of the
13 Development Agreement, including but not limited to the following: (i) one-for-one
14 replacement of the 360 rent-controlled dwelling units currently existing on the Project Site
15 with new units that are comparable in amenities, style, function and design (“Replacement
16 Units”); (ii) the waiver of rights under the Costa-Hawkins Rental Housing Act; (iii) the rental-
17 only requirements, the Ellis Act waiver, and the related Recorded Restrictions against
18 Building A, as defined in the Development Agreement; (iv) Developer's on-site provision of
19 affordable housing dwelling units, not including the Replacement Units; (v) the relocation by
20 Developer of all existing tenants from their existing units to the Replacement Units; (vi) the
21 availability of lifetime leases to each existing tenant that elects to occupy a Replacement
22 Unit; and (vi) the granting to Developer of the vested right to build up to 1,900 residential
23 dwelling units in three separate buildings on the Project Site, together with commercial
24 space, parking and open space.

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1 (b) The Board of Supervisors approves the subdivision and condominium map
2 provisions, as set forth in Section 3.5 of the Development Agreement, including the
3 requirements relative to the Recorded Restrictions. The Board of Supervisors understands
4 and agrees that the units in Building A shall be rental units for the life of the building, and
5 the Replacement Units shall be rent controlled for so long as the Rent Ordinance, as
6 amended, supplanted or replaced, remains in effect, notwithstanding any subdivision or
7 condominium map placed on Building A in the future. The foregoing agreement and
8 restrictions are a material part of the Development Agreement, and the Board would not be
9 willing to approve the Development Agreement without these restrictions and without the
10 right to enforce these restrictions by all available legal and equitable means including but
11 not limited to specific performance.

12 (c) The minimum number of BMR Units in the Project shall be the number
13 required by the San Francisco Planning Code on the date this Ordinance becomes
14 effective, based on the number of units in the Project remaining after subtracting the
15 number of Replacement Units. All BMR Units shall be provided on site. A Replacement
16 Unit may not be used to meet the City's inclusionary housing requirements.

17 (d) The floor area devoted to Commercial Parking (as defined in § 204.5(c) of the
18 S.F. Planning Code) shall not exceed two hundred twenty-five (225) spaces,
19 based upon 60,000 square feet of commercial space.

20 (e) Subject to the foregoing, the Board of Supervisors approves the execution,
21 delivery and performance of the Development Agreement. The Director of Planning (or his
22 or her designee) at his or her discretion is hereby authorized to take all actions reasonably
23 necessary or prudent to perform the City's obligations under the Development Agreement,
24 subject to the terms of the Development Agreement and San Francisco Administrative
25 Code Chapter 56. The Director of Planning, at his or her discretion and in consultation with

1 the City Attorney, is authorized to enter into any additions, amendments or other
2 modifications to the Development Agreement that the Director of Planning determines are
3 in the best interests of the City and that do not materially increase the obligations or
4 liabilities of the City.

5 Section 5. Rent Ordinance Amendments. The San Francisco Residential Rent
6 Stabilization and Arbitration Ordinance and its supporting fee provisions (San Francisco
7 Administrative Code Chapters 37 and 37A; collectively, the "Rent Ordinance") are hereby
8 amended to provide that specified residential units that are built pursuant to a the terms of a
9 development agreement entered into by the City under San Francisco Administrative Code
10 Chapter 56 shall be subject to the provisions of the Rent Ordinance.

11 (a) Accordingly, San Francisco Administrative Code Section 37.2(r)(5) is amended
12 to read as follows:

13 (5) Rental units located in a structure for which a certificate of occupancy was first
14 issued after the effective date of this ordinance, (A) except as provided for certain categories
15 of units and dwellings by Section 37.3(d) and Section 37.9A(b) of this Chapter, and (B) except
16 as provided in a development agreement entered into by the City under San Francisco Administrative
17 Code Chapter 56.

18 (b) The Rent Ordinance is hereby amended by adding Section 37.9(a)(15), to read
19 as follows:

20 (15) The landlord seeks to recover possession in good faith in order to demolish or to
21 otherwise permanently remove the rental unit from housing use in accordance with the terms of a
22 development agreement entered into by the City under Chapter 56 of the San Francisco Administrative
23 Code.

24 (c) The Rent Ordinance fee provisions are hereby amended by amending
25 Section 37A.1(g), to read as follows:

1 (g) Dwelling units located in a structure for which a certificate of final completion
2 and occupancy was first issued by the Bureau of Building Inspection after June 13, 1979,
3 except that any such units shall be subject to this Chapter 37A if so designated in a development
4 agreement entered into by the City under Chapter 56 of the San Francisco Administrative Code;

5 Section 6. Ratification of Prior Actions. All actions taken by City officials in preparing
6 and submitting the Development Agreement to the Board for review and consideration are
7 hereby ratified and confirmed, and the Board hereby authorizes all subsequent action to be
8 taken by City officials consistent with this Ordinance.

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10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 CHARLES R. SULLIVAN
14 Deputy City Attorney

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