

1 [Adopting findings reversing the exemption determination for the 430 Main Street/429 Beale
2 Street project.]

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4 **Motion adopting findings reversing the exemption determination by the Planning**
5 **Department that the 430 Main Street/429 Beale Street project is exempt from further**
6 **environmental review.**

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8 WHEREAS, On February 23, 2009, the Planning Department determined that a
9 proposal to demolish two existing one- and two-story concrete buildings on two adjacent
10 parcels and construct an eight-story, approximately 146,000 square foot residential building
11 on the site, located at 430 Main Street/429 Beal Street (the "Project") was statutorily exempt
12 from further environmental review after preparation of the Rincon Hill Plan Final
13 Environmental Impact Report ("FEIR") under the California Environmental Quality Act
14 ("CEQA"), Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 as a
15 Community Plan Exemption permitted thereunder and required no further environmental
16 review ("Exemption Determination"). A copy of the Exemption Determination is on file with the
17 Clerk of the Board of Supervisors in File No. 091088, and is incorporated by reference in this
18 motion; and,

19 WHEREAS, On May 14, 2009, the Planning Commission approved the Project; and

20 WHEREAS, By letter to the Clerk of the Board of Supervisors dated September 8,
21 2009, Dane Ince filed an appeal of the Exemption Determination to the Board of Supervisors,
22 which the Clerk of the Board of Supervisors received on or around September 8, 2009; and

23 WHEREAS, On October 20, 2009, this Board held a duly noticed public hearing to
24 consider the appeal; and

1 WHEREAS, This Board has reviewed and considered the Exemption Determination,
2 the appeal letter, the responses to the appeal that the Planning Department prepared, other
3 written records before this Board, staff testimony and responses to questions raised, and
4 heard public testimony in support of and opposed to the Exemption Determination appeal; and

5 WHEREAS, The Exemption Determination files and all correspondence and other
6 documents have been made available for review by this Board and the public. These files are
7 available for public review by appointment at the Planning Department offices at 1650 Mission
8 Street, and are part of the record before this Board by reference in this motion; and

9 WHEREAS, CEQA provides that where a Project meets the requirements for use of a
10 Community Plan Exemption, the public agency must limit its examination of environmental
11 effects to those which the agency determines (1) are peculiar to the project or parcel on which
12 the project would be located, or (2) were not analyzed as significant effects in the relevant
13 prior EIR, or (3) are potentially significant off-site impacts or cumulative impacts that were not
14 discussed in the prior EIR, or (4) are more severe adverse impacts than were analyzed in the
15 prior EIR; and

16 WHEREAS, This Board examined these issues and heard extensive testimony on
17 potential air quality impacts on-site for the Project caused by excessive PM 2.5 concentrations
18 because of the Project's location near the Bay Bridge on-ramps and other automobile arterials
19 that were not specifically analyzed in the FEIR; and

20 WHEREAS, This Board heard and shared concerns that the potential environmental
21 impacts of the Project on the adjacent site located at 201 Harrison Street with regard to
22 excessive PM 2.5 concentrations, combined with the Project's wind impacts on 201 Harrison
23 Street, were not adequately analyzed in the FEIR; and

24 WHEREAS, This Board reviewed the analysis of the Project's greenhouse gas effects,
25 which were not analyzed in the FEIR, and determined that further study of the greenhouse

1 gas effects of the Project is necessary to determine whether those impacts may be significant;
2 and

3 WHEREAS, This Board considered the Exemption Determination, reviewed the
4 requirements and determinations that CEQA requires for a Community Plan Exemption, and
5 determined that additional environmental review is necessary for a determination regarding
6 certain environmental effects that are peculiar to the Project and its location, were not
7 analyzed as potential significant effects in the FEIR, or are potential significant off-site impacts
8 that were not discussed in the FEIR; and

9 WHEREAS, On October 20, 2009, this Board voted to reverse the Planning
10 Department's determination that no further environmental review is necessary for the Project
11 under the Community Plan Exemption with respect to three different potential environmental
12 effects by Motion No. 091090; now therefore be it

13 RESOLVED, That this Board finds that the Community Plan Exemption set forth in
14 Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 applies to the
15 Project and that the FEIR addresses the Project, with the exception of three issues as set
16 forth herein; and be it further

17 RESOLVED, That this Board hereby directs the Planning Department to conduct
18 additional environmental review and to prepare either a negative declaration or environmental
19 impact report analyzing the potential impacts, as required by CEQA, on the following three
20 potentially significant environmental impacts: (1) the potential air quality impacts on-site for
21 the Project caused by concentrations of PM 2.5 because of the Project's location near the Bay
22 Bridge on-ramps and other automobile arterials, which impacts were not specifically analyzed
23 in the FEIR; and (2) the potential impacts of the Project on the adjacent site located at 201
24 Harrison Street with regard to concentrations of PM 2.5, combined with the Project's wind
25 impacts on 201 Harrison Street, which were not analyzed in the FEIR; and (3) the Project's

1 potential greenhouse gas effects, which were not analyzed in the FEIR, particularly with
2 respect to the Project's relative contribution to the State of California's cumulative greenhouse
3 gas effects.

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