

1 [Adopting the Redevelopment Plan Amendment for the South of Market Redevelopment
2 Project Area.]

3 **Ordinance approving and adopting findings pursuant to the California Environmental**
4 **Quality Act and a Statement of Overriding Considerations for the Redevelopment Plan**
5 **Amendment for the South of Market Earthquake Recovery Redevelopment Project**
6 **Area; amending Ordinance No. 234-90 to adopt the Redevelopment Plan Amendment**
7 **for the South of Market Redevelopment Project Area; adopting findings that the**
8 **Redevelopment Plan Amendment and related documents are consistent with the City's**
9 **General Plan and Eight Priority Policies of City Planning Code Section 101.1; adopting**
10 **other findings pursuant to the California Community Redevelopment Law; and**
11 **authorizing official acts in furtherance of this ordinance.**
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13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. FINDINGS. The Board of Supervisors of the City and County of
15 San Francisco hereby finds, determines and declares, based on the record before it, including
16 but not limited to information contained in the Report on the Redevelopment Plan Amendment
17 (as hereafter defined), that:

18 A. On June 11, 1990, the Board of Supervisors approved and adopted a
19 Redevelopment Plan for the South of Market Earthquake Recovery Redevelopment Project
20 Area (as adopted and subsequently amended, the "Earthquake Recovery Redevelopment
21 Plan" or the "Redevelopment Plan") by Ordinance No. 234-90 pursuant to the Community
22 Redevelopment Disaster Project Law (Sections 34000 through 34014 of the California Health
23 and Safety Code, adopted in 1964, and, as subsequently amended, referred to as the "CR
24 Disaster Project Law"). On November 30, 1990, the Agency and the Planning Department
25 entered into a Cooperation Agreement that implements the Earthquake Recovery

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1 Redevelopment Plan by providing for the review and approval by the Planning Department
2 and the Planning Commission of the City and County of San Francisco (respectively,
3 “Planning Department” and “Planning Commission”) as to use permits, building permits,
4 demolition permits and variances for Project Area developments, all in consultation with the
5 Agency.

6 B. Since then the Board has amended Ordinance No. 234-90, the ordinance
7 creating the Earthquake Recovery Redevelopment Plan three times: by Ordinance No. 431-
8 94 on December 12, 1994, by Ordinance No. 364-95 on November 13, 1995, and by
9 Ordinance No. 388-97 on October 14, 1997. Ordinance No. 234-90, as it has been amended,
10 is, by this reference, incorporated and made a part hereof as though fully set forth herein.

11 C. The CR Disaster Project Law allows the Board of Supervisors to include all or a
12 portion of a project area created pursuant to the CR Disaster Project Law within a traditional
13 redevelopment project area through the adoption or amendment of aredevelopment plan, so
14 long as such redevelopment plan meets all the requirements of the Community
15 Redevelopment Law (Sections 33000 et seq. of the California Health and Safety Code and
16 referred to as the "Community Redevelopment Law").

17 D. On January 16, 1997, the Planning Commission of the City and County of
18 San Francisco selected and designated the boundaries of a proposed amended South of
19 Market Redevelopment Project Area and approved a Preliminary Plan for the proposed
20 amended Project Area. On March 4, 1997, the Agency, by Resolution No. 32-97, requested
21 the Board to pass a resolution calling for the election of a Redevelopment Project Area
22 Committee for the South of Market Redevelopment Project Area and approving procedures
23 for the formation of the Project Area Committee. On March 28, 1997, the Board approved and
24 adopted “Articles of Formation for the Redevelopment Project Area Committee for the South
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1 of Market Redevelopment Project” by Resolution No. 268-97. On April 24, 1997, an election
2 was held in the proposed amended South of Market Redevelopment Project Area for the
3 purposes of forming a Project Area Committee. On June 9, 1997, by Resolution No. 575-97,
4 the Board of Supervisors found that the appropriate election procedures were followed and
5 that the members of the South of Market Project Area Committee (“PAC”) were duly elected.

6 E. Working in conjunction with the PAC, the Redevelopment Agency of the City
7 and County of San Francisco (the “Agency”) has prepared a proposed amendment to the
8 Earthquake Recovery Redevelopment Plan that converts it to a redevelopment plan that
9 meets all the requirements of the Community Redevelopment Law and contains other
10 changes (collectively the “South of Market Redevelopment Plan Amendment”). The principal
11 changes reflected in the South of Market Redevelopment Plan Amendment are: 1) revised
12 redevelopment goals and objectives and the expansion of redevelopment actions to address
13 all conditions of blight in the area; 2) the addition of the Western Expansion Area, bounded by
14 Folsom Street, Columbia Square, Harrison Street, and Seventh Street, to the project area
15 previously established by the South of Market Earthquake Recovery Redevelopment Project
16 Area (collectively, the “Amended Project Area”); 3) an increase in the aggregate amount of
17 tax increment the Agency may receive and the maximum amount of bond indebtedness the
18 Agency may have outstanding at any one time; 4) an extension of the Agency’s ability to
19 incur and repay debt from tax increment proceeds by an additional ten years; 5) authorization
20 to acquire certain properties through eminent domain, subject to the limitations contained in
21 the Redevelopment Plan; and 6) the extension by ten years of the expiration date from June
22 11, 2010, to June 11, 2020.

23 F. The PAC has reviewed and considered the South of Market Redevelopment
24 Plan Amendment on several occasions, including the PAC meetings held on April 21, 2003,
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1 December 15, 2003 and March 28, 2005. Based on the PAC's recommendations adopted on
2 March 28, 2005, the South of Market Redevelopment Plan Amendment's eminent domain
3 policies were revised to address concerns of property owners in the Project Area, in
4 accordance with the PAC's recommendations. In addition, the PAC also met between June
5 and September 2005 to consider and comment on a proposed amendment of the Rules
6 Governing Participation by Property Owners and the Extension of Reasonable Preferences to
7 Business Occupants for the South of Market Earthquake Recovery Redevelopment Project
8 Area dated May 15, 1990 ("Owner Participation Rules"), which comments have been included
9 by the Agency in such amended Owner Participation Rules.

10 G. Pursuant to Section 33352 of the Community Redevelopment Law, the Agency
11 has prepared a Report on the South of Market Redevelopment Plan Amendment (the "Report
12 on the Redevelopment Plan Amendment"), that has been made available for public review
13 before the date of the hearing on this Ordinance approving the South of Market
14 Redevelopment Plan Amendment.

15 H. On March 24, 2005, after a duly noticed public hearing, the Planning
16 Commission adopted Motion Nos. 16969 and 16970 as follows: Motion No. 16969 adopted
17 the findings required by CEQA regarding alternatives to the proposed South of Market
18 Redevelopment Plan Amendment, a mitigation monitoring and reporting program and a
19 statement of overriding considerations (collectively the "CEQA Findings"), and Motion
20 No. 16970 finds the South of Market Redevelopment Plan Amendment to be generally
21 consistent with the General Plan and in conformity with the Priority Policies of Section 101.1
22 of the Planning Code and recommended the adoption of the South of Market Redevelopment
23 Plan Amendment to this Board of Supervisors. Copies of such Planning Commission Motions
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1 are on file with the Clerk of the Board of Supervisors in File No. 050871 and are incorporated
2 herein by reference as though fully set forth.

3 I. On May 3, 2005, after holding a duly noticed public hearing, the Agency adopted
4 its Resolution Nos. 67-2005 through 72-2005, which 1) adopted findings and actions required
5 by the California Environmental Quality Act (Resolution No. 67-2005); 2) approved the Report
6 on the Redevelopment Plan Amendment and recommend the adoption of the Plan
7 Amendment (Resolution Nos. 68-2005 and 69-2005); 3) adopted design guidelines for the
8 Sixth Street Economic Revitalization Program (Resolution No. 70-2005); 4) authorized
9 amendment of the Cooperation Agreement through approval of a proposed Delegation
10 Agreement with the Planning Department (Resolution No. 71-2005); and 5) commended the
11 South of Market Project Area Committee (Resolution No. 72-2005). Copies of Agency
12 Resolution Nos. 67-2005 through 72-2005 are on file with the Clerk of the Board of
13 Supervisors in File No. 050871 and are incorporated herein by reference as though fully set
14 forth.

15 J. The Agency was not able to forward the South of Market Redevelopment Plan
16 Amendment to this Board of Supervisors before the close of Fiscal Year 2004-2005.
17 Therefore the Agency updated the fiscal analysis in its Report to designate Fiscal Year 2005-
18 2006 as the proposed base year for the Western Expansion Area and held a duly noticed
19 public hearing on October 4, 2005 to consider such revised Report and the South of Market
20 Redevelopment Plan Amendment. Following the close of such public hearing, the Agency
21 adopted its Resolution Nos. 147-2005 through 150-2005 which: 1) affirmed its previously
22 adopted environmental findings, statement of overriding considerations and related actions
23 (Resolution No. 147-2005); 2) approved the revised Report on the Redevelopment Plan
24 Amendment (Resolution No. 148-2005); 3) approved the proposed South of Market
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1 Redevelopment Plan Amendment (Resolution No. 149-2005); and 4) adopted amended
2 Owner Participation Rules (Resolution No. 150-2005). Copies of Agency Resolution Nos.
3 147-2005 through 150-2005 are on file with the Clerk of the Board of Supervisors in File No.
4 050871 and are incorporated herein by reference as though fully set forth.

5 K. The Agency has transmitted to this Board of Supervisors certified copies of the
6 aforementioned resolutions (the "Resolutions"), the Report on the Redevelopment Plan
7 Amendment and the South of Market Redevelopment Plan Amendment, together with related
8 documents, and such documents are on file with the Clerk of the Board of Supervisors in File
9 No. 050871, and are incorporated herein by reference as though fully set forth herein.

10 L. On _____, 2005, the Board of Supervisors held a duly noticed public
11 hearing on the South of Market Redevelopment Plan Amendment. The hearing has been
12 closed. Notice of such hearing was published prior to such hearing in accordance with
13 Section 33361 of the California Health and Safety Code, in the San Francisco Chronicle, a
14 newspaper of general circulation, printed, published and distributed in the City and County of
15 San Francisco describing the boundaries of the proposed Project Area and stating the day,
16 hour and place when and where any interested persons may appear before the Board of
17 Supervisors to object to the South of Market Redevelopment Plan Amendment. At such
18 hearing the Board of Supervisors considered the report and recommendations of the Agency
19 and the Planning Commission, the Final Environmental Impact Report for the South of Market
20 Redevelopment Plan ("FEIR"), the Final Supplement to such FEIR, and all evidence and
21 testimony for and against the proposed South of Market Redevelopment Plan Amendment.
22 The Board hereby adopts written findings to the extent required by the Community
23 Redevelopment Law as set forth in this Ordinance.

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1 M. Pursuant to Sections 33205 and 33128 of the Community Redevelopment Law,
2 the Agency may delegate to the City's Planning Department administration of the
3 development controls over the Project Area set forth in a redevelopment plan. Consistent with
4 such authority, the Agency's Commission adopted Resolution No. 71-2005 on May 3, 2005,
5 authorizing amendment of the Cooperation Agreement dated November 30, 1990, and
6 designating such amended agreement as a Delegation Agreement with the City's Planning
7 Department, and the City's Planning Commission has tentatively agendized its consideration
8 of the Delegation Agreement on November 17, 2005.

9 N. Pursuant to California Health and Safety Code Sections 33220, 33343, 33344
10 and 33370, and in order to promote development in accordance with objectives and purposes
11 of the South of Market Redevelopment Plan Amendment and documents relating to such
12 Redevelopment Plan Amendment, the City intends to aid and cooperate with the Agency to
13 undertake and complete proceedings and actions necessary to be carried out by the City and
14 provide for the allocation and expenditure of monies by the community in carrying out the
15 South of Market Redevelopment Plan Amendment.

16 Section 2. CITY'S CEQA FINDINGS. The Board of Supervisors of the City and
17 County of San Francisco further finds, determines and declares, based on the record before it,
18 including but not limited to information contained in the Report on the Redevelopment Plan
19 Amendment and the records of the Planning Commission and the Agency Commission
20 referenced herein, that:

21 A. Following the Board of Supervisors' adoption of the Earthquake Recovery
22 Redevelopment Plan on June 11, 1990, the Agency prepared the proposed South of Market
23 Redevelopment Plan Amendment.

1 B. On January 13, 2005, by Motion Number 16927, the Planning Commission
2 adopted a revised Preliminary Plan for the South of Market Redevelopment Project Area.

3 C. The Planning Department and Agency have undertaken a planning and
4 environmental review process for the proposed South of Market Redevelopment Plan
5 Amendment and provided for appropriate public hearings before the Planning Commission
6 and the Redevelopment Agency Commission.

7 D. The actions listed in Attachment A (a copy of Attachment A together with all
8 exhibits thereto is on file with the Clerk of the Board of Supervisors in File No. 050871 and is
9 incorporated herein by reference as though fully set forth and is referred to as "Actions"), are
10 part of a series of considerations in connection with the adoption of the South of Market
11 Redevelopment Plan Amendment and various implementation actions ("Project"), as more
12 particularly defined in Attachment A.

13 E. The Planning Department prepared and the Planning Commission certified on
14 January 23, 1997, by Motion No. 14287, a Final Environmental Impact Report ("FEIR") for an
15 initial proposal to amend the Redevelopment Plan.

16 F. For various reasons, the Agency did not adopt the initially proposed amendment
17 to the Redevelopment Plan. Thereafter, the Agency proposed the South of Market
18 Redevelopment Plan Amendment.

19 G. The Planning Department and Agency, as co-lead agencies, determined that a
20 Supplement to the FEIR was appropriate for the proposed South of Market Redevelopment
21 Plan Amendment and on August 28, 2004, the Agency published the Draft Supplement to the
22 FEIR ("Draft Supplement"). The Draft Supplement was circulated for public review in
23 accordance with the California Environmental Quality Act, California Public Resources Code
24 section 21000 et seq., ("CEQA"), the State CEQA Guidelines, 14 California Code of
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1 Regulations Sections 15000 et seq., (the “CEQA Guidelines”), and Chapter 31 of the San
2 Francisco Administrative Code (“Chapter 31”). The Redevelopment Agency Commission and
3 Planning Commission each held a public hearing on the Draft Supplement on October 5, 2004
4 and October 14, 2004, respectively.

5 H. The Agency, in consultation with the Planning Department, prepared responses
6 to comments on the Draft Supplement, which together with the Draft Supplement and
7 additional information that became available, constitute the Final Supplement to the FEIR
8 (“Final Supplement”).

9 I. The Planning Commission, on January 13, 2005, by Motion No. 16927, and the
10 Redevelopment Agency Commission, on January 18, 2005, by Resolution 9-2005, reviewed
11 and considered the Final Supplement and found that the contents of said report and the
12 procedures through which the Final Supplement was prepared, publicized and reviewed
13 complied with the provisions of CEQA, the CEQA Guidelines and Chapter 31 of the San
14 Francisco Administrative Code.

15 J. Also by Motion No. 16927 and Resolution 9-2005, the Planning Commission and
16 Redevelopment Agency Commission, respectively, finding that the Final Supplement was
17 adequate, accurate and objective, reflected the independent judgment of each Commission
18 and that the Comments and Responses document contains no significant revisions to the
19 Draft Supplement, adopted findings of significant impacts associated with the Project and
20 certified the completion of the Final Supplement for the Project in compliance with CEQA and
21 the CEQA Guidelines.

22 K. The Planning Department and Agency have prepared proposed Findings, as
23 required by CEQA, regarding the alternatives, mitigation measures and significant
24 environmental impacts analyzed in the FEIR and Final Supplement, overriding considerations
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1 for approving the Project, including all of the actions listed in Attachment A hereto, and a
2 proposed mitigation monitoring and reporting program, attached as Exhibit 1 to Attachment A,
3 which material was made available to the public and this Board of Supervisors for the Board
4 of Supervisors' review, consideration and actions.

5 L. The FEIR and the Final Supplement files and other project related Planning
6 Department and Agency files have been made available for review by this Board of
7 Supervisors and the public and those files are part of the record before this Board of
8 Supervisors.

9 M. The Board of Supervisors finds that (1) modifications incorporated into the
10 Project and reflected in the Actions will not require important revisions to the FEIR and the
11 Final Supplement due to the involvement of new significant environmental effects or a
12 substantial increase in the severity of previously identified significant effects; (2) no substantial
13 changes have occurred with respect to the circumstances under which the Project or the
14 Actions are undertaken which would require major revisions to the FEIR or the Final
15 Supplement due to the involvement of new significant environmental effects, or a substantial
16 increase in the severity of effects identified in the FEIR and the Final Supplement; and (3) no
17 new information of substantial importance to the Project or the Actions has become available
18 which would indicate (a) the Project or the Actions will have significant effects not discussed in
19 the FEIR and the Final Supplement, (b) significant environmental effects will be substantially
20 more severe, (c) mitigation measures or alternatives found not feasible which would reduce
21 one or more significant effects have become feasible, or (d) mitigation measures or
22 alternatives which are considerably different from those in the FEIR and the Final Supplement
23 would substantially reduce one or more significant effects on the environment.

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1 N. The Board of Supervisors has reviewed and considered the FEIR and the Final
2 Supplement and hereby adopts the Project Findings set forth in Attachment A, including
3 Exhibits 1 through 3, and incorporates the same herein by this reference.

4 Section 3. PURPOSES AND INTENT. The purposes and intent of the Board of
5 Supervisors with respect to this Ordinance are to adopt the South of Market Redevelopment
6 Plan Amendment in accordance with the Community Redevelopment Law and to achieve the
7 objectives for redevelopment of the Amended Project Area specified in the South of Market
8 Redevelopment Plan Amendment.

9 Section 4. INCORPORATION BY REFERENCE. By this reference, the South of
10 Market Redevelopment Plan Amendment, a copy of which is on file with the Clerk of the
11 Board of Supervisors under File No. 050871, is incorporated in and made a part of this
12 Ordinance with the same force and effect as though set forth fully herein.

13 Section 5. FURTHER FINDINGS AND DETERMINATIONS UNDER THE
14 COMMUNITY REDEVELOPMENT LAW. The Board of Supervisors hereby further finds,
15 determines and declares, based on the record before it, including but not limited to information
16 contained in the Report on the Redevelopment Plan Amendment, that:

17 A. The Amended Project Area which is the subject of the South of Market
18 Redevelopment Plan Amendment is a blighted area (as described in the Report on the Plan
19 Amendment), the redevelopment of which is necessary to effectuate the public purposes
20 declared in the Community Redevelopment Law.

21 B. The South of Market Redevelopment Plan Amendment will redevelop the
22 Amended Project Area, as set forth in the Report on the Redevelopment Plan Amendment, in
23 conformity with the Community Redevelopment Law and is in the interests of the public
24 peace, health, safety, and welfare.

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1 C. The adoption and carrying out of the South of Market Redevelopment Plan
2 Amendment is economically sound and feasible as described in the Report on the
3 Redevelopment Plan Amendment.

4 D. For the reasons referred to in Section 1H of this Ordinance, the Redevelopment
5 Plan Amendment is consistent with the General Plan of the City and County of San Francisco,
6 including but not limited to the housing element of the General Plan, which substantially
7 complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3
8 of Division 1 of Title 7 of the California Government Code and other applicable requirements
9 of law, and is consistent with the eight Priority Policies in Planning Code Section 101.1.

10 E. The carrying out of the South of Market Redevelopment Plan Amendment will
11 promote the public peace, health, safety and welfare of the community and effectuate the
12 purposes and policies of the Community Redevelopment Law as generally described in the
13 Report on the Redevelopment Plan Amendment.

14 F. The condemnation of real property, to the extent provided for in the South of
15 Market Redevelopment Plan Amendment, may be necessary for the execution of such
16 Redevelopment Plan Amendment and adequate provisions have been made in such
17 Redevelopment Plan Amendment for payment for property to be so acquired in accordance
18 with law.

19 G. The implementation of the South of Market Redevelopment Plan Amendment
20 may result in the displacement of low- or moderate-income persons, however, the Agency
21 has a feasible method or plan for the relocation of families and persons displaced from the
22 Amended Project Area, if such implementation results in the temporary or permanent
23 displacement of any occupants of housing facilities in the Amended Project Area.

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1 H. There are, or shall be provided, in the Amended Project Area or in other areas
2 not generally less desirable in regard to public utilities and public and commercial facilities and
3 at rents or prices within the financial means of the families and persons displaced from the
4 Amended Project Area, decent, safe, and sanitary dwellings equal in number to the number of
5 and available to the displaced families and persons and reasonably accessible to their places
6 of employment.

7 I. Families and persons shall not be displaced prior to the adoption of a relocation
8 plan pursuant to Sections 33411 and 33411.1 of the California Health and Safety Code and
9 dwelling units housing families and persons of low or moderate income shall not be removed
10 or destroyed prior to the adoption of a replacement housing plan pursuant to
11 Sections 33334.5, 33413, and 33413.5 of the California Health and Safety Code.

12 J. There are no non-contiguous areas in the Amended Project Area.

13 K. The Amended Project Area includes lands, buildings and improvements which
14 are not individually detrimental to the public health, safety or welfare but which are necessary
15 for the effective redevelopment of the Amended Project Area. All areas included in the
16 Amended Project Area are necessary for effective redevelopment of the Amended Project
17 Area, and no areas in the Amended Project Area are included solely for the purpose of
18 obtaining an allocation of tax increment revenues from the Amended Project Area pursuant to
19 California Health and Safety Code Section 33670 without other substantial justification for its
20 inclusion.

21 L. The elimination of blight and the redevelopment of the Amended Project Area
22 could not reasonably be expected to be accomplished by private enterprise acting alone
23 without the aid and assistance of the Agency.

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1 M. The Amended Project Area is predominantly urbanized, as defined by California
2 Health and Safety Code Section 33320.1(b).

3 N. The time limitation and the limitation on the number of dollars to be allocated to
4 the Agency that are contained in the South of Market Redevelopment Plan Amendment are
5 reasonably related to the proposed projects to be implemented in the Amended Project Area
6 and to the ability of the Agency to eliminate blight within the Amended Project Area.

7 O. This Board of Supervisors is satisfied that permanent housing facilities will be
8 available within three (3) years from the time occupants of the Amended Project Area are
9 displaced and that, pending the development of the facilities, there will be available to the
10 displaced occupants adequate temporary housing facilities at rents comparable to those in the
11 community at the time of their displacement.

12 P. On March 28, 2005, the PAC recommended the approval of the South of Market
13 Redevelopment Plan Amendment.

14 Section 6. Pursuant to Section 33365 of the California Health and Safety Code, the
15 Board of Supervisors hereby amends Ordinance No. 234-90 by this Ordinance, and approves
16 and adopts the South of Market Redevelopment Plan Amendment as the official
17 Redevelopment Plan for the Amended Project Area.

18 Section 7. The Clerk of the Board of Supervisors shall without delay (1) transmit a
19 copy of this Ordinance to the Agency pursuant to California Health and Safety Code
20 Section 33372, whereupon the Agency shall be vested with the responsibility for carrying out
21 the Redevelopment Plan Amendment, (2) record or ensure that the Agency records a
22 description of the Amended Project Area and a certified copy of this Ordinance pursuant to
23 California Health and Safety Sections 33373, and (3) transmit, by certified mail, return receipt
24 requested, a copy of this Ordinance, together with a copy of the South of Market
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1 Redevelopment Plan Amendment, which contains a legal description of the Amended Project
2 Area and a map indicating the boundaries of the Amended Project Area, to the Controller, the
3 Tax Assessor, the State Board of Equalization and the governing body of all taxing agencies
4 in the Project Area pursuant to California Health and Safety Code Sections 33375 and 33670.

5 Section 8. In accordance with California Health and Safety Code Sections 33220,
6 33343, 33344 and 33370, the Board of Supervisors declares its intent to undertake and
7 complete actions and proceedings necessary to be carried out by the City under the
8 Redevelopment Plan Amendment and related Plan Documents (as defined in the
9 Redevelopment Plan Amendment) and authorizes and urges the Mayor and other applicable
10 officers, commissions and employees of the City to take any and all steps as they or any of
11 them deem necessary or appropriate, in consultation with the City Attorney, to cooperate with
12 the Agency in the implementation of the South of Market Redevelopment Plan Amendment
13 and to effectuate the purposes and intent of this Ordinance, such determination to be
14 conclusively evidenced by the execution and delivery by such person or persons of any such
15 documents.

16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: _____
19 DONNELL W. CHOY
20 Deputy City Attorney

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