

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

3 **Ordinance amending a development agreement between the City and County of**
4 **San Francisco and 1169 Market Street, L.P. for certain real property located at**
5 **1167 Market Street (Assessor's Block 3702/Lot 053), 670 Stevenson Street (Assessor's**
6 **Block 3702/Lot 051), 693 Stevenson Street (Assessor's Block 3702/Lot 052),**
7 **1164 Mission Street (Assessor's Block 3702/Lot 039), and a portion of former**
8 **Jessie Street between 7th and 8th Streets, altogether consisting of approximately**
9 **177,295 square feet (4.07 acres) and commonly known as Trinity Plaza, entered into on**
10 **June 15, 2007, pursuant to Ordinance No. 92-07 adopted by the Board of Supervisors**
11 **on April 17, 2007 (File No. 061217), to add 5 years to the term, to permit the**
12 **construction of the entirety of a parking garage, to amend the definition of Existing**
13 **Tenants, to identify the BMR Units for Building A, to modify the location and selection**
14 **process for the Replacement Units, and to permit a Project-wide art component for the**
15 **Project; and adopting environmental, General Plan and Planning Code Section 101.1(b)**
16 **findings.**

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.
Board amendment deletions are ~~strikethrough normal~~.

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

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

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

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

4 (c) On April 17, 2007, the Board of Supervisors adopted Ordinance No. 92-07
5 (File No. 061217) approving a development agreement by and between the City and
6 1169 Market Street, L.P. ("Developer") for certain real property located at 1167 Market Street
7 (Assessor's Block 3702/Lot 053), 670 Stevenson Street (Assessor's Block 3702/Lot 051),
8 693 Stevenson Street (Assessor's Block 3702/Lot 052), 1164 Mission Street (Assessor's
9 Block 3702/Lot 039), and a portion of former Jessie Street between 7th and 8th Streets
10 ("Development Agreement"), and authorizing the Planning Director to execute the
11 Development Agreement on behalf of the City ("Enacting Ordinance"). The Enacting
12 Ordinance was approved by the Mayor on April 27, 2007, and took effect thirty (30) days
13 thereafter.

14 (d) On or about June 15, 2007, the City, acting by and through the Planning
15 Director, executed the Development Agreement, which was recorded in the Official Records
16 of the City and County of San Francisco on July 25, 2007, as Document No. 20071427186,
17 Reel J440, Image 0670.

18 (e) Section 10.1 of the Development Agreement provides that the Development
19 Agreement can be amended only with the mutual written consent of the parties, and shall be
20 processed in the manner provided in the California Government Code Section 65864 et seq.
21 and Chapter 56 of the San Francisco Administrative Code as of the Effective Date of the
22 Development Agreement.

23 (f) On December 22, 2008, Developer filed an application pursuant to
24 San Francisco Administrative Code Sections 56.4 and 56.15 with the Planning Director to
25 amend the Development Agreement.

1 (g) On March 26, 2009, San Francisco Planning Commission ("Planning
2 Commission") held a public hearing on the amendment request and adopted Resolution
3 M17851 recommending approval of the amendment request, as modified by the Planning
4 Commission (the "DA Amendment"). The copy of the DA Amendment is on file with the Clerk
5 of the Board of Supervisors in File No. _____.

6 Section 2. CEQA Findings. The Board of Supervisors makes the following findings:

7 (a) On August 3, 2006, at a duly noticed public hearing, the Planning Commission
8 certified the Final Environmental Impact Report ("Final EIR") for the proposed mixed-use
9 project, as more particularly described in the Development Agreement (the "Project"), by
10 Motion No. 17291 finding that the Final EIR reflects the independent judgment and analysis of
11 the City and County of San Francisco, is adequate, accurate and objective, contains no
12 significant revisions to the Draft EIR, and the content of the report and the procedures through
13 which the Final EIR was prepared, publicized and reviewed comply with the provisions of the
14 California Environmental Quality Act (California Public Resources Code Section 21000
15 et seq., "CEQA"), the State CEQA Guidelines (California Code of Regulations Title 14 Section
16 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). A
17 copy of the Final EIR is on file with the Clerk of the Board of Supervisors in File Nos. 061217
18 and 070194.

19 (b) The letter from the Department of Planning transmitting the Development
20 Agreement to the Board of Supervisors, the Final EIR and supplemental materials described
21 above, and the CEQA Findings adopted by the Planning Commission with respect to the
22 approval of the Project, are on file with the Clerk of the Board in File Nos. 061217 and
23 070194. These and any and all other documents referenced in this Ordinance have been
24 made available to, and have been reviewed by, the Board of Supervisors, and may be found
25 in either the files of the City Department of Planning, as the custodian of records, at

1 1650 Mission Street in San Francisco, or in File Nos. 061217 and 070194 with the Clerk of the
2 Board of Supervisors at 1 Dr. Carlton B. Goodlett Place, San Francisco and are incorporated
3 herein by reference.

4 (c) The Board of Supervisors has reviewed and considered the Final EIR and the
5 environmental documents on file referred to herein, and the CEQA Findings adopted by the
6 Planning Commission in support of the approval of the proposed Project. As set forth in the
7 Ordinance approving the Development Agreement (Ordinance No. 92-07), the Board of
8 Supervisors adopted the Planning Commission CEQA findings as its own and incorporated
9 them by reference.

10 (d) In recommending approval of the DA Amendment, the Planning Commission
11 incorporated the CEQA Findings for the Project previously made by the Commission and the
12 Board of Supervisors, and found that since the Final EIR was certified, there have been no
13 substantial Project changes and no substantial changes in Project circumstances that would
14 require revisions to the Final EIR due to the involvement of new significant environmental
15 effects or an increase in the severity of previously identified significant impacts, and there is
16 no new information of substantial importance which indicates that (1) the Project will have
17 significant effects not discussed in the Final EIR, (2) significant environmental effects will be
18 substantially more severe, (3) mitigation measures or alternatives found not feasible which
19 would reduce one or more significant effects have become feasible or (4) mitigation measures
20 or alternatives which are considerably different from those in the Final EIR would substantially
21 reduce one or more significant effects on the environment.

22 (e) The Board of Supervisors hereby incorporates all of the CEQA Findings made
23 by the Planning Commission in recommending approval of the DA Amendment, and finds that
24 there have been no substantial Project changes and no substantial changes in Project
25 circumstances that would require revisions to the Final EIR due to the involvement of new

1 significant environmental effects or an increase in the severity of previously identified
2 significant impacts, and there is no new information of substantial importance which indicates
3 that (1) the Project will have significant effects not discussed in the Final EIR, (2) significant
4 environmental effects will be substantially more severe, (3) mitigation measures or
5 alternatives found not feasible which would reduce one or more significant effects have
6 become feasible or (4) mitigation measures or alternatives which are considerably different
7 from those in the Final EIR would substantially reduce one or more significant effects on the
8 environment.

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

10 (a) The Board of Supervisors finds, pursuant to Planning Code Section 302, that the
11 proposed DA Amendment will serve the public necessity, convenience and general welfare for
12 the reasons set forth in Planning Commission Resolution No. 17298 and incorporates those
13 reasons herein by reference.

14 (b) The Board of Supervisors finds that the proposed DA Amendment is in
15 conformity with the General Plan, as amended, and the eight priority policies of Planning
16 Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. 17298.
17 The Board of Supervisors hereby adopts the findings set forth in Planning Commission
18 Resolution No. 17298 and incorporates those findings herein by reference.

19 Section 4. Amendment of the Development Agreement.

20 (a) The Board of Supervisors hereby approves the DA Amendment, including the
21 following provisions as more specifically set forth in the DA Amendment: (i) the 5-year
22 extension of the term, from 15 years to 20 years, (ii) the right of Developer to build a parking
23 garage for the entire Project during or after the construction of Building B and before the
24 completion of the remainder of the Project, provided that Developer maintains the original
25 parking ratio set forth in the Development Agreement by use of a barrier, (iii) the change in the

1 definition of "Existing Tenant" as those persons in residence with a lease on the date of
2 issuance of the first temporary certificate of occupancy for Building A instead of the date of
3 issuance of the final certificate of occupancy, (iv) the identification of the BMR Units, (v) the
4 location and selection process for the Replacement Units, and (vi) the right of Developer to
5 develop a Project-wide artworks program under Planning Code Section 149 instead of
6 proposing and providing art works specific to each phase of the Project.

7 (b) The Board of Supervisors authorizes the execution, delivery and performance of
8 the DA Amendment. Without limiting the foregoing, the Director of Planning (or his or her
9 designee) at his or her discretion is hereby authorized to take all actions reasonably
10 necessary or prudent to perform the City's obligations under the Development Agreement, as
11 amended by the DA Amendment, subject to the terms of San Francisco Administrative Code
12 Chapter 56. The Director of Planning, at his or her discretion and in consultation with the City
13 Attorney, is authorized to enter into any additions, amendments or other modifications to the
14 DA Amendment that the Director of Planning determines are in the best interests of the City
15 and that do not materially increase the obligations or liabilities of the City.

16 Section 5. Ratification of Prior Actions. All actions taken by City officials in preparing
17 and submitting the DA Amendment to the Board of Supervisors for review and consideration
18 are hereby ratified and confirmed, and the Board hereby authorizes all subsequent action to
19 be taken by City officials consistent with this Ordinance.

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21 APPROVED AS TO FORM:

22 DENNIS J. HERRERA, City Attorney

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24 By:

Charles Sullivan
Deputy City Attorney

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