MEMORANDUM

TO: Agency Commissioners
FROM: Fred Blackwell, Executive Director
SUBJECT: Authorizing a Permit to Enter agreement with Brian Googin, an individual, related to the maintenance of an existing art installation, 200-214 Sixth Street, South of Market Redevelopment Project Area

EXECUTIVE SUMMARY

Since 1997, the exterior of the Hugo Hotel property (the “Hugo”) at 200-214 6th Street has hosted a site specific sculptural mural known as Defenestration. The work was installed as a temporary work and intended to remain until the building was demolished. The artist, Brian Googin (the “Artist”), had a license agreement with the owners of the Hugo which set terms and conditions for Defenestration. Under the terms of that agreement, the owners gave the artist notice to terminate the agreement in anticipation of transferring the Hugo to the Agency. The agreement with the owners then expired October 31, 2009. The Artist has approached the Agency to enter into a comparable agreement for Defenestration. As a courtesy to the Artist, Agency staff is recommending entering into a Permit to Enter with the Artist to keep Defenestration in place until the Agency is ready to demolish the existing building and replace it with affordable housing.

Staff recommends approval of the Permit to Enter with Brian Googin, an individual, related to the maintenance of the existing art installation at 200-214 Sixth Street.

DISCUSSION

The Hugo is located at 200-214 Sixth Street on the southwest corner of Sixth and Howard Streets in the South of Market Redevelopment Project Area. The Hugo is a four-story building, plus a basement, that has been vacant since approximately 1988; its interior has been gutted since the early 1990s. The Hugo is being acquired by the Agency through an eminent domain action concluded this year (see the attached Informational Memorandum for the meeting on October 6, 2009). The Final Order of Condemnation was certified by San Francisco County Superior Court on November 12, 2009. Upon recording the Final Order of Condemnation, ownership of the Hugo will transfer to the Agency. The Agency intends to record the first week of December 2009. Since 1996, the exterior of the Hugo has hosted a site specific sculptural mural known as Defenestration. The work was installed as a temporary work and intended to remain until the building was demolished. As a courtesy to the Artist, Agency staff is recommending entering into a Permit to Enter with the Artist to keep Defenestration in place until the Agency is ready to demolish the existing building and replace it with affordable housing.
Permit to Enter

The Permit to Enter (the “Agreement”), would be for a term of eighteen (18) months. At any time during the term of the Agreement, the Agency may give the Artist ninety (90) days notice to remove Defenestration. Under the Agreement, the Artist would make repairs to ensure its structural integrity, as well as, make other minor restoration of the work. Within ninety (90) days of the commencement of the Agreement, the Artist would engage at no cost to the Agency a structural engineer to provide the Agency an opinion of the structural integrity of Defenestration. In the event the work is not structurally sound, the Artist would take corrective measures to make Defenestration structurally sound. The structural engineer would then follow up with a second letter with an opinion of structural soundness.

The Artist will not pay compensation to the Agency for the Permit to Enter. Upon termination of the Agreement, the Artist will remove Defenestration and other personal property from the Hugo. In the event the Artist does not remove Defenestration pursuant to the terms of the Agreement, Defenestration becomes the property of the Agency. The Artist will pay the electric utility bill and provide, at no cost to the Agency, liability insurance that satisfies the Agency coverage limits.

On November 9, 2009, the South of Market Project Area Committee (SOMPAC) executive sub-committee voted to recommend the Permit to Enter, with the additional requirement that the Artist provide a framed photograph of Defenestration of a scale and quality suitable for exhibiting in the new building’s lobby. The requirement was added to the Agreement. On November 16, 2009, the full SOMPAC voted to recommend approval of the Agreement.

California Environmental Quality Act

Authorizing the Permit to Enter is an Agency administrative activity that will not cause any physical change in the environment and is not subject to environmental review under the California Environmental Quality Act (“CEQA”), pursuant to CEQA Guidelines Section 15378(b)(5).

Originated by Jeff White, Development Specialist

Fred Blackwell, Executive Director

Attachment: Informational Memorandum for the meeting of October 6, 2009
INFORMATIONAL MEMORANDUM

TO: Agency Commissioners
FROM: Fred Blackwell, Executive Director
SUBJECT: Judgment in Condemnation pursuant to eminent domain for 200-214 Sixth Street; South of Market Redevelopment Project Area

EXECUTIVE SUMMARY

The Hugo Hotel property (the “Hugo” or the “Property”) is located at 200-214 Sixth Street on the southwest corner of Sixth and Howard Streets in the South of Market Redevelopment Project Area. The Hugo is a four-story building plus a basement that has been vacant since approximately 1988; its interior has been gutted since the early 1990s. According to San Francisco tax assessment roll, the Hugo is owned by the I.M. & S.I. Patel Living Trust (the “Owner”).

On January 15, 2008, the Commission authorized a Resolution of Necessity to acquire the Property through eminent domain. The Commission Memorandum is attached. Since that time, Agency staff continued to follow the strategy as authorized by the Commission which included both continued negotiations with the Owner to reach a negotiated acquisition of the Property, as well as pursuing acquisition through eminent domain. In order to comply with legal timelines, a Complaint in Eminent Domain was filed in Superior Court on June 2, 2008. Based on an independent appraisal, the Agency made a deposit of just compensation in the amount of $3,090,000 to the State of California’s State Condemnation Deposits Fund on August 20, 2008. This deposit established August 20, 2008, as the date of valuation in the eminent domain action.

After continuing informal attempts to reach a negotiated settlement were unsuccessful, two formal attempts to settle occurred. First, a private mediation with Justice Gary E. Strankman at JAMS occurred on June 23, 2009. Second, a mandatory settlement conference with Judge John Stewart occurred on July 15, 2009. Neither of these settlement attempts reached a mutually acceptable price.

As a result, a jury trial was required in the State of California Superior Court. The firm of Erickson, Beasley & Hewitt, LLP, represented the Agency. The trial commenced on August 31, 2009, and the jury reached a verdict on September 11, 2009. The trial was to determine the fair market value of the Hugo; the Owner did not dispute the Agency’s right to take the Property by eminent domain. For the trial, each party engaged an appraiser to determine the fair market value as of August 20, 2008. The Agency’s appraisal indicated a fair market value of $3,675,000. The Owner’s appraisal indicated a
fair market value of $5,600,000. The verdict reached by the jury set the fair market value at $4,600,000.

The Resolution of Necessity adopted by the Commission on January 15, 2008 authorized staff to accept the trial's outcome. In particular, the Resolution of Necessity states that "the Agency General Counsel is hereby authorized and empowered to take or cause the following: a. To acquire in the name of the Redevelopment Agency the Property described in the Attachment A, in accordance with the provisions of the California Eminent Domain Law and the California Constitution; b. To acquire the Property in fee simple absolute." Since the Agency has already deposited $3,090,000, staff will make payment of an additional $1,510,000 for a total fair market value of $4,600,000 set by the jury. The Judgment in Condemnation will then be executed and title will be transferred to the Agency.

Next Steps

Affordable housing with ground-floor commercial will be constructed on the site. Staff will confer with the South of Market Project Area Committee regarding the specific housing type and will prepare an informational memorandum to the Commission prior to initiating a Request for Proposals process to return the site to productive use. Prior to the site's development, Agency property management staff will ensure the property is secured and adequately maintained until the start of construction of a new building.

Originated by Jeff White, Development Specialist

Fred Blackwell, Executive Director

2. Resolution of Necessity No. 2-2008
MEMORANDUM

TO: Agency Commissioners
FROM: Fred Blackwell, Executive Director
SUBJECT: Resolution of necessity for the acquisition of real property at 200-214 Sixth Street through eminent domain by the Redevelopment Agency of the City and County of San Francisco and adopting environmental findings pursuant to the California Environmental Quality Act; South of Market Redevelopment Project Area

EXECUTIVE SUMMARY

The Hugo Hotel/Apartments property (the “Hugo” or the “Property”) is located at 200-214 Sixth Street on the southwest corner of Sixth and Howard Streets in the South of Market Redevelopment Project Area. The Hugo is a four-story building plus a basement that has been vacant since approximately 1988, a period of nearly 20 years. Its interior is believed to have been gutted in the early 1990s. According to San Francisco tax assessment roll, the Hugo is owned by the I.M. & S.I. Patel Living Trust. A recent preliminary title report indicates the Hugo is owned by the Branch Limited Partnership, an Oregon limited partnership, with I.M and S.I. Patel as the limited partners. These owner entities and their representatives are collectively referred to as the “Owner”.

On November 19, 2007, the South of Market Project Area Committee (“SOMPAC”) recommended that the Agency begin the process of acquiring the Hugo through the use of eminent domain. This vote came after a long negotiation between the Agency and the Owner beginning in March 2006, when SOMPAC voted to recommend that the Agency acquire the Hugo for future development. Since then, Agency staff has been negotiating with the Owner to purchase the Hugo at the appraised fair market value. The Agency also offered to consider a proposal for an Owner Participation Agreement from the Owner which would require the Owner to redevelop the property in a manner consistent with the South of Market Redevelopment Plan. The Owner could rehabilitate the residential housing or seek to construct a new building so long as the use and the project are consistent with the South of Market Redevelopment Plan. The Owner has rejected the Agency’s purchase offer and has not submitted a proposal for an Owner Participation Agreement; therefore a public hearing has been scheduled to consider adoption of a Resolution of Necessity. If the Commission adopts a Resolution of Necessity to acquire the Hugo, the Agency may ultimately proceed with filing an eminent domain case in court. However, neither the adoption of a Resolution of Necessity nor the filing of a case...
in court precludes continued negotiations with the Owners. In fact, Agency staff continues
to communicate with the Owner in the hope that a negotiated settlement can be reached.

*Staff recommends adoption of a Resolution of Necessity to acquire the property at 200-214 Sixth Street by eminent domain. Adoption of such Resolution requires a yes vote by at least five members of the Commission.*

**DISCUSSION**

**Background**

The Hugo is a four-story residential building containing approximately 32,408 square feet (excluding the basement) that has been vacant since 1988. It is also believed that the interior of the Hugo has been gutted and stripped to the wood studs since the early 1990s and therefore the building has been uninhabitable since that time.

Several housing developers have been unsuccessful in attempts to acquire the Hugo. In 1998, nonprofit housing developer, Tenants and Owners Development Corporation, entered into a purchase contract with the Owner to purchase the Hugo for $1.9 million, approximately $700,000 over its appraised value. In late 1999 and early 2000, another housing developer, AF Evans Development, Inc, made serious attempts to purchase the Hugo with the Agency’s assistance but was not able to come to terms with the Owner on a price. In 2006, according to an article in the San Francisco Chronicle, a Bay Area developer (who requested to remain anonymous), offered to match the Owner’s asking price at that time but claimed that the Owner rejected the offer.

**Redevelopment Plan Requirements for Use of Eminent Domain**

After extensive consultations with SOMPAC, the South of Market Earth Recovery Redevelopment Plan was amended by an ordinance adopted in 2005 to convert it to a traditional Redevelopment Plan and update its redevelopment policies (the “Redevelopment Plan”). The Redevelopment Plan also requires the Agency to seek and obtain the SOMPAC’s advice before utilizing eminent domain; the SOMPAC passed a November 19, 2007 motion recommending that the Commission adopt a resolution of necessity to acquire the Hugo through eminent domain.

The changes adopted in 2005 also included the addition of language in Section 4.3.2 of the Redevelopment Plan allowing the use of eminent domain in the South of Market Redevelopment Project Area only if one or more of certain conditions are found to be present. Only one of the conditions need be present, however, in the case of the Hugo more than one condition applies:

1. **Condition:** A property on Sixth Street that is vacant or significantly underutilized.
Application to the Hugo: The Hugo is a property prominently located at the southeast corner of Sixth and Howard Streets that has been continuously vacant and unoccupied since the late 1980s.

2. Condition: The property is on Sixth Street and exhibits at least one of conditions of blight per the CRL.

Application to the Hugo: The Hugo is located in the heart of the Sixth Street area and the following conditions of blight indicated in Section 33031 of the CRL are present at the Hugo: a building that is unsafe or unhealthy for persons to live or work in and a building that is vacant or significantly underutilized. According to a realtor who listed the Hugo for sale in 1994, the interior of the Hugo has been gutted and stripped to the wood studs and there is reportedly no plumbing, heating, ventilation or air conditioning (HVAC); and there are no sprinklers in the Hugo building. In addition, the Hugo has been continuously vacant and unoccupied since 1988. The building is currently boarded up and the building face contains extensive graffiti.

Chronology of Staff’s Efforts to Negotiate a Purchase Agreement or an Owner Participation Agreement with the Owners and the SOMPAC’s Recommendations

Agency staff has conferred with the SOMPAC. Agency staff has also taken the following steps to reach agreement with the Owner regarding the Hugo.

On March 20, 2006, the SOMPAC recommended that the Agency move with all of the resources necessary to implement the Redevelopment Plan as it relates to the Hugo.

On April 4, 2006, at closed session the Commission authorized Agency staff to initiate negotiations to purchase the Hugo. Since that time, the Agency has been actively negotiating with the Owner to acquire the Hugo for fair market value.

In negotiations with the Owner and in order to implement the Redevelopment Plan, staff has consistently communicated that the Agency’s preference is:

- For the Owner to redevelop the Hugo through the owner participation process in compliance with the Amended Rules Governing Participation by property Owners, adopted on October 4, 2005 (“Owner Participation Rules”), which encourage South of Market property owners to expeditiously redevelop deteriorated or blighted properties in accordance with the Redevelopment Plan; or
- The Owner’s sale of the Hugo to another developer who would redevelop the Project in a manner consistent with the Redevelopment Plan.

Lastly, if neither of the first two options occur, for the Owner to sell to the Agency.
On April 26, 2007, Agency staff delivered to the Owner an Offer to Negotiate to Purchase letter proposing the Agency’s purchase of the Hugo at the value established by the Agency commissioned appraisal ($3.25 million) based upon highest and best use.

On April 27, 2007, at a meeting with Ms. Varsha Patel (the Owner’s daughter), co-Owner Mr. I.M. (aka David) Patel, and Agency staff (Olson Lee, Jeff White and Mike Grisso), Mr. Patel indicated he received the Agency’s Offer to Negotiate letter. Staff reiterated the Agency’s preference that the Owner redevelop the Hugo themselves or sell to a private developer; alternatively, that the Owner sell the Hugo to the Agency if the Owner did not wish to carry out redevelopment (to the Hugo back into use) or sell the Hugo to a developer for redevelopment. The Owner indicated willingness to sell for $7 million. The meeting concluded with the Owner indicating a desire to obtain its own appraisal and respond by July 27, 2007, the response deadline in the Agency Offer to Purchase letter. The Owners made no other response by the July 27, 2007 deadline.

On August 10, 2007, staff sent the Owner an Offer to Negotiate an Owner Participation Agreement letter with a response date of September 28, 2007. Staff explained that the rehabilitation of the Hugo would need to meet the requirements of the Redevelopment Plan and the elements needed in a proposal from the Owner for the Agency to consider entering into an OPA to document the Owner’s plans. The Owner did not respond by the response date.

On November 19, 2007, the SOMPAC voted to recommend that the Commission adopt a resolution of necessity to acquire the Hugo through eminent domain. The SOMPAC vote was: 11 votes Yes; 1 vote No; and 4 Abstain.

On November 30, 2007, the Owner met with staff to discuss the results of an appraisal the Owner commissioned; their appraiser is Patrick O’Malley, MAI. The valuation date of the appraisal was September 15, 2007 and employs different methodology from the appraisal the Agency ordered. The value conclusion is inconsistent with the value conclusion of the Agency’s appraisal. In an effort to continue working toward a negotiated settlement and reconcile the two existing appraisals, staff proposed to the Owner that they choose an appraiser from the Agency’s list of authorized Appraisers and Appraisal Firms for a third appraisal. This third appraisal will be paid for by the Agency, but ordered with joint instructions signed by the Agency and the Owner. The third appraisal would be used as a basis for further negotiation. (As of the date this memorandum was drafted, the use of a third appraiser has not yet been agreed to by the Owner.)

On December 14, 2007, the staff sent the Owner a letter providing notice of the January 15, 2008 hearing on the proposed Resolution of Necessity.

Matters Which Must Be Considered and Determined at the January 15, 2008 Hearing

The California Eminent Domain Law requires the Commission to hold a public hearing to consider adoption of a Resolution of Necessity and adopt the Resolution of Necessity
before the Agency can file an eminent domain proceeding to acquire the Property. The purpose of the public hearing is to consider whether the following determinations, as reflected in the Resolution of Necessity, are appropriate:

a. **Statutory requirement:** Whether the public interest and necessity require the acquisition of the Property for the Proposed Project.

   **Application to the Hugo:** The Proposed Project consists of the acquisition of the Property for the elimination of physical conditions on the Hugo property which cause blight. As specified in Section 33031 of the CRL, blighting conditions include a building in which it is unsafe or unhealthy, due to serious dilapidation and deterioration due to long-term neglect. The Hugo has not been occupied since at least 1989, and its interior has been stripped to the studs and does not contain any plumbing, HVAC or sprinkler systems. In addition, the Owner has not renovated or rehabilitated the Hugo, nor has the Owner taken any steps to either demolish the existing building or develop a new building that would restore the Property to productive use.

b. **Statutory requirement:** Whether the Proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

   **Application to the Hugo:** In 2005, the South of Market Earthquake Recovery Redevelopment Plan was converted to a traditional Redevelopment Plan, whose objective is the elimination of blight and blighting conditions that exist within the South of Market Redevelopment Project Area. The 2005 adoption of the Redevelopment Plan was the culmination of a public planning process that began in the mid-1990s, which included extensive consideration by the SOMPAC, a 22-member advisory body that includes representation from residents, property and business owners in the South of Market and two SOMPAC seats designated for an owner of an SRO hotel. The implementation of the Redevelopment Plan is also carried out through application of Owner Participation Rules which encourage South of Market property and business owners to participate in the redevelopment of their properties. Agency staff sent the Owner an August 10, 2007 letter (copy attached) asking the Owner to submit an owner participation proposal pursuant to the Owner Participation Rules. However, the Owner has not submitted any owner participation proposal that would expeditiously restore the Hugo to productive use.

c. **Statutory requirement:** Whether the Hugo Property sought to be acquired by eminent domain is necessary for the Proposed Project.

   **Application to the Hugo:** Many SOMPAC members and Agency staff consider the Hugo to be one of the most blighted properties in the South of Market Redevelopment Project Area. In addition, the Hugo is located in the heart of the Sixth Street corridor at the southeast corner of Sixth and Howard Streets, a particularly prominent location. Many SOMPAC and community members, as
well as Agency staff, believe that the elimination of Sixth Street corridor blight cannot be achieved without the restoration of the deteriorated Hugo building to productive use either through rehabilitation and renovation or construction of a replacement building.

d. **Statutory requirement:** Whether the offer required by Govt. Code §7267.2(a), together with the accompanying statement and summary of the basis for the amount established as just compensation, was actually made to you and whether said offer and statement/summary were in a form and contained all of the factual information required by Govt. Code §7267.2(a).

**Application to the Hugo:** Agency staff has made the Government Code required offer pursuant in an April 26, 2007, Offer to Negotiate to Purchase letter proposing the Agency’s purchase of the Hugo at the $3.25 million fair market value established by the Agency’s appraisal. A copy of such letter was provided to the Commission on June 5, 2007 and is also provided as an attachment to this memorandum. Agency staff also provided a copy of the Agency’s appraisal to the Owner on January 4, 2008.

**The Hearing and the Resolution of Necessity Do Not Establish the Fair Market Value of the Hugo; This Amount Will be Determined Later by a Negotiated Purchase or by the Court in an Eminent Domain Proceeding**

The amount of the compensation to be paid for the acquisition of the Property is not a matter or issue to be heard by the Redevelopment Commission at the January 15, 2008 hearing. If the Agency and the Owner do not reach mutual agreement on the fair market value to be paid by the Agency for the Hugo, the amount of just compensation will be determined by a court of law in accordance with the laws of the State of California.

However, if the Owner does not provide public comment at the January 15, 2008 hearing, the Owner may be foreclosed from raising in a court of law the issues which are the subject of the hearing regarding the right to take the Property by eminent domain.

**Effect of Resolution of Necessity**

After concluding the hearing, the Commission is asked to adopt the proposed Resolution of Necessity. If the Redevelopment Agency Commission elects to adopt the Resolution of Necessity, then within six months thereafter, the Redevelopment Agency will commence eminent domain proceedings in Superior Court. In that proceeding, the Court will determine the amount of compensation to which the Owner is entitled. In addition, as previously stated, this Notice is not intended to foreclose future negotiations between the Owner and the representatives of the Redevelopment Agency on the amount of compensation to be paid for the Hugo.
CEQA Environmental Review

On December 16, 2005, the Board of Supervisors adopted Ordinance No. 276-05, which adopted the South of Market Redevelopment Plan Amendment and included findings and determinations required by the California Environmental Quality Act ("CEQA"), based on a Final Environmental Impact Report for the SOM Redevelopment Plan (the "FEIR") that was certified on January 23, 1997 by the Agency Commission and Planning Commission and a Final Supplement to such FEIR (the "FEIR Supplement") that was certified on January 13, 2005 by the Planning Commission and on January 18, 2005 by the Agency Commission, which discuss the environmental impacts of the South of Market Redevelopment Plan Amendment. The FEIR and the FEIR Supplement collectively constitute a program EIR for the Redevelopment Plan (collectively the "South of Market FEIR"). Adoption of the Resolution of Necessity enables acquisition of the Property to eliminate blight on the Property through restoration of the Property to productive use, all in implementation of the Redevelopment Plan, and Agency staff has determined that the environmental impacts of such actions are within the scope of the environmental impacts analyzed in the South of Market FEIR, would not have a significant environmental impact, would not change the scope of the Redevelopment Plan analyzed in the South of Market FEIR and no major revisions are required due to the involvement of new significant environmental effects or a substantial increase in the severity of significant effects previously identified in the South of Market FEIR, that no substantial changes have occurred with respect to the circumstances under which the Redevelopment Plan would be implemented, and that no new information of substantial importance to the Redevelopment Plan analyzed in the South of Market has become available.

RECOMMENDATION

The Hugo has been vacant and abandoned since 1988 a period of nearly 20 years. Since that time, the Owner has not redeveloped the property themselves, or accepted various offers over the years to sell to other private developers. Staff recommends adoption of a Resolution of Necessity to acquire the property at 200-214 Sixth Street for fair market value by eminent domain. At the same time, staff intends to continue ongoing negotiations with the Owner seeking other redevelopment options at the Hugo as follows: 1) for the Owner to redevelop the Hugo themselves; 2) for the Owner to sell to another developer; 3) for the Owner to sell to the Agency for fair market value outside the eminent domain process.

Originated by Jeff White, Development Specialist

ORIGINAL SIGNED BY
Fred Blackwell,
Executive Director
Attachments:

- Photo of the Hugo

- Informational Memorandum dated November 1, 2007 for Commission meeting of November 6, 2007 and attachments thereto:
  
  - Agency letter to Owner dated April 26, 2007 regarding Agency Offer to Negotiate to Purchase Real Property at 200-214 Sixth Street
  
  - October 23, 2007 Agency letter to Owner regarding the SOMPAC’s November 5, 2007 consideration of the Agency purchase of the Hugo through eminent domain
  
  - August 10, 2007 Agency letter to Owner re Agency Offer to Negotiate an Owner Participation Agreement and letter enclosures (Redevelopment Plan Section 4.2.1 and Owner Participation Rules)

- Letter to Owners dated December 14, 2007 regarding notice of the January 15, 2008 hearing

copy: Mike Grisso, Project Manager
South of Market Project Area Committee
RESOLUTION NO. 2-2008

Adopted January 15, 2008

RESOLUTION OF NECESSITY FOR THE ACQUISITION OF REAL PROPERTY AT 200-214 SIXTH STREET THROUGH EMINENT DOMAIN BY THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO AND ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; SOUTH OF MARKET REDEVELOPMENT PROJECT AREA

BASIS FOR RESOLUTION

1. The property at 200-214 Sixth Street, Assessor’s Block 3731, Lot 1, at the southeast corner of Sixth Street and Howard Street, in San Francisco, more particularly described in Attachment A (the “Property”), is located within the South of Market Redevelopment Project Area and is owned by the Branch Limited Partnership, an Oregon limited partnership (the “Owner”).

2. The Property, an unoccupied four-story brick building is approximately 32,408 square feet (exclusive of the basement), is commonly referred to as the “Hugo” or the “Hugo Hotel,” formerly used as a single-room occupancy residential hotel until some time in 1988. Agency staff believes that the interior of the Hugo was gutted and stripped to the wood studs in the early 1990s and has been continuously uninhabitable since that time.

3. Agency staff is also informed and believes that the Owner has offered the Property available for sale since the late 1990s.

4. The Redevelopment Plan for the South of Market Redevelopment Project Area (the “SOM Redevelopment Plan”) as amended in 2005 requires certain conditions to be present before eminent domain may be used, including: existence of a single-room occupancy (SRO) property that has been repeatedly cited for code violations or a vacant building located along Sixth Street that exhibits at least one of conditions of blight per the Community Redevelopment Law (“CRL”).

5. Per Section 33031 of the CRL, conditions of blight include: a) buildings in which it is unsafe or unhealthy for persons to live or work (these conditions can be caused by serious building code violations, dilapidation and deterioration, or similar factors) and b) vacant or abandoned buildings. These conditions are present at the Hugo.

6. Only one of the conditions needs to be present, but in the case of the Hugo more than one condition applies. The following conditions are present at the Hugo:
A. The Hugo is on Sixth Street, a mixed-use building that was last used as an SRO hotel prior to the 1989 Loma Prieta earthquake and has been boarded up, and unutilized since that time.

B. The Hugo is seriously dilapidated and deteriorated and reportedly contains no plumbing, heating, ventilation or air conditioning, based on information supplied by a realtor retained by the Owner in 1994 and has been uninhabited and uninhabitable for almost twenty years.

7. On March 20, 2006, the South of Market Project Area Committee adopted a motion "recommend[ing] that the Redevelopment Agency move with all of the resources necessary to implement the [SOM Redevelopment] Plan Amendment with regard to the Hugo Hotel."

8. On April 26, 2007, the Redevelopment Agency ("Agency") staff sent the Owner an Offer to Negotiate to Purchase prepared pursuant to Government Code Section 7267.2 ("Offer"), which Offer was rejected by the Owner.

9. On August 10, 2007, Agency staff sent the Owner an Offer to Negotiate an Owner Participation Agreement letter, requesting Owner’s response on or before September 28, 2007; the Owner failed to submit an owner participation proposal by the September 28, 2007 response deadline.

10. On November 19, 2007, the South of Market Project Area Committee recommended that the Agency consider the adoption of a Resolution of Necessity to institute eminent domain proceedings to acquire the Property.

11. On December 14, 2007, Agency staff mailed to Owner a letter notice of the January 15, 2008 hearing to consider adoption of a Resolution of Necessity to Acquire the Property (the "Hearing Notice Letter") a copy of which is attached to this Resolution as Exhibit A.

12. On January 15, 2008, the Agency Commission held a public hearing to consider the adoption of this Resolution of Necessity.

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

13. The SOM Redevelopment Plan was adopted on December 16, 2005, as an amendment to the South of Market Earthquake Recovery Redevelopment Plan (the "South of Market Plan Amendment") by the Board of Supervisors’ adoption of Ordinance No. 276-05, which includes findings and determinations required by the California Environmental Quality Act ("CEQA"), based on a Final Environmental Impact Report for the SOM Redevelopment Plan (the "FEIR") that was certified on January 23, 1997 by the Agency Commission and San Francisco Planning
Commission (the “Planning Commission”) and a Final Supplement to such FEIR (the “FEIR Supplement”) that was certified on January 13, 2005 by the Planning Commission and on January 18, 2005 by the Agency Commission, which discuss the environmental impacts of the South of Market Plan Amendment and were certified by the Agency and the Planning Commission as having been completed in compliance with CEQA.

14. The FEIR and the FEIR Supplement collectively constitute a program EIR for the SOM Redevelopment Plan (collectively the “South of Market FEIR”).

15. The adoption of this Resolution of Necessity enables acquisition of the Property to eliminate blight on the Property through restoration of the Property to productive use, all in implementation of the SOM Redevelopment Plan (collectively, the “Project”) and the environmental impacts of such Project are within the scope of the environmental impacts analyzed in the South of Market FEIR. Agency staff, in making the necessary findings for the Project contemplated herein, considered and reviewed the South of Market FEIR. Documents related to the Project and the South of Market FEIR have been and continue to be available for review by the Agency Commission and the public and are part of the record before the Agency Commission.

16. The South of Market FEIR and Board of Supervisors Ordinance No. 276-05 were and remain adequate, accurate and objective and are incorporated herein by reference as applicable to the Project and, pursuant to CEQA Guidelines Sections 15180 and 15168, no additional environmental review is required for the following reasons:

A. The Project will not change the scope of the SOM Redevelopment Plan analyzed in the South of Market FEIR and no major revisions are required due to the involvement of new significant environmental effects or a substantial increase in the severity of significant effects previously identified in the South of Market FEIR.

B. No substantial changes have occurred with respect to the circumstances under which the SOM Redevelopment Plan analyzed in the South of Market FEIR was and will be undertaken that would require major revisions to the South of Market FEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the South of Market FEIR.

C. No new information of substantial importance to the SOM Redevelopment Plan analyzed in the South of Market FEIR has become available that would indicate that (a) the Project will have significant effects not discussed in the South of Market FEIR; (b) significant environmental effects will be substantially more severe; (c) mitigation measures found not feasible that would reduce one or more significant effects have become feasible; or (d)
mitigation measures or alternatives that are considerably different from those in the South of Market FEIR will substantially reduce one or more significant effects on the environment.

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco as follows:

1. The CEQA findings and the following findings and determinations are approved and adopted:
   a. The public interest and necessity require the proposed Project.
   b. The proposed Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury.
   c. The acquisition of the Property is necessary for the proposed Project.
   d. The offer required by Government Code Section 7267.2, together with the accompanying statement of and summary of the basis for the amount established as just compensation, was made to the Owner or owners of record on April 26, 2007, which offer and accompanying statement/summary were in a form and contained all of the factual disclosures required by Government Code Section 7267.2 (a).
   e. The Agency has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property.
   f. The Agency has the statutory authority pursuant to California Health and Safety Code Section 33342 and is also authorized by the SOM Redevelopment Plan to acquire the Property by eminent domain.

2. This Resolution of Necessity is adopted and the Agency General Counsel is hereby authorized and empowered to take or cause the following:
   a. To acquire in the name of the Redevelopment Agency the Property described in the Attachment A, in accordance with the provisions of the California Eminent Domain Law and the California Constitution.
   b. To acquire the Property in fee simple absolute.
   c. To prepare and have prepared and to prosecute or to retain counsel to prosecute such eminent domain proceedings in the name of the
Redevelopment Agency in the property court as necessary for acquisition of the Property.

d. To deposit the probable amount of compensation based on an appraisal, and to apply to the court for an order permitting the Agency to take immediate possession and use of the Property for the public uses and purposes provided by the SOM Redevelopment Plan.

APPROVED AS TO FORM:

James B. Morales
Agency General Counsel