

1 [Settlement of Lawsuit - Academy of Art University - City to Receive \$57,960,000]

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3 **Ordinance authorizing settlement of the lawsuit filed by the City and County of San**  
4 **Francisco and the People of the State of California against the Stephens Institute**  
5 **and 23 of its affiliated limited liability companies (collectively “Academy”) that owned**  
6 **properties in San Francisco, in *People v. Stephens Institute, et. al*, San Francisco**  
7 **Superior Court Number CGC-16-551832; the lawsuit alleged that the Academy had**  
8 **violated the City’s Administrative Code, Planning Code, and Building Code, and the**  
9 **State Unfair Competition Law, Business and Professions Code, Section 17200 et seq.;**  
10 **under the settlement, the Academy agrees to: bring its existing uses into compliance**  
11 **with the Planning Code; relocate existing uses or change uses in buildings in**  
12 **accordance with applicable laws in those limited instances where the Planning**  
13 **Department has determined that legalization is not appropriate; compensate the People**  
14 **and the City for alleged past violations by paying approximately \$58,000,000 including**  
15 **providing affordable housing public benefits to the City in the amount of \$37,600,000**  
16 **and a payment of approximately \$8,200,000 to the City’s Small Sites Fund; and work**  
17 **cooperatively with the City in planning for future growth in a manner that accounts for**  
18 **the urban nature of the Academy’s campus, without adversely impacting the City’s**  
19 **affordable or rent-controlled housing stock, or burdening its transportation system,**  
20 **including, as a part of that plan, building new housing, or converting existing buildings,**  
21 **for its students on property that is zoned for such use.**

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

24 Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby  
25 authorizes the City Attorney to settle the action entitled *People v. Stephens Institute, et.*

1 al, (San Francisco Superior Court Number CGC-16-551832). Under the terms of the  
2 settlement agreement, the Stephens Institute and its affiliated limited liability companies  
3 (collectively, "Academy"), controlled by the Stephens family, will pay a total of \$57.96 million  
4 to the City. That payment consists of (1) a \$37.6 million affordable housing public benefit  
5 payment, and (2) a \$20.36 million settlement payment that includes approximately \$8.2 million  
6 for the City's Small Sites Fund. The Academy will withdraw nine properties from Academy of  
7 Art University use, and the Academy will comply with specific conditions of approval to bring  
8 34 remaining properties into compliance with City codes, including work to restore 12 historic  
9 buildings. The Stephens Institute will commit going forward to a metering formula to provide  
10 housing for an agreed percentage of its full-time on campus students, and will commit going  
11 forward not to convert any structures currently used or occupied as housing or for which the  
12 last legal use was residential. The Academy will also commit going forward to giving the City  
13 30 days' prior notice of any proposed change in use, new construction or acquisition before it  
14 submits an application for approval, and to a consultation process with the City. Under the  
15 settlement, the Academy also agrees to bring its existing uses into compliance with the  
16 Planning Code; relocate existing uses or change uses in buildings in accordance with  
17 applicable laws in those limited instances where the Planning Department has determined  
18 that legalization is not appropriate; and work cooperatively with the City in planning for future  
19 growth in a manner that accounts for the urban nature of the Academy's campus, without  
20 adversely impacting the City's affordable or rent-controlled housing stock, or burdening its  
21 transportation system, including, as a part of that plan, building new housing, or converting  
22 existing buildings, for its students on property that is zoned for such use. The Academy  
23 further agrees the City can enforce the Academy's obligations to bring properties into  
24 compliance, withdraw uses, abide by the student housing metering requirements and comply  
25 with City codes going forward through a Consent Judgement and Stipulated Injunction, so that

1 the City has ready access to the courts to pursue enforcement.

2 Section 2. The above-named action was filed in the San Francisco Superior Court on  
3 May 6, 2016, and the following parties were named in the lawsuit: Plaintiffs City and County  
4 of San Francisco and People of the State of California; Defendants Stephens Institute, dba  
5 Academy of Art University, a California corporation; 2300 Stockton Street, LLC, a Delaware  
6 limited liability company; 1916 Octavia Street, LLC, a Delaware limited liability company; 1153  
7 Bush Street, LLC, a Delaware limited liability company; 2209 Van Ness Avenue, LLC, a  
8 Delaware limited liability company; 1835 Van Ness Avenue, LLC, a Delaware limited liability  
9 company; 1080 Bush Street, LLC, a Delaware limited liability company; 1069 Pine Street,  
10 LLC, a Delaware limited liability company; 1055 Pine Street, LLC, a Delaware limited liability  
11 company; 60 Federal Street, LLC, a Delaware limited liability company; 491 Post Street, LLC,  
12 a Delaware limited liability company; 701 Chestnut Street, LLC, a Delaware limited liability  
13 company; 860 Sutter Street, LLC, a Delaware limited liability company; S/F 466 Townsd, LLC,  
14 a Delaware limited liability company; 620 RSSE, LLC, a Delaware limited liability company;  
15 2151 Van Ness Avenue, LLC, a Delaware limited liability company; 2211 Van Ness Avenue,  
16 LLC, a Delaware limited liability company; 825 Sutter Street, LLC, a Delaware limited liability  
17 company; 601 Brannan Street, LLC, a Delaware limited liability company; 1727 LOMBARD II,  
18 LLC, a Delaware limited liability company; 2225 Jerrold Avenue, LLC, a Delaware limited  
19 liability company; 460 Townsend Street, LLC, a Delaware limited liability company; 950 Van  
20 Ness Avenue, LLC, a Delaware limited liability; and 2801 Leavenworth-Cannery, LLC, a  
21 Delaware limited liability company.

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1 Section 3. The approval of this ordinance is contingent on the Board of Supervisors'  
2 approval of the companion ordinance approving the development agreement, in Board of  
3 Supervisors File No. 191125.

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5 APPROVED AS TO FORM AND  
6 RECOMMENDED:

7 DENNIS J. HERRERA  
8 City Attorney

RECOMMENDED:

9 \_\_\_\_\_  
10 John Rahaim  
11 Director  
12 Planning Department

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14 KATE HERRMANN STACY  
15 Deputy City Attorney

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