

1 [Development Agreement - San Francisco Conservatory of Music - 200-214 Van Ness  
2 Avenue]

3 **Ordinance approving a Development Agreement between the City and County of San**  
4 **Francisco and San Francisco Conservatory of Music, a California non-profit public**  
5 **benefit corporation, for the project at 200-214 Van Ness Avenue between Hayes Street**  
6 **and the Dr. Tom Waddell Place mid-block alley, with various public benefits including**  
7 **creation of student housing, faculty housing, a new performance venue in the Civic**  
8 **Center cultural area, activation of a neglected portion of Van Ness Avenue, one-for-one**  
9 **on-site replacement of 27 existing dwelling units with a specific Replacement and**  
10 **Interim Housing Program for existing tenants, including the clear right to return to a**  
11 **comparable unit and an interim relocation housing assistance, voluntary application of**  
12 **rent control and waiving rights under the Ellis Act; making findings under the**  
13 **California Environmental Quality Act and findings of conformity with the General Plan,**  
14 **and with the eight priority policies of Planning Code, Section 101.1(b); setting the**  
15 **impact fees and exactions as set forth in the Development Agreement; and confirming**  
16 **compliance with or waiving certain provisions of Administrative Code Chapters, 14B**  
17 **and 56, and ratifying certain actions taken in connection therewith, as defined herein.**

18  
19 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.  
20 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
21 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
22 **Board amendment additions** are in double-underlined Arial font.  
23 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
24 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
25 subsections or parts of tables.

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

25 ///

1 Section 1. Project Findings.

2 (a) California Government Code Sections 65864 et seq. authorize any city, county,  
3 or city and county to enter into an agreement for the development of real property within its  
4 jurisdiction.

5 (b) Chapter 56 of the Administrative Code ("Chapter 56") sets forth certain  
6 procedures for the processing and approval of development agreements in the City and  
7 County of San Francisco (the "City").

8 (c) San Francisco Conservatory of Music ("SFCM") is a nonprofit education  
9 institution which has provided internationally acclaimed music education in San Francisco for  
10 100 years. SFCM's 50 Oak Street campus was created in 2006 and included the  
11 rehabilitation and restoration of an important historic resource. Since then, SFCM has  
12 become a critical part of the City's Civic Center area cultural district, while serving over 400  
13 students a year, both graduate and undergraduate, most of whom receive scholarship  
14 support, and employing over 300 faculty and staff. SFCM owns lots 010 and 012 in Block 811  
15 at 200-214 Van Ness Avenue, between Hayes Street and the Dr. Tom Waddell Place mid-  
16 block alley, comprised of 2 buildings (collectively, the "Project Site"): 200 Van Ness, a three-  
17 story building containing 27 residential units, and 214 Van Ness, a two-story building  
18 containing vacant office space.

19 (d) SFCM filed an application with the City's Planning Department for approval of a  
20 development agreement relating to the Project Site (the "Development Agreement") under  
21 Chapter 56. A copy of the Development Agreement is on file with the Clerk of the Board in  
22 File No. 180115 and is incorporated by reference herein.

23 (e) SFCM proposes the following (the "Project"): to demolish the two existing  
24 buildings on the Project Site, and create student housing with approximately 420 beds in 113  
25 units, three faculty units, 27 residential units constituting one-for-one replacement of the

1 existing residential units ("Replacement Units") under a tenant Replacement Housing and  
2 Interim Relocation Plan ("Replacement Housing Plan") as defined in the Development  
3 Agreement), educational and performance space, and ground floor retail/restaurant and  
4 related uses, all in an approximately 168,200-gross-square-foot building and as more  
5 specifically described in the Development Agreement. The Project is designed to permit  
6 SFCM to continue its historic contribution to exceptional music education and to strengthen  
7 San Francisco's Civic Center area cultural district by providing student housing, performance  
8 venues, and related facilities.

9 (f) Concurrently with this ordinance, the Board of Supervisors is taking a number of  
10 actions by ordinance in furtherance of the Project, as generally described in the Development  
11 Agreement, including in Exhibit D to the Development Agreement.

12 (g) In addition to the significant housing and cultural benefits to the City from the  
13 Project, development of the Project in accordance with the Development Agreement will yield  
14 additional clear benefits to the public that could not be obtained through application of existing  
15 City ordinances, regulations, and policies. Major additional public benefits to the City from the  
16 Project include: (1) expanding the City's supply of affordable housing by adding approximately  
17 420 student beds and 3 faculty housing units and thereby alleviating some pressure on the  
18 existing housing stock; (2) replacing on-site, and upgrading to modern standards, the  
19 Replacement Units and providing other benefits for existing tenants, including the clear right  
20 to return to a comparable unit, as described in the Replacement Housing Plan; (3) submitting  
21 the Replacement Units to the City's Rent Control Ordinance and waiving rights under the Ellis  
22 Act; (4) providing 45,200 square feet of much-needed educational and performance space  
23 and thereby expanding artistic and cultural resources in the Civic Center area; and (5)  
24 activating a neglected portion of Van Ness Avenue.

25 ///

1 Section 2. CEQA Findings.

2 On February 8, 2018, by ~~Motion No. 20107~~Resolution No. 20106, the Planning  
3 Commission adopted the Mitigated Negative Declaration ("MND") for the Project published by  
4 the Planning Department on December 27, 2017, and determined that the MND was  
5 adequate, accurate, and complete and reflected the independent judgment of the Planning  
6 Department pursuant to the California Environmental Quality Act (California Public Resources  
7 Code Sections 21000 et seq.) ("CEQA"). A copy of Planning Commission ~~Motion~~  
8 ~~No. 20107~~Resolution No. 20106 is on file with the Clerk of the Board of Supervisors in File  
9 No. 180151 (the "CEQA Findings"). In consideration of the actions contemplated in this  
10 ordinance, the Board has reviewed the MND and related documents, and adopts as its own  
11 and incorporates by reference the CEQA Findings as though fully set forth herein.

12 Section 3. General Plan and Planning Code Section 101.1(b) Findings.

13 (a) The Board of Supervisors finds that the Development Agreement will serve the  
14 public necessity, convenience, and general welfare for the reasons set forth in Planning  
15 Commission Resolution No. 20106, which is on file with the Clerk of the Board in File No.  
16 180115, and incorporates by reference those reasons as though fully set forth herein.

17 (b) The Board of Supervisors finds that the Development Agreement is in conformity  
18 with the General Plan, as proposed to be amended by this ordinance, and with the eight  
19 priority policies of Planning Code Section 101.1, for the reasons set forth in Planning  
20 Commission Resolution No. 20106. The Board hereby adopts those findings set forth in  
21 Planning Commission Resolution No. 20106 and incorporates by reference those findings as  
22 though fully set forth herein.

23 ///

24 ///

1 Section 4. Development Agreement.

2 (a) The Board of Supervisors approves all of the terms and conditions of the  
3 Development Agreement, in substantially the form on file with the Clerk of the Board of  
4 Supervisors in File No. 180115, including the Impact Fees and Exactions.

5 (b) The Board of Supervisors approves and authorizes the execution, delivery, and  
6 performance by the City of the Development Agreement as follows: (1) the Director of  
7 Planning is authorized to execute and deliver the Development Agreement, and (2) the  
8 Director of Planning, and other City officials as applicable, are authorized to take all actions  
9 reasonably necessary or prudent to perform the City's obligations and enforce the City's rights  
10 and remedies under the Development Agreement in accordance with its terms. The Director  
11 of Planning, at the Director's discretion and in consultation with the City Attorney, is  
12 authorized to enter into any additions, amendments, or other modifications to the  
13 Development Agreement that the Director of Planning determines are in the best interests of  
14 the City and that do not materially increase the obligations or liabilities of the City or materially  
15 decrease the benefits to the City as provided in the Development Agreement.

16 Section 5. Satisfaction or Waiver of Administrative Code Provisions.

17 The Development Agreement shall prevail in the event of any conflict between the  
18 Development Agreement and Administrative Code Chapters 14B and 56, and without limiting  
19 the generality of the foregoing clause, for purposes of the Development Agreement only, the  
20 provisions of Administrative Code Chapters 14B and 56 are waived or its provisions deemed  
21 satisfied as follows:

22 (a) Cultural and educational and housing benefits to the City from the Project  
23 provide the unique public benefits contemplated in Chapter 56. Therefore, regardless of  
24 SFCM's status as a nonprofit educational entity subject to Planning Code Section 304.5, or  
25

1 the size of the Project site, it is hereby deemed to satisfy the provisions of Chapter 56,  
2 Section 56.3(g).

3 (b) The nature of the Project's size and nonprofit status is one not contemplated by  
4 Administrative Code Chapter 14B or Chapter 56, Section 56.7(c), and as such, those  
5 provisions are deemed to not apply.

6 (c) The provisions of the Development Agreement regarding any amendment or  
7 termination, including those relating to "Material Change," shall apply in lieu of the provisions  
8 of Chapter 56, Section 56.15.

9 (d) In connection with the Development Agreement, the Board of Supervisors finds  
10 that the requirements of Chapter 56, as modified hereby, have been substantially complied  
11 with and waives any procedural or other requirements of Chapter 56 if and to the extent that  
12 they have not been strictly complied with.

13 Section 6. Ratification.

14 All actions taken by City officials in preparing and submitting the Development  
15 Agreement to the Board of Supervisors for review and consideration are hereby ratified and  
16 confirmed, and the Board of Supervisors hereby authorizes all subsequent action to be taken  
17 by City officials consistent with this ordinance.

18 Section 7. Effective and Operative Dates.

19 (a) Effective date. This ordinance shall become effective 30 days after enactment.  
20 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance  
21 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of  
22 Supervisors overrides the Mayor's veto of the ordinance.

23 (b) Operative date. This ordinance shall become operative on (and no rights or  
24 duties are affected until) the later of (a) its effective date, as specified in subsection (a), or  
25

1 (b) the date that the three ordinances Ordinance \_\_\_\_\_, Ordinance \_\_\_\_\_,  
2 and Ordinance \_\_\_\_\_ in Board File No. \_\_\_\_\_ have all become effective.

3

4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6

7

8 By: \_\_\_\_\_  
9 HEIDI J. GEWERTZ  
10 Deputy City Attorney  
11 n:\legana\as2018\1800380\01249533.docx

12

13

14

15

16

17

18

19

20

21

22

23

24

25