

1 [Development Agreement - India Basin Investment LLC - India Basin Project - Innes Avenue  
at Griffith Street]

2

3 **Ordinance approving a Development Agreement between the City and County of San**  
4 **Francisco and India Basin Investment LLC, a California limited liability company, for**  
5 **the India Basin Project at the approximately 28-acre site located at Innes Avenue**  
6 **between Griffith Street and Earl Street, with various public benefits, including 25%**  
7 **affordable housing and 11 acres of parks and open space; making findings under the**  
8 **California Environmental Quality Act and findings of conformity with the General Plan,**  
9 **and with the eight priority policies of Planning Code, Section 101.1(b); approving a**  
10 **Public Trust Exchange Agreement, making public trust findings, and authorizing the**  
11 **transfer and acceptance of real property and the recording of a land use covenant**  
12 **consistent with the Public Trust Exchange Agreement; approving specific development**  
13 **impact fees and waiving any conflicting provision in Planning Code, Article 4, or**  
14 **Administrative Code, Article 10; confirming compliance with or waiving certain**  
15 **provisions of Administrative Code, Chapters 14B, 23, 56, and 82 and Subdivision Code,**  
16 **Section 1348, and ratifying certain actions taken in connection therewith.**

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

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

24

Section 1. Project Findings.

25

The Board of Supervisors makes the following findings:

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

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

7 (c) India Basin Investment LLC, a California limited liability company ("Developer")  
8 owns the approximately 14.7 acre site along Innes Street, between Earl and Griffith Streets,  
9 and holds options to purchase an additional 2.4 acres of adjacent land (the "Developer  
10 Property"). The City owns approximately 6.2 acres of open space along the shoreline,  
11 adjacent to the Developer Property, together with various street areas (the "City Property",  
12 together with the Developer Property, the "Project Site").

13 (d) Developer filed an application with the City's Planning Department for approval  
14 of a development agreement relating to the Project Site (the "Development Agreement")  
15 under Chapter 56. A copy of the Development Agreement is on file with the Clerk of the  
16 Board in File No. 180681.

17 (e) The Developer proposes a mixed use development on the Project Site that will  
18 include a new publicly accessible network of improved parkland and open space and a mixed-  
19 use urban village, including up to 1,575 dwelling units, and 676,052 square feet (15.5 acres)  
20 of publicly accessible open space, and approximately 59,500 square feet of public and private  
21 open space, all as more particularly described in the Development Agreement (the "Project").

22 (f) As set forth in the Development Agreement, the City agrees to initiate the  
23 process to vacate portions of Hudson Avenue, Griffith Street, Arelious Walker Drive and Earl  
24 Street and, following any vacation and satisfaction of any applicable City conditions, to convey  
25 the underlying land to Developer in connection with the land assembly required for the Project

1 (the “Street Vacation Actions”). In return, Developer will convey certain land to the City.

2 (g) Concurrently with this Ordinance, the Board is taking a number of actions in  
3 furtherance of the Project, as generally described in the Development Agreement, including  
4 Exhibit D to the Development Agreement (the “Approvals”).

5 (h) While the Development Agreement is between the City, acting primarily through  
6 the Planning Department, and Developer, other City agencies retain a role in reviewing and  
7 issuing certain later approvals for the Project. Later approvals include approval of subdivision  
8 maps and plans for horizontal improvements and public facilities, design review and approval  
9 of new buildings, actions relating to the Street Vacations Actions, and acceptance of  
10 Developer’s dedications of horizontal improvements and parks and open spaces for City  
11 maintenance and liability under the Subdivision Code. As a result, affected City agencies  
12 have consented to the Development Agreement.

13 (i) The Project is anticipated to generate an annual average of approximately \_\_\_\_  
14 construction jobs and, upon completion, approximately \_\_\_\_ net new permanent jobs and an  
15 approximately \$\_\_\_\_\_ annual increase in general fund revenues to the City. In addition  
16 to the significant housing, jobs, urban revitalization, and economic benefits to the City from the  
17 Project, the City has determined that development of the Project under the Development  
18 Agreement will provide additional benefits to the public that could not be obtained through  
19 application of existing City ordinances, regulations, and policies. Additional public benefits to  
20 the City from the Project include: (1) an increase in affordable housing that exceeds amounts  
21 otherwise required and will equal twenty five percent (25%) of the total number of housing  
22 units for the Project; (2) workforce obligations, including significant training, employment and  
23 economic development opportunities as part of the development and operation of the Project;  
24 (3) construction and maintenance of the publicly accessible open space, totaling  
25 approximately eleven (11) acres of parks and the improvement of existing City Property along

1 the shoreline; (4) child care space to serve not less than 50 children; and (5) sea level rise  
2 improvements as part of the development, and future funding for additional future sea level  
3 rise improvements; all as further described in the Development Agreement. The Development  
4 Agreement will eliminate uncertainty in the City's land use planning for the Project Site and  
5 secure orderly development.

6 (j) In particular, the City intends to create a series of contiguous, integrated  
7 waterfront parks, including both the India Basin Open Space and the Big Green, as well as the  
8 neighboring 900 Innes and India Basin Shoreline Park (collectively, the "India Basin Park  
9 System"), for the benefit of the southeast community and the residents of San Francisco and  
10 California at large. The City further intends to connect the India Basin Park System to the  
11 Northside Park, when completed as part of the Candlestick/Hunters Point Shipyard  
12 development project.

13 (k) Funding for maintenance of the India Basin Park System will include special  
14 taxes under a community facilities district (CFD) to be formed by Developer and the City, as  
15 more particularly described in the Financing Plan attached to the Development Agreement.  
16 The CFD funds also will be available to pay for future sea level rise improvements.

17 (l) To assemble the land for the Project development, including the City's no-cost  
18 acquisition of land from Developer for the Big Green, the City, the State Lands Commission  
19 and Developer will enter into a public trust exchange agreement, substantially in the form  
20 attached to the Development Agreement (the "Public Trust Exchange Agreement"). The City  
21 will record a land use covenant against specified lands subject to the public trust that will be  
22 placed under the Port's jurisdiction for purposes of the trust, but that will be maintained and  
23 operated by the Recreation and Park Department.

24 Section 2. CEQA Findings.

25 On \_\_\_\_\_, by Motion No. \_\_\_\_\_, the Planning Commission certified as

1 adequate, accurate and complete the Final Environmental Impact Report ("FEIR") for the  
2 Project pursuant to the California Environmental Quality Act (California Public Resources  
3 Code Section 21000 et seq.) ("CEQA"). A copy of Planning Commission Motion No.  
4 \_\_\_\_\_ is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.  
5 Also on \_\_\_\_\_, by Motion No. \_\_\_\_\_, the Planning Commission adopted findings,  
6 including a rejection of alternatives and a statement of overriding considerations (the "CEQA  
7 Findings") and a Mitigation Monitoring and Reporting Program ("MMRP"). These Motions are  
8 on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_. In accordance with  
9 the actions contemplated herein, this Board has reviewed the FEIR and related documents,  
10 and adopts as its own and incorporates by reference as though fully set forth herein the  
11 CEQA Findings, including the statement of overriding considerations, and the MMRP.

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

13 (a) The Board of Supervisors shall consider companion legislation that adopts  
14 public necessity findings of Planning Code Section 302 and General Plan amendments. A  
15 copy of the companion legislation is on file with the Clerk of the Board of Supervisors in File  
16 No. \_\_\_\_\_ and is incorporated herein by reference.

17 (b) For purposes of this Ordinance, the Board of Supervisors finds that the  
18 Development Agreement will serve the public necessity, convenience and general welfare for  
19 the reasons set forth in the companion legislation identified in subsection (a).

20 (c) For purposes of this Ordinance, the Board of Supervisors finds that the  
21 Development Agreement is in conformity with the General Plan, as proposed to be amended,  
22 and the eight priority policies of Planning Code Section 101.1 for the reasons set forth in the  
23 companion legislation identified in subsection (a).

24 Section 4. Public Trust Findings.

25 At a public hearing on \_\_\_\_\_, 2018, the Port Commission consented to the

1 Development Agreement and approved the Public Trust Exchange Agreement, subject to  
2 Board of Supervisors' approval, finding that the Project would be consistent with and further  
3 the purposes of the common law public trust and statutory trust under the Burton Act (Stats.  
4 1968, ch. 1333) by Resolution No. \_\_\_\_\_, a copy of which is in Board File  
5 No. \_\_\_\_\_. The Board of Supervisors adopts and incorporates in this Ordinance  
6 the Port Commission's public trust findings.

7 Section 5. Development Agreement.

8 (a) The Board of Supervisors approves all of the terms and conditions of the  
9 Development Agreement, in substantially the form on file with the Clerk of the Board of  
10 Supervisors in File No. \_\_\_\_\_.

11 (b) The Board of Supervisors approves and authorizes the execution, delivery and  
12 performance by the City of the Development Agreement as follows: (i) the Director of  
13 Planning and (other City officials listed thereon) are authorized to execute and deliver the  
14 Development Agreement, with signed consents of the Port Commission, the Municipal  
15 Transportation Agency, the San Francisco Public Utilities Commission, the Recreation and  
16 Park Commission, and the San Francisco Fire Department, and (ii) the Director of Planning  
17 and other applicable City officials are authorized to take all actions reasonably necessary or  
18 prudent to perform the City's obligations under the Development Agreement in accordance  
19 with the terms of the Development Agreement. Without limiting the foregoing, (A) the Port  
20 Director, the Recreation and Park Department General Manager, and the Director of Property  
21 are authorized to execute and perform all City obligations under the Public Trust Exchange  
22 Agreement substantially in the form attached to the Development Agreement, and (B) the  
23 Director of Public Finance and the Controller are authorized to take all preliminary actions  
24 required to form the CFD as described in the Financing Plan, provided the actual CFD  
25 formation documents and issuance of debt will be subject to the review and approval of the

1 Board of Supervisors.

2 (c) The Director of Planning, at his or her discretion and in consultation with the City  
3 Attorney, is authorized to enter into any additions, amendments or other modifications to the  
4 Development Agreement that the Director of Planning determines are in the best interests of  
5 the City and that do not materially increase the obligations or liabilities of the City or materially  
6 decrease the benefits to the City as provided in the Development Agreement. The Port  
7 Director and the Recreation and Park Department General Manager, at their discretion and in  
8 consultation with the City Attorney, are authorized to enter into any additions, amendments or  
9 other modifications to the Public Trust Exchange Agreement that they determine are in the  
10 best interests of the City and that do not materially increase the obligations or liabilities of the  
11 City or materially decrease the benefits to the City as provided in the Public Trust Exchange  
12 Agreement.

13 Section 6. Board Authorization and Appropriation.

14 By approving the Development Agreement, the Board of Supervisors authorizes the  
15 Controller and City Departments to accept the funds paid by Developer as set forth therein,  
16 and to appropriate and use the funds for the purposes described therein. The Board  
17 expressly approves the use of the development impact fees as set forth in the Development  
18 Agreement, and waives or overrides any provision in Article 4 of the City Planning Code and  
19 Article 10 of the City Administrative Code that would conflict with the uses of these funds as  
20 described in the Development Agreement.

21 Section 7. City Administrative Code Conformity and Waivers.

22 In connection with the Development Agreement, the Board of Supervisors finds that the  
23 City has substantially complied with the requirements of Administrative Code Chapters 14B  
24 and 56, and waives any requirement to the extent not strictly followed. The Development  
25 Agreement shall prevail in the event of any conflict between the Development Agreement and

1 City Administrative Code Chapters 14B and 56, and without limiting the generality of the  
2 foregoing, the following provisions of City Administrative Code Chapters 14B and 56 are  
3 waived or deemed satisfied as follows:

4 (a) The Project comprises approximately 28 acres and is the type of large multi-  
5 phase and/or mixed-use development contemplated by the City Administrative Code and  
6 therefore satisfies the provisions of Chapter 56, Section 56.3(g).

7 (b) The provisions of Development Agreement and the Workforce Agreement  
8 attached to the Development Agreement as Exhibit P shall apply in lieu of the provisions of  
9 City Administrative Code Chapter 14B, Section 14B.20, and Chapter 56, Section 56.7(c).

10 (c) The provisions of the Development Agreement regarding any amendment or  
11 termination, including those relating to "Material Change," shall apply in lieu of the provisions  
12 of Chapter 56, Section 56.15 and Section 56.18.

13 (e) The provisions of Chapter 56, Section 56.20 have been satisfied by the  
14 Memorandum of Understanding between Developer and the Office of Economic and  
15 Workforce Development for the reimbursement of City costs, a copy of which is on file with the  
16 Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

17 (f) The Board of Supervisors waives the applicability of Section 56.4 (Application,  
18 Forms, Initial Notice, Hearing) and Section 56.10 (Negotiation Report and Documents).

19 Section 8. Planning Code Waivers; Ratification.

20 (a) The Board of Supervisors finds that the impact fees and other exactions due  
21 under the Development Agreement will provide greater benefits to the City than the impact  
22 fees and exactions under Planning Code Article 4 and waives the application of, and to the  
23 extent applicable exempts the Project from, impact fees and exactions under Planning Code  
24 Article 4 on the condition that Developer pays the impact fees and exactions due under the  
25 Development Agreement.



1 (b) The Board of Supervisors finds that the Transportation Plan attached to the  
2 Development Agreement includes a Transportation Demand Management Plan (“TDM Plan”)  
3 and other provisions that meet the goals of the City’s Transportation Demand Management  
4 Program in Planning Code Section 169 and waives the application of Section 169 to the  
5 Project on the condition that Developer implements and complies with the TDM Plan.

6 (c) The Board of Supervisors finds that the Design Standards and Guidelines  
7 attached to the Development Agreement sets forth sufficient standards for streetscape design  
8 and waives the requirements of Planning Code Section 138.1 (Streetscape and Pedestrian  
9 Improvements) and Public Works Code Section 806(d) (Required Street Trees for  
10 Development Projects).

11 (d) All actions taken by City officials in preparing and submitting the Development  
12 Agreement to the Board of Supervisors for review and consideration are hereby ratified and  
13 confirmed, and the Board of Supervisors hereby authorizes all subsequent action to be taken  
14 by City officials consistent with this Ordinance.

15 Section 9. Other Administrative Code Waivers.

16 The requirements of the Workforce Agreement attached to the Development  
17 Agreement shall apply and shall supersede, to the extent of any conflict, the provisions of  
18 Administrative Code: (i) Chapter 82.4 (Coverage); (ii) Chapter 23, Article II (Interdepartmental  
19 Transfer of Real Property); and (iii) Chapter 23, Article VII (Prevailing Wage, Apprenticeship,  
20 and Local Hire Requirements), but only to the extent any of the foregoing provisions are  
21 applicable to the conveyance of vacated streets from the City to Developer and the other land  
22 conveyances contemplated by the Development Agreement.

23 Section 10. Subdivision Code Waivers.

24 The Public Improvement Agreement, as defined in the Development Agreement, shall  
25 include provisions consistent with the Development Agreement and the applicable

1 requirements of the Municipal Code and the Subdivision Regulations regarding extensions of  
2 time and remedies that apply when improvements are not completed within the agreed time.  
3 Accordingly, the Board of Supervisors waives the application to the Project of Subdivision  
4 Code Section 1348 (Failure to Complete Improvements within Agreed Time).

5 Section 11. Effective and Operative Date.

6 This Ordinance shall become effective 30 days from the date of passage. This  
7 Ordinance shall become operative only on (and no rights or duties are affected until) the later  
8 of (a) 30 days from the date of its passage, or (b) the date that Ordinance \_\_\_\_\_,  
9 Ordinance \_\_\_\_\_, and Ordinance \_\_\_\_\_ have become effective. Copies of  
10 these Ordinances are on file with the Clerk of the Board of Supervisors in File Nos.  
11 \_\_\_\_\_ and \_\_\_\_\_.

12  
13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15  
16 By: \_\_\_\_\_  
17 Charles Sullivan  
18 Deputy City Attorney  
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