

1 [Development Agreement - SYTS Investments, LLC - 915 Cayuga Avenue]

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3 **Ordinance approving a Development Agreement between the City and County of San**  
4 **Francisco and SYTS Investments, LLC, for the development project at 915 Cayuga**  
5 **Avenue, with various public benefits including significantly more below market rate**  
6 **units than otherwise required; making findings under the California Environmental**  
7 **Quality Act and findings of consistency with the General Plan, and the eight priority**  
8 **policies of Planning Code, Section 101.1(b); confirming compliance with or waiving**  
9 **certain provisions of Administrative Code, Chapters 14B and 56; and ratifying certain**  
10 **actions taken in connection therewith, as defined herein.**

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

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

19 Section 1. Project Findings.

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

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

1 (c) SYTS Investments LLC, a California limited liability company (the “Developer”),  
2 owns Lots 039 and 011C, Block 6954, located at 915 Cayuga Avenue between Cayuga  
3 Avenue and Alemany Boulevard near the corner of Cayuga and Ocean Avenues (the “Project  
4 Site”).

5 (d) The Developer filed an application with the Planning Department for approval of  
6 a development agreement relating to the Project Site (the "Development Agreement") under  
7 Chapter 56. A copy of the Development Agreement is on file with the Clerk of the Board of  
8 Supervisors in File No. 190249.

9 (e) The Developer proposes to construct a five-story, approximately 115,610 square  
10 foot residential development on the Project Site that will include 116 residential units,  
11 including approximately 58 on-site below market rate (“BMR”) units governed by Planning  
12 Code Chapter 415, approximately 58 market rate units, 400 square feet of accessory office  
13 space, and 69 parking spaces in a sub-grade garage, all as more particularly described in the  
14 Development Agreement (the “Project”). At least 70% of the 116 residential units will be  
15 family size units of two or more bedrooms.

16 (f) In addition to this ordinance, the Board of Supervisors is taking a number of  
17 actions in furtherance of the Project, as generally described in the Development Agreement,  
18 including Exhibit E to the Development Agreement (the “Approvals”).

19 (g) In addition to the significant housing, jobs, and economic benefits to the City  
20 from the Project, additional clear benefits to the public will accrue that could not be obtained  
21 through application of existing City ordinances, regulations, and policies as a result of the  
22 development of the Project in accordance with the Development Agreement. Major public  
23 benefits to the City from the Project include providing an increase in affordable housing that  
24 exceeds City BMR requirements and will equal approximately 50% of the total number of on-  
25 site housing units from the Project; providing family size housing at levels exceeding City

1 requirements; and activating an underutilized opportunity site in the Excelsior Neighborhood  
2 Commercial District, as further described in the Development Agreement.

3 Section 2. CEQA Findings.

4 On April 11, 2019, by Resolution No. 20418, the Planning Commission adopted the  
5 Mitigated Negative Declaration ("MND") and a Mitigation Monitoring and Reporting Program  
6 ("MMRP") for the Project, and determined that the MND was adequate, accurate, and  
7 complete and reflected the independent judgment of the Planning Department pursuant to the  
8 California Environmental Quality Act (California Public Resources Code Sections 21000 et  
9 seq.) ("CEQA"). A copy of Planning Commission Resolution No. 20418 is on file with the  
10 Clerk of the Board of Supervisors in File No. 190249 (the "CEQA Findings"). In consideration  
11 of the actions contemplated in this ordinance, the Board has reviewed the MND, the MMRP,  
12 and related documents, and adopts as its own and incorporates by reference the CEQA  
13 Findings, including the MMRP, as though fully set forth herein.

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

15 (a) The Board of Supervisors finds that the Development Agreement will serve the  
16 public necessity, convenience, and general welfare for the reasons set forth in Planning  
17 Commission Resolution No. 20420, which is on file with the Clerk of the Board in File No.  
18 190249, and incorporates by reference those reasons as though fully set forth herein.

19 (b) The Board of Supervisors finds that the Development Agreement is consistent,  
20 on balance, with the General Plan and with the eight priority policies of Planning Code  
21 Section 101.1, for the reasons set forth in Planning Commission Resolution No. 20420. The  
22 Board hereby adopts those findings set forth in Planning Commission Resolution No. 20420  
23 and incorporates by reference those findings as though fully set forth herein.

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25 Section 4. Approval of Development Agreement.

1 (a) The Board of Supervisors approves all of the terms and conditions of the  
2 Development Agreement, in substantially the form on file with the Clerk of the Board of  
3 Supervisors in File No. 190249.

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

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

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

21 (a) Housing benefits to the City from the Project, particularly the provision of BMR  
22 units and family size units exceeding City requirements, provide the unique public benefits  
23 contemplated in Chapter 56 and therefore the Project is hereby deemed to satisfy the  
24 provisions of Chapter 56.

1 (b) The nature of the Project's size and uniqueness is not contemplated by  
2 Administrative Code Chapter 14B or Chapter 56, Administrative Code Section 56.7(c), or  
3 Administrative Code Section 56.20, and as such those provisions are hereby waived.

4 (c) The provisions of the Development Agreement regarding any amendment or  
5 termination, including those relating to "Material Change," shall apply in lieu of the provisions  
6 of Administrative Code Section 56.15.

7 (d) In connection with the Development Agreement, the requirements of  
8 Chapter 56, as modified herein, have been substantially complied with and any procedural or  
9 other requirements of Chapter 56 are hereby waived if and to the extent that they have not  
10 been strictly complied with.

11 Section 6. Ratification of Prior Acts; Authorization of Subsequent Acts.

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

16 Section 7. Effective and Operative Dates.

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

21 (b) Operative date. This ordinance shall become operative on (and no rights or  
22 duties are affected until) the date that (i) it is effective, as specified in subsection 7(a), and

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1 (ii) the date that Ordinance \_\_\_\_\_, establishing the Cayuga/Alemany Special Use  
2 District, in Board File No. 190250 is effective.

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

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8 By: \_\_\_\_\_  
9 Elizabeth A. Dietrich  
10 Deputy City Attorney  
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