

**LEGISLATIVE DIGEST**

[Planning, Administrative Codes - Development Agreement, Conditional Use Procedures for Large Noncontiguous Post-Secondary Educational Institutions, Planning and Administrative Code Waivers]

**Ordinance approving a Development Agreement between the City and County of San Francisco and the Stephens Institute, dba Academy of Art University, and its affiliated entities, as to the Academy’s properties, which agreement provides for various public benefits, including among others an “affordable housing payment” of \$37,600,000 and a payment of approximately \$8,200,000 to the City’s Small Sites Fund; amending the Planning Code to provide review procedures for Large Noncontiguous Post-Secondary Educational Institutions; waiving conflicting provisions in the Planning and Administrative Codes, including Planning Code, Section 169; confirming compliance with or waiving certain provisions of Administrative Code, Chapters 41 and 56; ratifying certain actions taken in connection with the Development Agreement and authorizing certain actions to be taken consistent with the Development Agreement, as defined herein; affirming the Planning Department’s determination under the California Environmental Quality Act, and findings of conformity with the General Plan, and with the eight priority policies of Planning Code, Section 101.1(b); and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

Existing Law

California Government Code section 65864 *et seq.* (the “Development Agreement Statute”) and San Francisco Administrative Code Chapter 56 (“Chapter 56”) authorize the City to enter into a development agreement regarding the development of real property.

San Francisco Administrative Code Chapter 41 (“Chapter 41”) regulates Single Room Occupancy Hotels (“SROs”), and provides procedures for converting SRO rooms to non-SRO uses.

Amendments to Current Law

This ordinance approves a development agreement between the City and County of San Francisco (“City”) and the Stephens Institute (dba Academy of Art University) and its affiliated entities (collectively, “Academy”) in accordance with the Development Agreement Statute and Chapter 56. The development agreement resolves a lawsuit brought by the City Attorney, on behalf of the City and the State of California, for violations of the San Francisco Planning and Building Codes and the State Unfair Competition Law (“UCL”), provides the Academy the right to legalize certain uses at 31 properties currently operated by the Academy, to legally occupy three new properties, to perform corrective work as necessary at its properties to bring those properties into compliance with City codes, to pay an affordable housing benefit to the City, to make a payment to the City’s Small Sites Fund to compensate for SRO units the Academy

converted to student housing, and to pay Planning enforcement and Unfair Competition Law penalties, all as described in the development agreement. The development agreement also lifts the Administrative Code Chapter 41 designation from 31 SRO rooms at two properties owned by Academy affiliates, and relocate those designations to 860 Sutter Street. In addition, 8 net new SRO rooms at 860 Sutter will become Chapter 41-designated Residential Guest Rooms, so that the entire building will be subject to Chapter 41.

The ordinance ratifies all steps taken in furtherance of adopting the development agreement, including waiving any inconsistencies between the development agreement and chapters 41 and 56 of the Administrative Code.

The ordinance also includes amendments to the Planning Code creating consolidated, master permitting procedures applicable to Large Noncontiguous Post-Secondary Educational Institutions, including the Academy. There are no proposed amendments to Chapter 56.

#### Background Information

The development agreement is the product of the settlement of a lawsuit brought by the City against the Academy for failing to obtain necessary change of use and other required permits and approvals prior to occupying and operating at 40 properties around the City. The development agreement has a term of 25 years and provides for numerous public benefits including payment to the City of a substantial Affordable Housing Benefit to be allocated by the Mayor's Office of Housing and Community Development; payment of Planning Code and UCL penalties for past violations; agreements regarding the Academy's provisions of housing to its students; the withdrawal and cessation of all further use at nine of the Academy's properties; legalization of Academy uses at the remaining 31 properties currently occupied by the Academy; and approval of new uses at three additional properties. The development agreement also requires the Academy to obtain permits for and make internal and external building modifications to remove, legalize, or modify unpermitted work, to provide a comprehensive signage program including the removal of certain existing signs and placement of new code compliant signage, and to implement the legalization of certain uses.

By separate legislation, the Board will consider the settlement agreement, a consent decree and stipulated injunction, through which the City will be able to enforce the terms of the settlement and development agreements, and a guaranty to ensure that the Academy and related entities fulfill their financial responsibilities under the settlement and development agreements.