[Development Agreements.]

Ordinance amending the San Francisco Administrative Code by amending Sections 56.2 and 56.3 to allow a housing project to enter into a Development Agreement with the City if the project has a minimum of 1,000 units, includes two or more buildings, will be built on a site exceeding two and one-half acres, and provides public benefits beyond those achievable through existing ordinances and regulations; adopting findings under the California Environmental Quality Act.

Note: Additions are *single-underline italics Times New Roman*; deletions are *strikethrough italics Times New Roman*. Board amendment additions are double underlined. Board amendment deletions are *strikethrough normal*.

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

Section 1. California Environmental Quality Act (CEQA) Finding. The Planning Department has determined this legislation to be exempt from environmental review under CEQA pursuant to the letter dated 12-22-04 contained in Board of Supervisors File No. 041748.

Section 2. The San Francisco Administrative Code is hereby amended by amending Sections 56.2 and 56.3, to read as follows:

SEC. 56.2. PURPOSE AND APPLICABILITY.

(a) The purpose of this Chapter is to strengthen the public planning process by encouraging private participation in the achievement of comprehensive planning goals and reducing the economic costs of development. A development agreement reduces the risks associated with development, thereby enhancing the City's ability to obtain public benefits beyond those achievable through existing ordinances and regulations. To accomplish this purpose the procedures, requirements and other provisions of this Chapter are necessary to
provision of housing, employment and small business opportunities to all segments of the community including low income persons, minorities and women), to ensure provision for adequate public services and facilities at the least economic cost to the public, and to ensure community participation in determining an equitable distribution of the benefits and costs associated with development.

(b) Such agreements shall only be used for (1) affordable housing developments, or a housing development with a minimum of 1,000 units, as defined below in Section 56.3, or a housing development with a minimum of 1,000 units, as defined below in Section 56.3.

SEC. 56.3. DEFINITIONS.

The following definitions shall apply for purposes of this Chapter:

(a) "Affordable housing development" shall mean for purposes of Section 56.2(b)(1), any housing development which has a minimum of 30 percent of its units affordable to low income households, and a total of 60 percent of its units affordable to households, as defined by the U.S. Census, whose immediate household income does not exceed 120 percent of the median household income for the San Francisco Primary Metropolitan Statistical Area, with the remaining 40 percent of its units unrestricted as to affordability. For purposes of this definition of "affordable housing development," "low income" shall mean the income of households, as defined by the U.S. Census whose immediate household income does not exceed 80 percent of the median household income for the San Francisco Primary Metropolitan Statistical Area. "Median household income" for the San Francisco Primary Metropolitan Statistical Area shall be as determined by the U.S. Department of Housing and Urban Development and adjusted according to the determination of that Department and

Supervisor Daly
BOARD OF SUPERVISORS
published from time to time. In the event that such income determinations are no longer
published by the Department of Housing and Urban Development, median household income
shall mean the median gross yearly income of a household in the City and County of San
Francisco, adjusted for household size, as published periodically by the California Department
of Housing and Community Development. Such affordable housing development may include
neighborhood commercial facilities which are physically and financially an integral part of the
affordable housing project and which will provide services to local residents.

(b) "Applicant/Developer" shall mean a person or entity who has legal or equitable
interest in the real property which is the subject of the proposed or executed development
agreement for an "affordable housing development" or a "large multi-phase and/or mixed-use
development," as those terms are defined herein, or such person's or entity's authorized agent
or successor in interest; provided, however, that an entity which is subject to the requirements
of City Planning Code Section 304.5 relating to institutional master plans does not qualify as
an applicant for a development agreement.

(c) "Collateral agreement" shall mean a written contract entered into by the
applicant/developer and/or governmental agencies with other entities (including, but not
limited to, community coalitions) for the purpose of having said entities provide for and
implement social, economic, or environmental benefits or programs; provided, however, that
such term does not include agreements between the applicant/developer or governmental
agencies and (1) construction contractors and subcontractors, (2) construction managers, (3)
material suppliers, and (4) architects, engineers, and lawyers for customary architectural,
engineering or legal services.

(d) "Commission" shall mean the City Planning Commission.

(e) "Director" shall mean the Director of Planning.
"Housing development with a minimum of 1,000 units" shall mean a proposed residential development project which: (1) is on a site which exceeds two and one-half acres in area, (2) includes two or more buildings to be constructed on the site, and (3) includes a proposal for constructing or participating in providing, either off-site or on-site, public improvements, facilities, or services beyond those achievable through existing ordinances and regulations.

"Large multi-phase and/or mixed-use development" shall mean a proposed development project which: (1) is on a site which exceeds five acres in area, (2) includes two or more buildings to be constructed sequentially on the site, and (3) includes a proposal for constructing or participating in providing, either off-site or on-site, public improvements, facilities, or services beyond those achievable through existing ordinances and regulations.

"Material modification" shall mean any proposed amendment or modification to either a proposed development agreement approved by the Commission, or a previously executed development agreement, which amendment or modification is otherwise required by the terms of the development agreement, which changes any provision thereof regarding the following: (1) duration of the agreement; (2) permitted uses of the subject property; (3) density or intensity of the permitted uses; (4) location, height or size of any structures, buildings, or major features; (5) reservation or dedication of land; (6) any conditions, terms, restrictions and requirements relating to subsequent discretionary actions as to design, improvements, construction standards and specifications; (7) any other condition or covenant relating to the financing or phasing of the development which substantially modifies the use of the property, the phasing of the development, or the consideration exchanged between the parties as recited in the proposed development agreement; (8) the type, number, affordability level, and/or tenure of any proposed affordable housing as well as any change as to performance of such public benefits, including but not limited to timing, phasing, method of performance or
(h) "Minor modification" shall mean any amendment or modification to the development agreement which relates to any provision not deemed to be a "material modification."

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

By: JUDITH A. BOYAJIAN
Deputy City Attorney
Ordinance amending the San Francisco Administrative Code by amending Sections 56.2 and 56.3 to allow a housing project to enter into a Development Agreement with the City if the project has a minimum of 1,000 units, includes two or more buildings, will be built on a site exceeding two and one-half acres, and provides public benefits beyond those achievable through existing ordinances and regulations; adopting findings under the California Environmental Quality Act.

March 29, 2005 Board of Supervisors — PASSED ON FIRST READING
Ayes: 9 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin
Excused: 2 - Daly, Sandoval

April 5, 2005 Board of Supervisors — FINALLY PASSED
Ayes: 9 - Ammiano, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
Absent: 2 - Alioto-Pier, Daly
I hereby certify that the foregoing Ordinance was FINALLY PASSED on April 5, 2005 by the Board of Supervisors of the City and County of San Francisco.

Date Approved

4/15/2005

Gloria L. Young
Clerk of the Board

Mayor Gavin Newsom