

#55

(O-94-67)

ORDINANCE NUMBER O- 18039 (NEW SERIES)

ADOPTED ON FEB 22 1994

AN ORDINANCE APPROVING THE FIFTH AMENDMENT TO THE FIRST SAN DIEGO RIVER IMPROVEMENT PROJECT DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND CALMAT CO. THEREBY AMENDING THE DEVELOPMENT AGREEMENT ADOPTED DECEMBER 6, 1982, INCLUDING AMENDMENT NO. 1, ADOPTED AUGUST 1, 1983, NO. 2, ADOPTED MARCH 16, 1987, NO. 3, ADOPTED OCTOBER 19, 1992 AND NO. 4, ADOPTED FEB 22 1994

WHEREAS, CALMAT CO. ("Owner"), is the owner or equitable owner of that certain real property known as Rio Vista West consisting of approximately 94.5 acres located within the First San Diego River Improvement Project (FSDRIP) Specific planning area within the Mission Valley Community planning area; and

WHEREAS, the parties desire to amend the First San Diego River Improvement Project Development Agreement to memorialize changes to the Specific Plan for Rio Vista West adopted on December 7, 1993; and

WHEREAS, The City of San Diego, a charter city, is authorized pursuant to Government Code sections 65864 - 65869.5 to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property in order to establish certainty in the development process. The City further enters into this Development Agreement pursuant to its Charter and self-rule powers and San Diego Municipal Code sections 105.0101 et seq.; and

WHEREAS, the parties desire to amend the Development Agreement relating to the above-described real property in conformance with the provisions of the Government Code in order to achieve revised development of private land uses together with the provision of public services, public uses, and urban infrastructure all in the promotion of the health, safety, and general welfare of the City of San Diego; and

WHEREAS, pursuant to the terms of this Fifth Amendment to the Development Agreement, Owner will continue to provide substantial public improvements and benefits to the City. In consideration of the public improvements and benefits to be provided by Owner pursuant to the amended Development Agreement, and in order to strengthen the public planning process and reduce the economic costs of development, by the Fifth Amendment to the Development Agreement the City intends to give Owner assurance that Owner can continue with the development of the subject property for the term of the Development Agreement pursuant to the amended Development Agreement; and

WHEREAS, on January 6, 1994, the Planning Commission of The City of San Diego, after giving notice pursuant to Government Code sections 65854, 65854.5, 65856, and Section 105.0103 of the San Diego Municipal Code held a public hearing on the application for the Fifth Amendment to the Development Agreement; and

WHEREAS, the Council of The City of San Diego, after providing public notice as required by law, held a public hearing on Owner's application, wherein all persons desiring to be heard were heard, and pursuant to said public hearing the Council

recommended approval of the Fifth Amendment to the Development Agreement; and

WHEREAS, the Council finds that the Fifth Amendment to the Development Agreement is consistent with the Progress Guide and General Plan and the Mission Valley Community Plan, as well as all other applicable policies and regulations of The City of San Diego; and

WHEREAS, the Council has reviewed and considered the Fifth Amendment to the Development Agreement and determined the content of the Fifth Amendment to the Development Agreement to be complete and correct; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. The Council finds and determines the facts stated above to be true.

Section 2. The Council further finds with respect to the Fifth Amendment to the Development Agreement that:

A. It is consistent with the objectives, policies, programs and uses specified in the Progress Guide and General Plan and the Mission Valley Community Plan.

B. It will not be detrimental to the public health, safety and general welfare.

C. It will promote the orderly development of property or the preservation of property values in accordance with good land use practice.

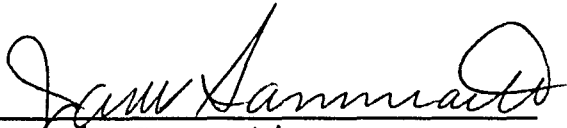
Section 3. The Council hereby approves the Fifth Amendment to the First San Diego River Improvement Project Development

Agreement, in the form attached hereto, and authorizes and directs the City Manager to execute said Amendment, a copy of which is on file in the office of the City Clerk as Document No. 00- 18039 The City Clerk is directed to record said Amendment and this ordinance with the County Recorder of San Diego County within ten days after its execution.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By



Janis Sammartino
Senior Chief Deputy City Attorney

JS:pey
01/27/94
Or.Dept:Plan.
0-94-67
Form=o.devagr

**FIFTH AMENDMENT
TO
FIRST SAN DIEGO RIVER IMPROVEMENT PROJECT
DEVELOPMENT AGREEMENT**

This FIFTH AMENDMENT TO FIRST SAN DIEGO RIVER IMPROVEMENT PROJECT DEVELOPMENT AGREEMENT ("Amendment") is made and entered into this _____ day of _____, 19____, by and between THE CITY OF SAN DIEGO ("City") and CALMAT CO., a Delaware corporation ("CalMat"), with reference to the following:

RECITALS

A. WHEREAS, the First San Diego River Improvement Project Development Agreement ("Agreement") was made and entered into on January 6, 1983 by and between The City of San Diego and MBM Associates, Mission Valley Partnership, Mission Valley One, Ltd., Douglas O. Allred, Donald F. Sammis and Conrock Co. A copy of said Agreement is on file in the office of the City Clerk as Document No. 00-15868 and is incorporated herein by reference.

B. WHEREAS, the First Amendment to the Agreement ("First Amendment") was entered into on August 1, 1983. A copy of said First Amendment is on file in the office of the City Clerk as Document No. 00-16015 and is incorporated herein by reference.

C. WHEREAS, the Second Amendment to the Agreement ("Second Amendment") was entered into on March 16, 1987. A copy of said Second Amendment is on file in the office of the City Clerk as Document No. 00-16828 and is incorporated herein by reference.

D. WHEREAS, the Third Amendment to the Agreement ("Third Amendment") was entered into on October 19, 1992. A copy of said Third Amendment is on file in the office of the City Clerk as Document No. 00-17853 and is incorporated herein by reference.

E. WHEREAS, the Fourth Amendment to the Agreement ("Fourth Amendment") was entered into on _____. A copy of said Fourth Amendment is on file in the office of the City Clerk as Document No. _____ and is incorporated herein by reference.

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F. WHEREAS, concurrent with execution of the Agreement, the City adopted, by Resolution No. R-257496 dated November 16, 1982, the First San Diego River Improvement Project Specific Plan ("Specific Plan") providing for the land uses and development permitted under the Agreement. A copy of the Specific Plan is on file in the office of the City Clerk and is incorporated herein by reference.

G. WHEREAS, the Specific Plan was first amended pursuant to Resolution No. R-258911 adopted by the City on July 19, 1983. A copy of the amendment is on file in the office of the City Clerk and is incorporated hereby by reference.

H. WHEREAS, the Specific Plan was once again amended by the City on April 8, 1986 pursuant to Resolution No. R-265413. A copy of said second amendment ("Hazard Center Amendment II") is on file in the office of the City Clerk, as Document No. RR-265413, and is incorporated herein by reference.

I. WHEREAS, the Specific Plan was once again amended by the City on October 6, 1992, pursuant to Resolution No. R-280832. A copy of said third amendment ("MBM Bond Amendment III") is on file in the office of the City Clerk, as Document No. RR-280832, and is incorporated herein by reference.

J. WHEREAS, the Specific Plan was once again amended by the City on May 4, 1993, pursuant to Resolution No. R-281917. A copy of said fourth amendment ("Park In The Valley Amendment (IV)") is on file in the office of the City Clerk, as Document No. RR-281917, and is incorporated herein by reference. To date, an amendment to the Agreement, incorporating the Park In The Valley IV Amendment, has not been approved by the City.

K. WHEREAS, the Specific Plan was once again amended by the City on December 7, 1993, pursuant to Resolution No. R283175. A copy of said fifth amendment ("Rio Vista West Amendment (V)") is on file in the office of the City Clerk, as Document No. RR-283175 and is incorporated herein by reference.

L. WHEREAS, all impacts and mitigation of the Rio Vista West Amendment V were addressed in Environmental Impact Report No. 92-0586.

M. WHEREAS, CalMat now desires to amend the Agreement, as amended, to incorporate the Rio Vista West Amendment V to the Specific Plan.

N. WHEREAS, this Amendment has been adopted in the same manner as the Agreement was adopted by an ordinance as set forth in Government Code Sections 65867, 65867.5 and 65868 and San Diego Municipal Code Sections 105.0101, et seq.

O. WHEREAS, City finds that this Amendment is consistent with the City's General Plan and Progress Guide and with the Specific Plan, as amended, and has completed all necessary proceedings in accordance with the City's rules and regulations for its approval.

NOW, THEREFORE, in consideration of mutual promises, obligations and covenants herein contained, the parties hereto further amend the Agreement, as amended by the First, Second, Third and Fourth Amendments, as follows:

1. Whenever the term Specific Plan is used in the Agreement, it shall refer to First San Diego River Improvement Project Specific Plan as amended by the City Council of City on December 7, 1993 and on file in the office of the City Clerk as Document No. RR-283175.

2. Except as amended hereby, the Agreement, as previously amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date and year first above written.

"City"

THE CITY OF SAN DIEGO, a municipal corporation

By: _____

"CalMat"

CALMAT CO., a Delaware corporation

By:  _____

APPROVED AS TO FORM:

JOHN W. WITT, City Attorney

By: _____

12/17/93

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0-18039

Passed and adopted by the Council of The City of San Diego on **FEB 22 1994**
 by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Harry Mathis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Christine Kehoe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barbara Warden	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

SUSAN GOLDING
 Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

By *Mary Cepeda*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on **FEB 08 1994**, and on **FEB 22 1994**.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

(Seal)

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

By *Mary Cepeda*, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number.....	<i>18039</i> Adopted FEB 22 1994

#295

FEB 28 1984

Transmitted to the Council of the City of San Diego by the following members:

General Member	Present	Absent	Excused
James Melillo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ken Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Richard Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Richard Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Richard Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Richard Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Richard Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Richard Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Richard Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

MEMORANDUM FOR THE CITY CLERK

RE: [Illegible]

[Illegible signature]

1. [Illegible text]

FEB 28 1984

[Illegible text]

[Illegible text]

OFFICE OF THE CITY CLERK

[Illegible signature]

RECEIVED
CITY CLERK'S OFFICE
94 JAN 28 PM 3:21
SAN DIEGO, CALIF.

FEB 28 1984