

(O-94-68)

ORDINANCE NUMBER O- 18040 (NEW SERIES)

ADOPTED ON FEB 22 1994

AN ORDINANCE APPROVING THE SIXTH AMENDMENT TO THE FIRST SAN DIEGO RIVER IMPROVEMENT PROJECT DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND R.E. HAZARD CONTRACTING 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, NO. 4, ADOPTED FEB 22 1994 AND NO. 5, ADOPTED ~~FEB 22 1994~~

WHEREAS, R.E. Hazard Contracting Company ("Owner"), is the owner or equitable owner of that certain real property known as Hazard Center Phase II consisting of approximately six 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 Hazard Center Phase II adopted on 2-8-94; 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 Sixth 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 Sixth Amendment 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 Sixth 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 Sixth Amendment to the Development Agreement; and

WHEREAS, the Council finds that the Sixth 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 Sixth Amendment to the Development Agreement and determined the content of the Sixth 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 Sixth 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 Sixth 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, on file in the office of the City Clerk as Document No. OO- 18040. 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:pev  
01/27/94  
Or.Dept:Plan.  
O-94-68  
Form=o.devagr

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

This SIXTH AMENDMENT TO FIRST SAN DIEGO RIVER IMPROVEMENT PROJECT DEVELOPMENT AGREEMENT ("Amendment") is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between THE CITY OF SAN DIEGO, a municipal corporation ("City"); and R.E. HAZARD CONTRACTING COMPANY, a California corporation and HAZARD CENTER ASSOCIATES, a California general partnership (hereinafter individually referred to as "Owner" or collectively referred to as "Owners"), 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 Partners, 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.

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

G. WHEREAS, by agreement dated May, 1988, San Diego Bond - MBM Associates, Ltd. became the successor in interest to a portion of the rights and obligations of MBM Associates in the Agreement, First Amendment, Second Amendment and Third Amendment.

H. WHEREAS, by agreement dated October 28, 1988, MBM West II and Mission Colony Partners became the successor in interest to a portion of the rights and obligations of San Diego Bond - MBM Associates, Ltd. in the Agreement, First Amendment, Second Amendment and Third Amendment.

I. 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.

J. 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 herein by reference.

K. 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.

L. 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 ("San Diego Bond - MBM Associates, Ltd. Amendment (III)") is on file in the office of the City Clerk, as Document No. RR-280832, and is incorporated herein by reference.

M. 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 Amendment, has not been approved by the City.

N. WHEREAS, the Specific Plan was once again amended by the City on December 7, 1993, pursuant to Resolution No. \_\_\_\_\_. 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-  
\_\_\_\_\_ and is incorporated herein by reference.

O. WHEREAS, the Specific Plan was once again amended by the City on \_\_\_\_\_, pursuant to Resolution No. \_\_\_\_\_ . A copy of said sixth amendment ("Hazard Center East Amendment VI") is on file in the office of the City Clerk, as Document No. RR-\_\_\_\_\_ and is incorporated herein by reference.

P. WHEREAS, Owners now desire to amend the Agreement, as amended, to incorporate the Hazard Center East Amendment VI to the Specific Plan.

Q. 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.

R. AND WHEREAS, the 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, Fourth and Fifth 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 \_\_\_\_\_, 1993 and on file in the office of the City Clerk as Document No. \_\_\_\_\_.

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"

CITY OF SAN DIEGO, a municipal corporation

By: \_\_\_\_\_

SIXTH AMENDMENT TO  
FIRST SAN DIEGO RIVER IMPROVEMENT  
PROJECT DEVELOPMENT AGREEMENT  
Signature Page Continued

"Owners"

R.E. HAZARD CONTRACTING COMPANY, a  
California corporation

By: \_\_\_\_\_  
R. David Randal,  
Executive Vice President

HAZARD CENTER ASSOCIATES, a  
California general partnership

By: \_\_\_\_\_  
Hazard Associates,  
Managing General Partner  
By R.E. Hazard Contracting Company,  
a California corporation,  
General Partner  
By R. David Randal,  
Executive Vice President

By: \_\_\_\_\_  
Connecticut General Life  
Insurance Company,  
General Partner  
By CIGNA Investments, Inc.,  
a corporation  
By Chuel Dale Hwang,  
Vice President

APPROVED AS TO FORM:

JOHN W. WITT, City Attorney

By: \_\_\_\_\_



**HAZARD CENTER PHASE II/FSDRIP AMENDMENT**

**OWNERSHIP DISCLOSURE STATEMENT**

**R.E. Hazard Contracting Co.  
David Randal, Owner**

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:

(Seal)

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

**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**

**FEB 22 1994**

, and on .....

~~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 <b>0-18040</b>	<b>FEB 22 1994</b>
Adopted .....	