

(O-96-42)

ORDINANCE NUMBER O- 18217 (NEW SERIES)

ADOPTED ON OCT 02 1995

AN ORDINANCE APPROVING THE FIRST AMENDMENT TO  
THE AMENDED AND RESTATED DEVELOPMENT  
AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND  
CATELLUS DEVELOPMENT CORPORATION.

WHEREAS, Catellus Development Corporation ("Owner") is the owner or equitable owner of that certain real property consisting of approximately 16 acres located within the Centre City community planning area; and

WHEREAS, The City of San Diego ("City"), a charter city, is authorized pursuant to California Government Code section 65864 et seq. 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 First Amendment to the Amended and Restated Development Agreement pursuant to its Charter and self-rule powers and San Diego Municipal Code section 111.0901 et seq.; and

WHEREAS, the City and Owner have heretofore entered into that certain Amended and Restated Development Agreement dated as of April 9, 1993 for the development of certain property located in the Columbia Sub Area of the Centre City Redevelopment Project area (the "Subject Property") as described in the Amended and Restated Development Agreement; and

WHEREAS the Redevelopment Agency of The City of San Diego (the "Agency") and Owner have also entered into that certain Amended and Restated Owner Participation Agreement dated April 9, 1993 for the development of the Subject Property; and

WHEREAS, the parties desire to enter into this First Amendment to the Amended and Restated Development Agreement relating to the above-described real property in conformance with the provisions of the Government Code in order to achieve the 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, the Subject Property is located within the boundaries of the Centre City community planning area. This community plan was adopted by the Council on April 28, 1992, by Resolution No. R-279876. In conjunction with the adoption of the community plan, the Council certified the information contained in the Environmental Impact Report and approved the findings of the environmental document in compliance with the California Environmental Quality Act of 1970; and

WHEREAS, development of the Subject Property will be consistent with the Centre City Redevelopment Plan to the extent required by law, adopted May 11, 1992 by Ordinance No. O-17767. The environmental effects of development permitted pursuant to the agreement were addressed in the Environmental Impact Secondary Study for the Amended and Restated Development Agreement, which has been certified by the City; and

WHEREAS, because of the complexities of financing the urban infrastructure, certainty in the development process is desirable. The phasing, timing and development of the public infrastructure including, but not limited to, parks, libraries, museums, fire stations, transportation facilities, sewer and water facilities, other utilities, and open space maintenance necessitates a significant commitment of resources, planning and effort by property owners and the City in order for the public facilities financing to be successfully completed. Accordingly, in return for the participation and commitment to provide a pro rata share of public facilities and the significant contribution of private resources for public purposes, the City in return desires to make a commitment for certainty in the development process; and

WHEREAS, pursuant to the terms of the Amended and Restated Development Agreement and First Amendment to the Amended and Restated Development Agreement, Owner will 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 and Restated Development Agreement and First Amendment to the Amended and Restated Development Agreement, in consideration of Owner's agreement to finance public facilities, and in order to strengthen the public planning process and reduce the economic costs of development, by the Amended and Restated Development Agreement and First Amendment to the Amended and Restated Development Agreement, the City intends to give Owner assurance that Owner can proceed with the

development of the Subject Property for the term of the Amended and Restated Development Agreement pursuant to the Amended and Restated Development Agreement and First Amendment to Amended and Restated Development Agreement; and

WHEREAS, on August 3, 1995, the Planning Commission of The City of San Diego, after giving notice pursuant to California Government Code section 65090 et seq., and San Diego Municipal Code section 111.0901 et seq., held a public hearing on the First Amendment to the Amended and Restated Development Agreement and voted unanimously to recommend the First Amendment to the Amended and Restated 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 the First Amendment to the Amended and Restated Development Agreement, wherein all persons desiring to be heard were heard, and pursuant to said public hearing the Council recommended approval of the First Amendment to the Amended and Restated Development Agreement; and

WHEREAS, the Council finds that the First Amendment to the Amended and Restated Development Agreement is consistent with the Progress Guide and General Plan and the Centre City Community Plan to the extent required by law, as well as all other applicable policies and regulations of The City of San Diego; and

WHEREAS, the Council has reviewed and considered the First Amendment to the Amended and Restated Development Agreement and determined the content of it 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 First Amendment to the Amended and Restated Development Agreement that:

A. It is consistent with the objectives, policies, programs and uses specified in the Progress Guide and General Plan and the Centre City Community Plan to the extent required by law.

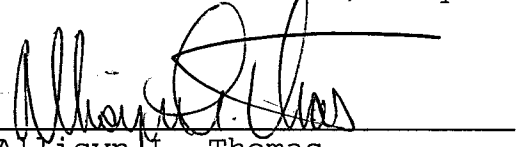
B. It will not be detrimental to the public health, safety and general welfare.

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 First Amendment to the Amended and Restated Development Agreement with Catellus Development Corporation, a copy of which is on file in the office of the City Clerk as Document No. OO-18217, and authorizes and directs the City Manager, or designee, to execute the First Amendment to the Amended and Restated Development Agreement in the name of The City of San Diego. The City Clerk is directed to record the First Amendment to the Amended and Restated Development Agreement and this ordinance with the County Recorder of San Diego County within ten days after the execution of the First Amendment to the Amended and Restated Development Agreement.

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   
Allisyn L. Thomas  
Deputy City Attorney

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