

(O-97-83)

ORDINANCE NUMBER O- 18387 (NEW SERIES)

ADOPTED ON MAR 17 1997

AN ORDINANCE APPROVING THE SECOND AMENDED
RESTATED DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF SAN DIEGO AND BLACK MOUNTAIN RANCH
LIMITED PARTNERSHIP.

WHEREAS, BLACK MOUNTAIN RANCH LIMITED PARTNERSHIP ("Owner") is
the owner or equitable owner of that certain real property consisting of approximately 4,677
acres located within the North City Future Urbanizing Area (NCFUA); 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 Second
Amended and Restated Development Agreement pursuant to its Charter and self-rule powers and
San Diego Municipal Code Sections 111.0901 et seq.; and

WHEREAS, the parties desire to enter into this Second 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 property is located within the geographic boundaries of the NCFUA
Framework Plan. This NCFUA Framework Plan was adopted by the Council on October 1,

1992, by Resolution No. R-280787. In conjunction with the adoption of the NCFUA Framework 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 in conformance with the NCFUA Framework Plan, the A-1-10 and R1-5000 Zones, Planned Residential Development Permit No. 95-0173 and Resource Protection Ordinance No. 95-0173. The environmental effects of development permitted pursuant to the agreement were addressed in Final Environmental Impact Report No. 95-0173, 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, 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 Second Amended and Restated Development Agreement, Owner will provide substantial public improvements and benefits to the City including participation in the public facilities financing plan for the NCFUA Framework Plan. In consideration of the public improvements and benefits to be provided by Owner pursuant to the

Second 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 Second 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 Second Amended and Restated Development Agreement pursuant to the Second Amended and Restated Development Agreement; and

WHEREAS, on February 6, 1997, the Planning Commission of The City of San Diego, after giving notice pursuant to Government Code Sections 65854, 65854.5, 65856, and Section 111.0904 of the San Diego Municipal Code held a public hearing on the application for the Second 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 Owner's application, wherein all persons desiring to be heard were heard, and pursuant to said public hearing the Council recommended approval of the Second Amended and Restated Development Agreement; and

WHEREAS, the Council finds that the Second Amended and Restated Development Agreement is consistent with the Progress Guide and General Plan and the NCFUA Framework 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 Second Amended and Restated Development Agreement and determined the content of the Second Amended and Restated 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 Second 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 NCFUA Framework 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 Second Amended and Restated Development Agreement, Case No. 95-0173.1, a copy of which is on file in the office of the City Clerk as Document No. OO-18387, and authorizes and directs the City Manager to execute said Second Amended and Restated Development Agreement in the name of The City of San Diego not later than 15 days following the effective date of this ordinance. Failure of Owner to execute the Second Amended and Restated Development Agreement within 30 days, shall render this action null and void. The City Clerk is directed to record said Second Amended and Restated Development Agreement 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: CASEY GWINN, City Attorney

By *Prescilla Dugard*
Prescilla Dugard
Deputy City Attorney

PD:cdk

02/11/97

Or.Dept:C&E Dev.

O-97-83

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