

(O-2001-54)

ORDINANCE NUMBER O- 18867 (NEW SERIES)

ADOPTED ON OCT 16 2000

AN ORDINANCE APPROVING THE AMENDMENT TO
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF
SAN DIEGO AND LNR KEARNY MESA, INC.

WHEREAS, LNR Kearny Mesa, Inc. [Owner], is the assignee of an assignment of rights and assumption of obligations pursuant to a development agreement between the City of San Diego and General Dynamics Property, Inc. (City Clerk Document No. OO-18448 adopted on December 2, 1997), subsequently assigned to and assumed by Owner with respect to approximately 20.6 acres of the property located in the Kearny Mesa community planning area; and

WHEREAS, The City of San Diego, a charter city, is authorized pursuant to California 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 Amendment to Development Agreement pursuant to its Charter and self-rule powers and Land Development Code section 124.0101 et seq.; and

WHEREAS, the parties desire to enter into this Amendment to 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 boundaries of the Kearny Mesa community planning area. Amendments to this community plan and the New Century Center Master Plan were adopted by the Council on October 3, 2000, by Resolution No. R- 293926. In conjunction with the adoption of the community plan and master plan amendments, the Council certified the information contained in the Addendum to Environmental Impact Report and approved the findings of the environmental document in compliance with the California Environmental Quality Act of 1970, by Resolution No. R- 293925; and

WHEREAS, development of the subject property will be in conformance with the Kearny Mesa Community Plan, R-1500 and M-IB Zones, Planned Residential Development Permit No. 99-0509, Vesting Tentative Map No. 99-1269, Tentative Parcel Map No. 99-0509, Planned Industrial Development/Planned Commercial Development Permit No. 99-1269. The environmental effects of development permitted pursuant to the Development Agreement and the Amendment to Development Agreement were addressed in Environmental Impact Report [EIR] No. 96-0165 and Addendum to EIR No. 99-1269, respectively, 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 Amendment to Development Agreement, Owner will provide substantial public improvements and benefits to the City including participation in the public facilities financing plan for the Kearny Mesa Community. In consideration of the public improvements and benefits to be provided by Owner pursuant to the Amendment to 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 Amendment to 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 Amendment to Development Agreement pursuant to the Amendment to Development Agreement; and

WHEREAS, on August 17, 2000, the Planning Commission of The City of San Diego, after giving notice pursuant to Government Code sections 65854, 65854.5, 65856, and San Diego Municipal Code section 105.0103 held a public hearing on the application for the Amendment to 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 Amendment to Development Agreement; and

WHEREAS, the Council finds that the Amendment to Development Agreement is consistent with the Progress Guide and General Plan and the Kearny Mesa 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 Amendment to Development Agreement and determined the content of the Amendment to 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 Amendment to Development Agreement that:

A. It is consistent with the objectives, policies, programs and uses specified in the Progress Guide and General Plan, the Kearny Mesa Community Plan, and the New Century Center Master Plan.

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

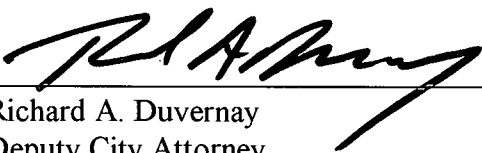
C. It will promote the orderly development of property or the preservation of property values in accordance with good land use practice.

Section 3. The Council approves the LNR Kearny Mesa, Inc., Amendment to Development Agreement, the form of which is on file in the office of the City Clerk as Document No. OO- 18867, and authorizes and directs the City Manager to execute the Amendment to Development Agreement in the name of The City of San Diego not later than fifteen days following the effective date of this ordinance. Failure of Owner to execute the Amendment to Development Agreement within thirty days, shall render this action null and void. The City Clerk is directed to record the Amendment to Development Agreement and this ordinance with the County Recorder of San Diego County within ten days after its execution.

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

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