

ORDINANCE NUMBER O- 19298 (NEW SERIES)

ADOPTED ON JUL 12 2004

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND CATELLUS DEVELOPMENT CORPORATION.

WHEREAS, Catellus Development Corporation [Catellus] is the owner or equitable owner of that certain real property consisting of approximately seventeen 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; and

WHEREAS, the City further enters into this Fourth Amendment to 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 Catellus have heretofore entered into that certain Amended and Restated Development Agreement executed by Catellus on February 12, 1993, and by the City on April 9, 1993, as amended by the First Amendment to Development Agreement dated March 5, 1996, and Second Amendment to Development Agreement dated December 4, 1997, and the Third Implementation Agreement dated February 10, 2003 [the Agreement], for the development of certain property located in the Columbia Sub Area of the Centre City Redevelopment Project [Subject Property] as described in the Amended and Restated Development Agreement; and

WHEREAS, the Redevelopment Agency of the City of San Diego [Agency] and Catellus have also entered into that certain Amended and Restated Owner Participation Agreement executed by Catellus on February 12, 1993, and by the Agency on April 9, 1993, as amended by the First Implementation Agreement to Owner Participation Agreement dated March 5, 1996, and the Second Implementation Agreement to Owner Participation Agreement dated December 4, 1997, and the Third Implementation Agreement to the Owner Participation Agreement dated February 10, 2003, for the development of the Subject Property; and

WHEREAS, the parties desire to enter into this Fourth 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 Subject Property is located within the boundaries of the Centre City community planning area. The Centre City 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, pursuant to the terms of the Agreement, Catellus will provide substantial public improvements and benefits to the City. In consideration of the public improvements and benefits to be provided by Catellus pursuant to the Agreement, in consideration of Catellus's Agreement to finance public facilities, and in order to strengthen the public planning process and reduce the economic costs of development, by the Agreement, the City intends to give Catellus assurance that Catellus proceed with the development of the Subject Property by the terms of the Agreement; and

WHEREAS, on June 24, 2004, 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 11.0901 *et seq.*, held a public hearing on the Fourth Amendment to Development Agreement and voted to recommend approval of the Fourth Amendment to the City Council; and

WHEREAS, the Council of the City of San Diego, after providing public notice as required by law, held a public hearing on the Fourth Amendment to Development Agreement, wherein all persons desiring to be heard were heard, and pursuant to said public hearing the Council recommended approval of the Fourth Amendment to Development Agreement; and

WHEREAS, the Council finds that the Fourth Amendment to 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 Fourth Amendment to 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 Fourth Amendment to 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 approves the Fourth Amendment to Development Agreement with Catellus Development Corporation, a copy of which is on file in the office of the City Clerk as Document No. OO-19298, and authorizes and directs the City Manager, or designee, to execute the Fourth Amendment to Development Agreement in the name of the City of San Diego and to sign all documents necessary and appropriate to carry out and implement the Agreement, as amended, and to administer the City's obligations, responsibilities, and duties to be performed under the Agreement. The City Clerk is directed to record the Fourth Amendment to Development Agreement and this ordinance with the County Recorder of San Diego County within ten days after the execution of the Fourth Amendment to Development Agreement.

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

APPROVED: CASEY GWINN, City Attorney

By 
Elisa A. Cusato
Deputy City Attorney

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