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ORDINANCE NUMBER O- 20214 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 24 2012

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE DEVELOPMENT AGREEMENT  
BY AND AMONG THE CITY OF SAN DIEGO, THE IRVINE  
COMPANY LLC, AND BOSA DEVELOPMENT CALIFORNIA  
II, INC.

WHEREAS, the Irvine Company LLC (Irvine) is the owner or equitable owner of that certain real property located at 880 W. Broadway, at the northeast corner of Pacific Highway and Broadway, consisting of approximately 1.4 acres located within the Centre City Community Plan area (the 880 W. Broadway Site); and

WHEREAS, Bosa Development California II, Inc. (Bosa) is the owner or equitable owner of that certain real property located at the southeast corner of Pacific Highway and Broadway consisting of approximately 1.4 acres (the Pacific and Broadway Site) and that certain real property located at the southwest corner of Kettner Boulevard and Ash Street consisting of approximately 1.1 acres (the Kettner and Ash Site) within the Centre City Community Plan area; and

WHEREAS, the City of San Diego (City), a charter city, is authorized pursuant to its Charter and self-rule powers and San Diego Municipal Code sections 124.0101 *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 and Catellus Development Corporation (Catellus), formerly known as Santa Fe Pacific Realty Corporation, a successor by merger to Santa Fe Land Improvement

Company and a predecessor in interest to Catellus Operating Limited Partnership (COLP), heretofore entered into that certain Development Agreement dated as of April 25, 1983 and recorded June 9, 1983 for the development of certain property within the Columbia sub-area, generally bordered by, but not all inclusive of, Ash Street to the north, Kettner Boulevard to the east, E Street to the south, and Pacific Highway to the west (Catellus Site); and

WHEREAS, the City and Catellus heretofore entered into that certain Amended and Restated Development Agreement dated April 9, 1993, (Catellus Development Agreement) adopted by the City Council on December 8, 1992, by Ordinance Number 0-17881 and recorded in the Office of the County Recorder of San Diego County, California, as Document No. 1993-0459374, on July 19, 1993, which has been amended four times, with the last amendment occurring in 2004; and

WHEREAS, the Catellus Development Agreement will expire by its terms on December 7, 2012; and

WHEREAS, the 880 W. Broadway Site, the Pacific and Broadway Site, and the Kettner and Ash Site (collectively, the Subject Property) are the last remaining undeveloped parcels of the Catellus Site; and

WHEREAS, Civic San Diego (or its predecessor, the Centre City Development Corporation) has granted coastal development permits, including design review approval, of developments on each of the three undeveloped parcels consistent with the Catellus Development Agreement; and

WHEREAS, the parties desire to enter into this Development Agreement relating to the above-described Subject 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 Development Agreement will continue without lapse those specified rules and regulations concerning development of the Subject Property originally set forth in the Catellus Development Agreement; and

WHEREAS, the Subject Property is located within the Columbia neighborhood of the Centre City Community Plan 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 (CEQA); and

WHEREAS, the Centre City Planned District Ordinance, adopted by the Council on May 11, 1992 by Ordinance No. O-17764 N.S., and as amended through 2004, provides that the Catellus Development Agreement shall govern the development of the Subject Property where conflicts with the Centre City Planned District Ordinance occur; and

WHEREAS, California Government Code section 65866 requires that, unless otherwise provided by the development agreement, the rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, shall be those rules, regulations, and official policies in force at the time of the execution of the agreement; and

WHEREAS, the land use rules applicable to the Subject Property are the development regulations in the Catellus Development Agreement, the 1992 Centre City Community Plan as

amended through 2004, and the 1992 Centre City Planned District Ordinance as amended through 2004; and

WHEREAS, development of the Subject Property will be consistent with the Catellus Development Agreement, the 1992 Centre City Community Plan as amended through 2004, and the 1992 Centre City Planned District Ordinance as amended through 2004; and

WHEREAS, the California Coastal Commission has previously determined that the Catellus Development Agreement was consistent with the 1992 Centre City Community Plan and the 1992 Centre City Planned District Ordinance, and these development regulations have been incorporated into the Development Agreement to ensure its consistency with the current Local Coastal Program; and

WHEREAS, the environmental effects of development permitted pursuant to the Development Agreement were addressed in the Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and 10th Amendment to the Centre City Redevelopment Plan, certified by the City Council on March 14, 2006 (Resolution No. R-301265 and the City of San Diego Redevelopment Agency (Former Agency) on March 14, 2006 (Resolution R-04001) and subsequent addenda to the FEIR certified by the Former Agency on August 3, 2007 (Former Agency Resolution R-04193), April 21, 2010 (Former Agency Resolutions R-04508 and R-04510), and August 3, 2010 (Former Agency Resolution R-04544); and

WHEREAS, pursuant to the terms of the Development Agreement, Irvine and Bosa will provide substantial public improvements and benefits to the City including, but not limited to: development contributing to the achievement of employment and population goals of the Centre City Community Plan; the provision of off-site improvements along the Transit Courtyard;

monetary contributions to future landscaped medians within Pacific Highway; public plazas along Broadway; and, public art.

WHEREAS, in consideration of the public improvements and benefits to be provided by Irvine and Bosa pursuant to the Development Agreement, in consideration of Irvine's and Bosa's agreement to finance public facilities specified in the Development Agreement, and in order to strengthen the public planning process and reduce the economic costs of development, by the Development Agreement, the City intends to give Irvine and Bosa assurance that Irvine and Bosa can proceed with the development of the Subject Property by the terms of the Development Agreement; and

WHEREAS, on September 20, 2012 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 112.0301 *et seq.*, held a public hearing on the Development Agreement and voted 5-0-2 to adopt Resolution PC-4837 making certain findings and recommending approval of the Development Agreement to the City Council; and

WHEREAS, the matter was set for public hearing on October 9, 2012, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and,

WHEREAS, the City Council waives the application of the provisions of Council Policy 600-37 regarding the initiation of development agreements; and

WHEREAS, the Council finds that the Development Agreement is consistent with the General Plan and 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 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 Development Agreement that:

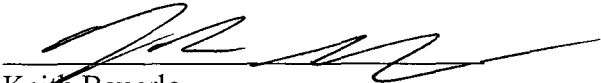
- A. It is consistent with the applicable land use plans, including the General Plan, the Centre City Community Plan and Centre City Planned District Ordinance, to the extent required by law.
- B. It is consistent with the applicable certified Local Coastal Program, which consists of the Centre City Community Plan as amended through 2004, and the Centre City Planned District Ordinance as amended through 2004.
- C. It is consistent with Council Policy 600-37 and all other applicable City policies.
- D. It will not be detrimental to the public health, safety, and general welfare.
- E. 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 Development Agreement with Irvine and Bosa, a copy of which is on file in the office of the City Clerk as Document No. O- 20214 , and authorizes the Mayor, or designee, to execute the 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 Development Agreement, and to administer the City's obligations, responsibilities, and duties to be performed under the Development Agreement. The City Clerk

is directed to record the Development Agreement and this ordinance with the County Recorder of San Diego County within ten days after the execution of the Development Agreement.

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

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Keith Bauerle  
Deputy City Attorney

KB:sc  
9/20/12  
Or.Dept: DSD  
Doc. No. 442510

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 23 2012

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 10-24-12  
(date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor