

ORDINANCE NUMBER O- 20612 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 08 2016

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AN AMENDMENT TO A 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 Downtown Community Plan area (the 880 W. Broadway Site); and

WHEREAS, the City and Irvine and Bosa Development California II, Inc. (Bosa) previously entered into that certain Development Agreement dated November 16, 2012, adopted by the City Council on October 24, 2012, by Ordinance Number O-20214 and recorded in the Office of the County Recorder of San Diego County, California, as Document No. 2012-0791444, on December 17, 2012 (Development Agreement); and

WHEREAS, City, Irvine, and Bosa desire to amend the Development Agreement (Development Agreement Amendment) 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 (City), a charter city, is authorized pursuant to California Government Code section 65864 *et. seq.* and San Diego Municipal Code section 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, on January 28, 2016, the Planning Commission of the City of San Diego considered the Development Agreement Amendment and voted 6-0 to recommend City Council approval of the proposed Development Agreement Amendment, contingent upon approval of Downtown Community Plan Amendment No. 2015-01 and Centre City Planned District Ordinance No. 2015-01; and

WHEREAS, on September 30, 2015, the Civic San Diego Board of Directors considered the proposed Development Agreement Amendment and voted 8-0 to recommend City Council approval of the proposed Development Agreement Amendment; and

WHEREAS, pursuant to the terms of the Development Agreement Amendment, Irvine and Bosa will provide substantial public improvements and benefits to the City including the widening of the existing ten-foot wide asphalt paving to a minimum of 20 feet with the addition of a ten-foot deep planter behind the sidewalk to contain plantings to complement the Broadway medians (drought tolerant native species), and will fund and complete a feasibility analysis, concept design, and preliminary cost estimates for the medians between Ash and E Streets; and

WHEREAS, the Council finds that with approval of Centre City Planned District Ordinance Amendment No. 2015-01, on file in the Office of the City Clerk as Document No. OO- **20611** and Downtown Community Plan Amendment No. 2015-01, on file in the Office of the City Clerk as Document No. RR- **310256**, the Development Agreement Amendment is consistent with the General Plan and Downtown 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 matter was set for public hearing on February 22, 2016, 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, under Charter section 280(a)(2), this ordinance is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; 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 City Council of the City of San Diego, as follows:

Section 1. That it finds and determines the facts stated above to be true.

Section 2. That, in accordance with San Diego Municipal Code section 124.0104(c),

it adopts the following findings with respect to the Development Agreement Amendment:

1. The Development Agreement Amendment is consistent with the applicable land use plans, Local Coastal Program, and the Land Development Code. The Development Agreement Amendment is consistent with the applicable land use plans, Local Coastal Plan, the Downtown Community Plan (DCP), the Centre City Planned District Ordinance (CCPDO), and the Land Development Code with the associated amendments to the Downtown Community Plan to remove the Employment Required Overlay area from the project site (DCP Amendment No. 2015-01), and the CCPDO to remove the Employment Required Overlay District from the project site (Centre City Planned District Ordinance Amendment No. 2015-01) (Associated Proposed Plan Amendments).

Specifically, the Development Agreement Amendment would contribute to an intense downtown that is central to not only fostering vibrancy, but also to curtailing regional sprawl—a key tenet of San Diego’s City of Villages strategy—and minimizing growth pressures in mature neighborhoods. An increase in residential population will contribute to downtown’s vitality, improve economic success, and allow people to live close to work, transit, and culture. The Development Agreement Amendment would also contribute to the development of the Columbia

neighborhood as a mixed-use district, with an energetic waterfront that serves local needs and has a regional draw, relating to both the San Diego Bay and the Civic/Core district.

Furthermore, the Development Agreement Amendment would continue to provide for continued protection of public shoreline access, coastal resources, and views through the establishment of view corridors, consistent with the Local Coastal Program which is implemented through the DCP and the CCPDO. With the Associated Proposed Plan Amendments that would remove the Employment Required Overlay area and Employment Required Overlay zone from the project site, the unconditional approval and certification of which is required prior the DA Amendment Ordinance becoming effective, the DA would be consistent with all applicable land use plans, the Local Coastal Program, and the Land Development Code. The approval of the Development Agreement Amendment is contingent upon the City Council's and Coastal Commission's unconditional approval and certification of the Associated Proposed Plan Amendments.

2. The DA will provide significant public benefits in proportion to the rights granted under the Development Agreement Amendment. The Development Agreement Amendment would provide significant public benefits in proportion to the rights granted under the Development Agreement Amendment. Specifically, the Development Agreement Amendment would require improvements to the Broadway sidewalk including the widening of the public right-of-way to 20 feet and a sidewalk landscape planter area, as well as a median feasibility study and concept design for potential medians on Pacific Highway. The Development Agreement Amendment would only allow the developer to accelerate the time at which a residential project exceeding 50% of the building area could be proposed on the site by 18 months. After June 30, 2017, a completely residential project could be proposed at the site without the Development Agreement Amendment. The proposed public benefit is in proportion to the rights granted under the Development Agreement Amendment.

3. The significant public benefits will be in excess of what can be obtained under existing policies and regulations, and otherwise could not reasonably be derived or provided except through the Development Agreement Amendment. The policies and regulations of the CCPDO would normally apply to this property, subject to the provisions set forth in the existing Development Agreement. The CCPDO does not contain provisions that would have allowed for the significant public benefits achieved through the Development Agreement Amendment. The additional public benefit would require the developer to fund and complete a feasibility analysis, concept design, and preliminary cost estimates for proposed medians on Pacific Highway between Ash and E Streets within six months. Based on the results of these studies, the Pacific Highway median project would be placed for consideration in the City's CIP process where it would compete with other projects including street improvements, parks and fire stations. The additional public right-of-way width and sidewalk landscape planter

area also would not have otherwise been able to be obtained under existing policies and regulations.

Section 3. That the Mayor is authorized and directed to execute, for and on behalf of City, the Development Agreement Amendment with Irvine and Bosa, on file in the Office of the City Clerk as Document No. OO- 20612.

Section 4. That the Mayor is authorized and directed to sign all documents necessary and appropriate to carry out and implement the Development Agreement Amendment, and to administer the City's obligations, responsibilities, and duties to be performed under the Development Agreement Amendment.

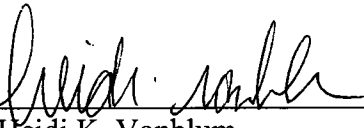
Section 5. That the City Clerk is directed to record the Development Agreement Amendment and this ordinance with the County Recorder of San Diego County within ten days after the execution of the Development Agreement.

Section 6. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 7. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, or on the date that Downtown Community Plan Amendment No. 2015-01, on file in the Office of the City Clerk as Document No. RR- 310256, becomes effective, or on the date that Centre City Planned District Ordinance Amendment No. 2015-01, on file in the Office of the City Clerk as Document No. OO- 20611, becomes effective, whichever

date occurs last, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date of adoption this ordinance.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Heidi K. Vonblum
Deputy City Attorney

HKV:nja
02/09/16
Or.Dept: Civic San Diego
Doc. No.: 1221958

Passed by the Council of The City of San Diego on MAR 08 2016, by the following vote:

Council Members	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 08 2016

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on MAR 08 2016, said ordinance being of the kind and character authorized for passage on its introduction by Section 16 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

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