

RESOLUTION NUMBER R- 310257

DATE OF FINAL PASSAGE FEB 22 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING CENTRE CITY DEVELOPMENT PERMIT/COASTAL DEVELOPMENT PERMIT/NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2014-71 FOR THE PACIFIC & BROADWAY – PARCEL 1 PROJECT.

WHEREAS, The Irvine Company, LLC, Owner, and Bosa Development California II, Inc., Permittee (“Owners/Permittee”), filed an application with Civic San Diego to allow the construction of a mixed-use development containing 45 stories (up to 490 feet tall - not to exceed 500 feet above mean sea level) comprised in total of approximately 296 residential dwelling units (DU) including indoor and outdoor amenity spaces, approximately 15,130 square feet (SF) of commercial space, and approximately 450 automobile parking spaces, commonly referred to as Pacific and Broadway - Parcel 1 (“Project”); and

WHEREAS, the project site is located on a 62,000 square foot premises located at the northeast corner of Broadway and Pacific Highway, including vacated C Street, in the Columbia neighborhood of the Downtown Community Plan; and

WHEREAS, the property is legally described as Parcel 1 of Parcel Map No. 18898, filed in the Office of the County Recorder of San Diego County on February 1, 2002 as instrument No. 2002-0088451 of Official Records; and

WHEREAS, on September 15, 2015, the Civic San Diego Board of Directors considered Centre City Development Permit / Coastal Development Permit / Neighborhood Development Permit No. 2014-71 and voted 8-0 to grant Design Review Approval and recommend approval of Permit No. 2014-71; and

WHEREAS, on January 28, 2016, the Planning Commission of the City of San Diego considered Centre City Development Permit / Coastal Development Permit / Neighborhood Development Permit No. 2014-71 and voted to recommend approval of Permit No. 2014-71, contingent upon approval of Downtown Community Plan Amendment No. 2015-1 and Centre City Planned District Ordinance Amendment No. 2015-1, pursuant to Resolution No. 4759-PC; and

WHEREAS, the matter was set for public hearing on FEB 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 resolution 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; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it adopts the following findings with respect to Centre City Development Permit/Coastal Development Permit/Neighborhood Development Permit No. 2014-71:

**I. CENTRE CITY DEVELOPMENT PERMIT – SECTION 156.0304(e)(1)(D)**

**1. The proposed development is consistent with the DCP, CCPDO, SDMC, and all other adopted plans and policies of the City of San Diego pertaining to the CCPD.** With approval an amendment to the development agreement that the property is subject to, the proposed development is consistent with the DA. The proposed development is also consistent with the DCP and CCPDO with approval of Downtown Community Plan Amendment No. 2015-01 and Centre City Planned District Ordinance Amendment No. 2015-01 (Associated Proposed Plan Amendments), the San Diego Municipal Code, and all other adopted plans and policies of the City of San Diego pertaining to the CCPD as the development advances the goals and objectives of the DCP and CCPD by:

- Providing a range of housing opportunities suitable for urban environments and accommodating a diverse population;
- Protecting public views of the San Diego Bay by complying with view corridors which accentuate key ROWs with appropriate setbacks, stepbacks, and design standards, and capture new public views where possible as waterfront sites are redeveloped; and
- Developing 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.

The Employment overlay amendments will require certification by Coastal Commission as the Local Coastal Program must be amended. The DCP, CCPDO, and LCP have yet to be unconditionally certified by the Coastal Commission. As such, the CCDP has been conditioned so that the permit is not effective until the Coastal Commission unconditionally certifies the proposed associated amendments to the DCP and CCPDO regarding the Employment overlay and all associated amendments to the Local Coastal Program.

## **II. COASTAL DEVELOPMENT PERMIT – SECTION 126.0708**

**1. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and, the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.** This proposed development does not encroach on any existing or proposed public accessway. The proposed development will maintain the required view corridors on Broadway and the former C Street and provide the required stepback from the property line in order to preserve public views. By developing this currently under developed site and providing current standard public improvements along Broadway and Pacific Highway, this proposed development will enhance public access to the waterfront from the Civic/Core neighborhood. Construction of this development will enhance the public views by creating a new contemporary building to frame the views from Downtown to San Diego Bay.

**2. The proposed coastal development will not adversely affect environmentally-sensitive lands.** This proposed development site has been previously developed with a surface parking lot. No environmentally sensitive lands exist on the site or will be impacted by construction of the proposed development.

**3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.** With approval of the Associated Proposed Plan Amendments, this proposed development is consistent with the DCP, CCPDO, San Diego Municipal Code (SDMC), and all other adopted plans and policies of the City pertaining to the CCPD which were certified by the California Coastal Commission.

4. For every CDP issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. This proposed development is not located between the nearest public road and the sea or shoreline of any body of water located within the Coastal Overlay Zone.

### III. NEIGHBORHOOD DEVELOPMENT PERMIT - SECTION 126.0404

1. **The proposed development will not adversely affect the applicable land use plan.** Subterranean encroachments into the ROW are anticipated in the CCPDO to support private development to achieve the goals of the DCP. The proposed subterranean garage encroach would not prohibit installation of required street trees or otherwise impact the Project's ability to comply with other development standards. Without any at- or above-grade impacts, the subterranean garage encroachment will not adversely affect the DCP but in fact will help achieve its goals identified under CCDP findings. The goals and policies of the DCP encourage a range of housing opportunities accommodating a diverse population, while maintaining the neighborhood's existing character and development patterns. The encroachments would support development of new housing for a diverse population suitable for urban environments. The encroachments would allow the Project to promote a compatible waterfront opportunity, while maintaining the neighborhood's existing character and development patterns.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** Compliance with California Building Code regulations and City Council Policy 700-18 for subterranean encroachments into the ROW will be required to ensure such encroachments are not detrimental to the health, safety, and welfare of the public. Review of full compliance with these regulations shall occur during the construction permit review. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

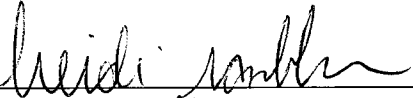
3. **The proposed development will comply with the applicable regulations of the SDMC including any allowable deviations pursuant to the SDMC.** The SDMC stipulates that a Neighborhood Development Permit is required for construction of a privately owned structure in the ROW dedicated for a street or an alley, where the applicant is the record owner of the underlying fee title. The Project Applicant is currently the record owner of the underlying fee title of the entire existing ROW where the encroaching subterranean garage is proposed. The project's encroachment complies with all applicable regulations of the SDMC.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Centre City Development Permit/Coastal Development Permit/Neighborhood Development Permit No. 2014-71 is hereby granted to the referenced Owner/Permittee, in the form, exhibits, terms, and conditions set forth in the attached

Permit, which is made a part hereof, contingent upon Downtown Community Plan Amendment No. 2015-01, on file in the Office of the City Clerk as Document No. RR- 310256, Centre City Planned District Ordinance Amendment No. 2015-01, on file in the Office of the City Clerk as Document No. OO- 20611, and the Development Agreement Amendment on file in the Office of the City Clerk as Document No. OO- 20612, becoming effective.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Heidi K. Vonblum  
Deputy City Attorney

HKV:nja  
02/05/16  
Or.Dept: Civic San Diego  
Doc. No.: 1220842

Passed by the Council of The City of San Diego on FEB 22 2016, by the following vote:

Councilmembers	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 FEB 22 2016.

**(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)**

AUTHENTICATED BY:

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

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

(Seal)

By *Hay Bready*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 310257

**RECORDING REQUESTED BY:**

Civic San Diego  
Planning Department  
401 B Street, Suite 400  
San Diego, CA 92101

**AND WHEN RECORDED MAIL TO:**

Civic San Diego  
Planning Department  
401 B Street, Suite 400  
San Diego, CA 92101

*THIS SPACE FOR RECORDER'S USE ONLY*

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*NOTE: COUNTY RECORDER, PLEASE RECORD AS  
RESTRICTION ON USE OR DEVELOPMENT OF REAL  
PROPERTY AFFECTING THE TITLE TO OR  
POSSESSION THEREOF*

**CENTRE CITY DEVELOPMENT PERMIT  
COASTAL DEVELOPMENT PERMIT  
NEIGHBORHOOD DEVELOPMENT PERMIT  
NO. 2014-71**

**PACIFIC & BROADWAY – PARCEL 1  
ASSESSOR PARCEL NUMBER  
533-471-09-00**

**CENTRE CITY PLANNED DISTRICT  
DRAFT CENTRE CITY DEVELOPMENT PERMIT  
COASTAL DEVELOPMENT PERMIT  
NEIGHBORHOOD DEVELOPMENT PERMIT  
NO. 2014-71**

**PACIFIC & BROADWAY – PARCEL 1  
ASSESSOR PARCEL NUMBER  
533-471-09-00**

This Centre City Development Permit / Coastal Development Permit / Neighborhood Development Permit (CCDP/CDP/NDP) No. 2014-71 is granted by the City Council of the City of San Diego to The Irvine Company, LLC, Owner, and Bosa Development California II, Inc., Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0402, 126.0708, and 156.0304. The approximately 62,000 SF premises is located at the northeast corner of Broadway and Pacific Highway, including vacated C Street, in the Columbia neighborhood of the Downtown Community Plan (DCP) area and within the Centre City Planned District (CCPD); and more particularly described as Parcel 1 of Parcel Map No. 18898, filed in the Office of the County Recorder of San Diego County on February 1, 2002 as instrument No. 2002-0088451 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner and/or Permittee to construct and operate a development and uses as described and identified by size, dimension, quantity, type, and location on the approved exhibits (Exhibit “A”) dated September 15, 2015, on file at CivicSD.

The Project shall include:

- a. A development consisting of a residential development containing 45 stories (approximately 490 feet tall) comprised in total of approximately 296 residential dwelling units (DU) including indoor and outdoor amenity spaces, approximately 15,130 square feet (SF) of commercial space, and approximately 452 automobile parking spaces. The total gross floor area (GFA) of the development shall not exceed 684,955 SF and the development shall not exceed a height of 500 feet above mean sea level. A 100% ground floor commercial frontage along Broadway with an average depth of 25 feet and average height of 20 feet shall be required.
- b. Construction of privately owned structures in the public right-of-way (“ROW”) dedicated for a street or an alley, where the applicant is the record owner of the underlying fee title. Such encroachments include a subterranean garage, transformer vault and overhead projections including awnings, canopies, balconies, and other architectural appendages as permitted by the Uniform Building Code.



**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. Ordinance No. O- 20611 removing the Employment Required Overlay District from the project site is finally passed by the City Council and unconditionally certified by the California Coastal Commission and becomes effective.
  - b. Resolution No. R- 310256 removing the Employment Required Overlay area from the project site is finally passed by the City Council and unconditionally certified by the California Coastal Commission and becomes effective.
  - c. The Owner/Permittee signs and returns the Permit to Civic San Diego; and
  - d. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. The Owner/Permittee shall defend, indemnify, and hold harmless Civic San Diego and the City (collectively referred to as "City"), its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

10. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained there.

11. Parking

The development includes approximately 452 automobile parking spaces. A minimum of 296 spaces (or an equivalent number based on the exact number of DU) shall be dedicated to the development's residential component and all parking spaces shall be designed to meet City Standards. These automobile parking spaces shall be allocated for exclusive use by the development's residential units. If any additional parking spaces are designed with dimensions less than the City Standards, future buyers (if converted to condominium) of the residential units shall be informed of the dimensional size of their parking spaces prior to the sale of such units.

All tandem parking spaces must be for residential units within the Project. Additional parking spaces above the minimum requirements for the project may be made available to the public. In addition, a minimum of 15 motorcycle parking spaces and secured storage space for a minimum of 59 bicycles shall be provided. Any subterranean parking facilities encroaching into the ROW shall be located a minimum of six feet back from the face of curb to a depth of eight feet below sidewalk grade, measured to the outside of any shoring. An Encroachment Maintenance Agreement (EMA) shall be obtained from the City to allow any encroachment of a subterranean garage into the ROW.

12. Airport Approach Overlay Zone

The Owner/Permittee shall comply with conditions established by the City of San Diego Airport Approach Overlay Zone (and any successor or amendment thereto) which were approved at the Airport Land Use Commission (ALUC) meeting on October 15, 2015. The ALUC Board made the determination that the project is conditionally consistent with the San Diego International Airport Land Use Compatibility Plan (ALUCP). The Applicant shall comply with the following ALUC condition:

- a. Structural marking and lighting must be installed per Federal Aviation Administration (FAA) procedures.
- b. An overflight notification shall be recorded with the County Recorder on each property containing a residential unit or other alternative method approved by the ALUC.

**PLANNING AND DESIGN REQUIREMENTS:**

13. Urban Design Standards

The proposed development, including its architectural design concepts and off-site improvements, shall be consistent with the CCPDO and Centre City Streetscape Manual (CCSM). These standards, together with the following specific conditions, will be used as a basis for evaluating the development through all stages of the development process.

- a. Architectural Standards – The architecture of the development shall establish a high quality of design and complement the design and character of the Columbia neighborhood as shown in the approved Basic Concept/Schematic Drawings on file with CivicSD. The development shall utilize a coordinated color scheme consistent with the approved Basic Concept/Schematic Drawings.
- b. Form and Scale – The development shall consist of a residential development containing 45 stories, not exceeding an overall height of 500 feet above mean sea level. All building elements shall be complementary in form, scale, and architectural style.

- c. Building Materials – All building materials shall be of a high quality as shown in the Basic Concept/Schematic Drawings and approved materials board. All materials and installation shall exhibit high-quality design, detailing, and construction execution to create a durable and high quality finish. The base of the buildings shall be clad in upgraded materials and carry down to within one inch of finish sidewalk grade, as illustrated in the approved Basic Concept/Schematic Drawings on file with CivicSD. Any plaster materials shall consist of a hard troweled, or equivalent, smooth finish. Any stone materials shall employ larger modules and full-corner profiles to create a substantial and non-veneer appearance. Any graffiti coatings shall be extended the full height of the upgraded base materials or up to a natural design break such a cornice line. All downspouts, exhaust caps, and other additive elements shall be superior grade for urban locations, carefully composed to reinforce the architectural design. Reflectivity of the glass shall be the minimum reflectivity required by Title 24 of the California Code of Regulations (“Title 24”).

All construction details shall be of the highest standard and executed to minimize weathering, eliminate staining, and not cause deterioration of materials on adjacent properties or the public right of way. No substitutions of materials or colors shall be permitted without the prior written consent of the CivicSD. A final materials board which illustrates the location, color, quality, and texture of proposed exterior materials shall be submitted with 100% Construction Drawings and shall be consistent with the Materials Board approved with the Basic Concept/Schematic Drawings.

- d. Street Level Design – Architectural features such as awnings and other design features which add human scale to the streetscape shall be provided consistent with the Basic Concept/Schematic Drawings. Exit corridors including garage/motor-court entrances shall provide a finished appearance to the street with street level exterior finishes wrapping into the openings a minimum of 10 feet. The garage door shall provide an upgraded architectural design and/or finish.

All exhaust caps, lighting, sprinkler heads, and other elements on the undersides of all balconies and surfaces shall be logically composed and placed to minimize their visibility, while meeting code requirements. All soffit materials shall be high quality and consistent with adjacent elevation materials (no stucco or other inconsistent material), and incorporate drip edges and other details to minimize staining and ensure long-term durability.

- e. Utilitarian Areas – Areas housing trash, storage, or other utility services shall be located in the garage or otherwise completely concealed from view of the ROW and adjoining developments, except for utilities required to be exposed by the City or utility company. The development shall provide trash and recyclable material storage areas per SDMC Sections 142.0810 and 142.0820; unless otherwise approved as a deviation by this Permit. Such areas shall be provided within an enclosed building/garage area and shall be kept clean and orderly at all times.

- f. Mail and Delivery Locations – It is the Owner’s and/or Permittee’s responsibility to coordinate mail service and mailbox locations with the United States Postal Service and to minimize curb spaces devoted to postal/loading use. The Owner and/or Permittee shall locate all mailboxes and parcel lockers outside of the ROW, either within the building or recessed into a building wall. Individual commercial spaces shall utilize a centralized delivery stations within the building or recessed into a building wall, which may be shared with residential uses sharing a common street frontage address.
- g. Access – Vehicular access to the development’s parking shall be limited to one driveway on Pacific Highway with a curb cut not exceeding 25 feet in width.
- h. Circulation and Parking – The Owner and/or Permittee shall prepare a plan which identifies the location of curbside parking control zones, parking meters, fire hydrants, trees, and street lights to the satisfaction of Civic San Diego. Such plan shall be submitted in conjunction with construction permits.

All on-site parking shall meet the requirements of the City Building Official, Fire Department, and Engineer. All parking shall be mechanically ventilated. The exhaust system for mechanically ventilated structures shall be located to mitigate noise and exhaust impacts on residential units, adjoining properties, and the ROW according to applicable building codes.

- i. Open Space and Development Amenities – A landscape plan that illustrates the relationship of the proposed on and off-site improvements and the location of water and electrical hookups to the satisfaction of Civic San Diego shall be submitted with construction permit drawings.
- j. Roof Tops – A rooftop equipment and appurtenance location and screening plan shall be prepared and submitted to the satisfaction of Civic San Diego with 100% Construction Drawings. Any roof-top mechanical equipment shall be grouped, enclosed, and screened from surrounding views (including views from above).
- k. Signage – All signs shall comply with the City Sign Regulations and the CCPDO.
- l. Noise Control – All mechanical equipment, including but not limited to, air conditioning, heating and exhaust systems, shall comply with the City Noise Ordinance and California Noise Insulation Standards as set forth in Title 24. Owner and/or Permittee shall provide evidence of compliance at 100% Construction Drawings.
- m. Street Address – Building address numbers shall be provided that are visible and legible from the ROW.

14. On-Site Improvements

All off-site and on-site improvements shall be designed as part of an integral site development. An on-site improvement plan shall be submitted to the satisfaction of Civic San Diego with the construction permit drawings.

15. Public Art Obligation

The Owner/Permittee shall submit for review and approval a Conceptual Art Plan that satisfies the project’s required public art obligation under the Bosa Public Art Master Plan on file in the offices of Civic San Diego. The Conceptual Art Plan shall be submitted to Civic San Diego for review and approval prior to issuance of a building permit for the development. A Final Art plan shall be submitted upon installation of the artwork and prior to issuance of a Certificate of Occupancy.

**PUBLIC IMPROVEMENTS, LANDSCAPING AND UTILITY REQUIREMENTS:**

16. Off-Site Improvements

The following public improvements shall be installed in accordance with the Centre City Streetscape Manual (CCSM). The CCSM is currently being updated and the Owner and/or Permittee shall install the appropriate improvements according to the latest requirements at the time of Building Permit issuance:

<b>Off-Site Improvements</b>	<b>Broadway</b>	<b>Pacific Highway</b>
Paving	Per North Embarcadero Visionary Plan	Pacific Highway Paving
Street Trees		Mexican Fan Palm
Street Lights		Gateway Street Lights

- a. Street Trees – Street tree selections shall be made according to the CCSM. All trees shall be planted at a minimum 36-inch box size with tree grates provided as specified in the CCSM, and shall meet the requirements of Title 24. Tree spacing shall be accommodated after street lights have been sited, and generally spaced 20 to 25 feet on center. All landscaping shall be irrigated with private water service from the subject development.

No trees shall be removed prior to obtaining a Tree Removal Permit from the City’s Development Services Department (DSD) per City Council Policy 200-05.

- b. Street Lights – All existing lights shall be evaluated to determine if they meet current CivicSD and City requirements, and shall be modified or replaced if necessary.

- c. Sidewalk Paving – Any specialized paving materials shall be approved through the execution of an Encroachment Removal and Maintenance Agreement (EMRA) with the City at the time of construction permit issuance.
- d. Litter Containers – The development shall provide a minimum of eight (8) litter receptacles and shall be located as specified in the CCSM.
- e. Landscaping – All required landscaping shall be maintained in a disease, weed and litter free condition at all times. If any required landscaping (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent in size per the approved documents and to the satisfaction of the CivicSD within 30 days of damage or Certificate of Occupancy, whichever occurs first.
- f. Planters – Planters shall be permitted to encroach into the ROW a maximum of two feet for sidewalk areas measuring at least twelve feet and less than fourteen feet in width. For sidewalk areas fourteen feet or wider, the maximum permitted planter encroachment shall be three feet. The planter encroachment shall be measured from the property line to the face of the curb to the wall surrounding the planter. A minimum five foot clear path shall be maintained between the face of the planter and the edge of any tree grate or other obstruction in the ROW.
- g. On-Street Parking – The Owner and/or Permittee shall maximize the on-street parking wherever feasible.
- h. Public Utilities – The Owner and/or Permittee shall be responsible for the connection of on-site sewer, water and storm drain systems from the development to the City utilities located in the ROW. Sewer, water, and roof drain laterals shall be connected to the appropriate utility mains within the street and beneath the sidewalk. The Owner and/or Permittee may use existing laterals if acceptable to the City, and if not, Owner and/or Permittee shall cut and plug existing laterals at such places and in the manner required by the City, and install new laterals. Private sewer laterals require an EMA.

If it is determined by the City Engineer or Civic San Diego that existing water and sewer services are not of adequate size to serve the proposed development, the Owner and/or Permittee will be required to abandon any unused water and sewer services and install new services and meters. Service abandonments require an engineering permit and must be shown on a public improvement plan. All proposed public water and sewer facilities, including services and meters, must be designed and constructed in accordance with established criteria in the most current edition of City's Water and Sewer Facility Design Guidelines and City regulations standards and practices pertaining thereto.

Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be

reviewed as part of the Building Permit plan check. If and when the Owner and/or Permittee submits for a tentative map or tentative map waiver, the Water Department will require Covenants, Conditions, and Restrictions (“CC&Rs”) to address the operation and maintenance of the private on-site water system serving the development. No structures or landscaping of any kind shall be installed within ten feet of water facilities.

All roof drainage and sump drainage, if any, shall be connected to the storm drain system in the public street, or if no system exists, to the street gutters through sidewalk underdrains. Such underdrains shall be approved through an Encroachment Removal Agreement with the City. The Owner and/or Permittee shall comply with the City’s Storm Water Management and Discharge Control Ordinance and the storm water pollution prevention requirements of Chapter 14, Article 2, Division 1 and Chapter 14, Article 2, Division 2 of the SDMC.

- i. Franchise Public Utilities – The Owner and/or Permittee shall be responsible for the installation or relocation of franchise utility connections including, but not limited to, gas, electric, telephone and cable, to the development and all extensions of those utilities in public streets. Existing franchise utilities located above grade serving the property and in the sidewalk ROW shall be removed and incorporated into the adjoining development. All franchise utilities shall be installed as identified in the Basic Concept Drawings. Any above grade devices shall be screened from view from the ROW.
- j. Fire Hydrants – If required through the construction permit review, the Owner and/or Permittee shall install fire hydrants at locations satisfactory to the City’s Fire Department and DSD.
- k. Water Meters and Backflow Preventers – The Owner and/or Permittee shall locate all water meters and backflow preventers in locations satisfactory to the Public Utilities Department and CivicSD. Backflow preventers shall be located outside of the ROW adjacent to the development’s water meters, either within the building, a recessed alcove area, or within a plaza or landscaping area. The devices shall be screened from view from the ROW. All items of improvement shall be performed in accordance with the technical specifications, standards, and practices of the City’s Engineering, Public Utilities, and Building Inspection Departments and shall be subject to their review and approval. Improvements shall meet the requirements of Title 24.

17. Storm Water Compliance

- a. Prior to issuance of any construction permit, the Owner and/or Permittee shall enter into a Maintenance Agreement for the on-going permanent Best Management Practices (BMP) maintenance, satisfactory to the City Engineer.
- b. Prior to the issuance of any Construction Permit, the Owner and/or Permittee shall incorporate any construction BMP necessary to comply with Chapter 14, Article



2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

- c. Prior to issuance of any construction permits, the Owner and/or Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
- d. Prior to the issuance of any construction permit, the Water Quality Technical Report will be subject to final review and approval by the City Engineer.

18. Removal and/or Remedy of Soil and/or Water Contamination

- a. The Owner and/or Permittee shall (at its own cost and expense) remove and/or otherwise remedy as provided by law and implementing rules and regulations, and as required by appropriate governmental authorities, any contaminated or hazardous soil and/or water conditions on the Site. Such work may include without limitation the following:
  - b. Remove (and dispose of) and/or treat any contaminated soil and/or water on the site (and encountered during installation of improvements in the adjacent ROW which the Owner and/or Permittee is to install) as necessary to comply with applicable governmental standards and requirements.
  - c. Design construct all improvements on the site in a manner which will assure protection of occupants and all improvements from any contamination, whether in vapor or other form, and/or from the direct and indirect effects thereof.
  - d. Prepare a site safety plan and submit it to the appropriate governmental agency, CivicSD, and other authorities for approval in connection with obtaining a building permit for the construction of improvements on the site. Such site safety plan shall assure workers and other visitors to the site of protection from any health and safety hazards during development and construction of the improvements. Such site safety plan shall include monitoring and appropriate protective action against vapors and/or the effect thereof.
  - e. Obtain from the County of San Diego and/or California Regional Water Quality Control Board and/or any other authorities required by law any permits or other approvals required in connection with the removal and/or remedy of soil and/or water contamination, in connection with the development and construction on the site.
  - f. If required due to the presence of contamination, an impermeable membrane or other acceptable construction alternative shall be installed beneath the foundation of the building. Drawings and specifications for such vapor barrier system shall be submitted for review and approval by the appropriate governmental authorities.

## **OTHER REQUIREMENTS:**

### 19. Environmental Impact Mitigation Monitoring and Reporting Program

As required by CCPDO Section 156.0304(h), the development shall comply with all applicable Mitigation Monitoring and Reporting Program (MMRP) measures from the 2006 Final Environmental Impact Report (FEIR) for the DCP.

### 20. Development Impact Fees

The development will be subject to Centre City Development Impact Fees. The fee shall be determined in accordance with the fee schedule in effect at the time of building permit issuance. The Owner and/or Permittee shall provide to the City's Facilities Financing Department the following information at the time of application for building permit plan check: 1) total square footage for commercial lease spaces and all areas within the building dedicated to support those commercial spaces including, but not limited to: loading areas, service areas and corridors, utility rooms, and commercial parking areas; 2) applicable floor plans showing those areas outlined for verification; and, 3) the total number of residential units. In addition, it shall be responsibility of the Owner and/or Permittee to provide all necessary documentation for receiving any "credit" for existing buildings to be removed. Development Impact Fees shall be calculated in accordance with fee schedule in effect at the time of building permit issuance, and in accordance with the SDMC.

### 21. Inclusionary Affordable Housing Ordinance

As required by SDMC Chapter 14, Article 2, Division 13, the development shall comply with all applicable regulations of the City's Inclusionary Housing Ordinance. The Owner and/or Permittee shall provide documentation of such compliance to CivicSD prior to issuance of any Building Permits.

### 22. Construction Fence

Owner and/or Permittee shall install a construction fence pursuant to specifications of, and a permit from, the City Engineer. The fence shall be solid plywood with wood framing, painted a consistent color with the development's design, and shall contain a pedestrian passageway, signs, and lighting as required by the City Engineer. The fencing shall be maintained in good condition and free of graffiti at all times.

### 23. Development Identification Signs

Prior to commencement of construction on the site, the Owner and/or Permittee shall prepare and install, at its cost and expense, one sign on the barricade around the site which identifies the development. The sign shall be at least four feet by six feet and be visible to passing pedestrian and vehicular traffic. The signs shall at a minimum include:

- Color rendering of the development

