



REPORT NO. PC-16-006

DATE ISSUED: January 21, 2016

ATTENTION: Planning Commission, Agenda of January 28, 2016

SUBJECT: PACIFIC & BROADWAY – PARCEL 1 – AMENDMENT TO DEVELOPMENT AGREEMENT – CENTRE CITY DEVELOPMENT PERMIT / COASTAL DEVELOPMENT PERMIT / NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2014-71 (PROCESS FIVE)

**OWNER/
APPLICANT:** The Irvine Company, LLC
Bosa Development California II, Inc.

SUMMARY

Issues: Should the Planning Commission (“Commission”) make a recommendation to the City of San Diego City Council (“City Council”) to approve the following requests?

1. Amendment to the Development Agreement (DA) between the City and Bosa Development (“Bosa”) and the Irvine Company (“Irvine”) to allow residential uses on the site prior to June 2017; and
2. Centre City Development Permit / Coastal Development Permit / Neighborhood Development Permit (CCDP/CDP/NDP) No. 2014-71.

Staff Recommendation: That the Commission recommends approval to the City Council of the proposed amendment to the DA and CCDP/CDP/NDP No. 2014-71.

Civic San Diego Board Recommendation: On September 30, 2015, the Civic San Diego (“CivicSD”) Board voted 8-0 to grant Design Review approval and recommended that the City Council approve the proposed amendment to the DA and the granting of CCDP/CDP/NDP 2014-71.

Community Planning Group Recommendation: On September 16, 2015, the Downtown Community Planning Council (DCPC) voted 17-0 to recommend that the CivicSD Board grants Design Review approval and that the City Council approves the aforementioned requests.

Other Recommendations: The San Diego County Airport Land Use Commission (ALUC) reviewed this Project for consistency with the Airport Land Use Compatibility Plan (ALUCP) at their monthly meeting on October 15, 2015, and determined on consent that the Project is conditionally consistent with the ALUCP.

Environmental Review: Development within the Downtown Community Plan (DCP) area is covered under the Final Environmental Impact Report (FEIR) for the San Diego DCP, Centre City Planned District Ordinance (CCPDO), and 10th Amendment to the Centre City Redevelopment Plan, certified by the former Redevelopment Agency (“Former Agency”) and the City Council on March 14, 2006 (Resolutions R-04001 and R-301265, respectively) 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 Resolution R-04510), and August 3, 2010 (Former Agency Resolution R-04544), and certified by the City Council on February 12, 2014 (City Council Resolution R-308724) and July 14, 2014 (City Council Resolution R-309115). The FEIR is a “Program EIR” prepared in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15168. Consistent with best practices suggested by Section 15168, an FEIR Consistency Evaluation has been completed for the project. The Evaluation concluded that the environmental impacts of the Project were adequately addressed in the FEIR, the Project is within the scope of the development program described in the FEIR, and that none of the conditions listed in Section 15162 exist; therefore, no further environmental documentation is required under CEQA. The FEIR and all subsequent addenda to the FEIR may be found on CivicSD’s website at <http://www.civicsd.com/planning/environmental-documents.html>.

Fiscal Impact Statement: None

Code Enforcement Impact: None

Housing Impact Statement: The DCP and the DA (and proposed amendments thereto) do not regulate density, but do enforce minimum and maximum Floor Area Ratio (FAR). As outlined below, the DA stipulates that the maximum gross floor area that the project may contain is 684,955 square feet (SF). Inclusionary affordable housing compliance is being met by paying the fee, estimated at \$3,896,490; or \$13,164 per dwelling unit.

BACKGROUND

Bosa Development California II, Incorporated (“Applicant”) is requesting approval of CCDP/CDP/NDP No. 2014-71 for the construction of a 45-story (approximately 490 feet tall) mixed-use development on an approximately 62,000 square-foot (SF) premises located at the northeast corner of Broadway and Pacific Highway, including vacated C Street, in the Columbia neighborhood of the DCP area (“Downtown”). This Project is comprised of 296 residential dwelling units (DU), approximately 15,130 SF of commercial space, and approximately 450 automobile parking spaces. Approval of the Project requires amendments to the DA to allow residential uses on the site prior to 2017. Amendments to the DCP and CCPDO to remove the Employment (E) overlay zone from the property will also be required, but will be considered separately as the Employment overlay zone designation is also proposed to be removed from all blocks located west of Kettner Boulevard, north of E Street, east of Pacific Highway, and south of Ash Street.

Development Agreement

This site is part of the larger, nine-block area previously covered under a DA between the City and the Catellus Development Corporation originally approved in 1983, and amended and reinstated in 1992. The DA covered the blocks located along the east side of Pacific Highway between Ash and E streets and the blocks along the west side of Kettner Boulevard between Ash Street and Broadway. Numerous developments, including new condominium towers, the Museum of Contemporary Art expansion, and the historic rehabilitation of the Santa Fe Depot rail station occurred under the provisions of the DA. As the DA reached its termination date in 2012, the City entered into a new DA with Irvine and Bosa to continue the development regulations and existing development entitlements on the three undeveloped blocks for another ten years. The three blocks covered by the 2012 DA include the northeast and southeast corners of Pacific Highway and Broadway and the southwest corner of Kettner Boulevard and Ash Street. The development standards for this site are defined in the DA including official policies governing the permitted uses of land, density, design, and improvement of the site and to the extent they are consistent with the terms of the DA; the 1992 CCPDO, as amended through 2004, is also applicable. Specific development regulations for this site include the following:

- Maximum Gross Floor Area (GFA) of 684,955 SF;
- Maximum building height of 500 feet above mean sea level;
- View corridor setback of 50 foot at ground level along Broadway;
- View corridor stepback of 25 feet at a height of 50 feet from the previously existing C Street Public Right-Of-Way (ROW) line;
- View corridor stepback of 15 feet at a height of between 45 and 130 feet from Pacific Highway;
- One parking space per DU with no commercial parking requirement;
- 100% ground floor commercial frontage along Broadway with an average depth of 25 feet and average height of 20 feet; and,
- Building tower above 85 feet shall not exceed a north-south building dimension of 140 feet measured in elevation drawings (not including balconies and railings).

Under the DA, the site can be developed with the following uses:

1. The 684,955 SF Irvine office tower, with ground floor retail, originally approved in 2007;
2. A development containing at least 50% commercial uses with ground floor retail; or,
3. Any other development with ground floor retail uses after June 30, 2017.

The 2017 date reflects a previous desire to provide a time period during which Irvine would attempt to finance and construct an office building on the site. However, after obtaining an entitlement for an office building in 2007, Irvine no longer wishes to build the office tower and is in a purchase agreement with Bosa for the site. The DA only allows for the submittal of a development permit application that doesn't meet the 50% commercial use provision before June

30, 2017 if an accompanying amendment to the DA is also requested, which is one of the applications being considered as part of this package. The proposed amendment would remove the 50% commercial land use requirement at this time, rather than in 2017, to allow for the proposed residential project to proceed. In addition to the amendment to the DA, the aforementioned amendments to the DCP and CCPDO are proposed to remove the E overlay zone designation from the property so that the DA and development permits are consistent with the land use plans for the site. The amendments to the DCP and CCPDO will be considered as a separate item by the Commission.

Neighborhood Context

Located between the Civic/Core neighborhood and the waterfront, the Columbia neighborhood caters to visitor-serving uses including large hotels, office buildings, and high-rise residential development. Situated on the western edge of Downtown, the Columbia neighborhood's distinguishing characteristic is its waterfront orientation. It is also known as home to some of San Diego's tallest buildings and has a high-rise concentration nearing the adjacent Civic/Core neighborhood's intensity. It has evolved into a diverse neighborhood comprising residential, office, hotel, cultural and visitor related uses, and also functions as a transit hub with the Santa Fe Depot as an important transportation terminal for northbound Amtrak and Coaster trains and a major transfer point for transit buses and the San Diego Trolley.

The provisions of the DA regulate the development standards of the Project site and supersede the typical development standards of the CCPDO. In addition to the development regulations within the DA, the Coastal Zone (CZ) overlay applies to this site. The CZ overlay district applies to lands near San Diego Bay in order to protect and enhance the quality of public access and coastal resources.

Development Team

ROLE	FIRM/CONTACT	OWNERSHIP
Applicant	CityMark Kettner, LLC Richard Gustafson	Donald Bren (Privately Owned)
Property Owner	Bosa Development California II, Inc. Richard Weir Bosa Holdings II, Inc. Richard Weir	Natale Bosa Natale Bosa (Privately Owned)
Design Architect	Kohn Peterson Fox Associates, PC Margaret Nurre	Gene Kohn (Privately Owned)
Architect	Chris Dikeakos Architectural Corporation Chris Dikeakos	Chris Dikeakos (Privately Owned)
Legal Council	CB Urban Development Charles Black	Charles E. Black (Privately Owned)

DISCUSSION

This Project proposes construction of a 45-story (approximately 490 feet tall) mixed-use development on an approximately 62,000 SF premises comprised of 296 DUs, approximately 15,300 SF of commercial space, and approximately 450 automobile parking spaces in three levels of subterranean parking.

Project Description

The following is a summary of the Project based on drawings dated September 15, 2015:

Site Area	61,780 SF		
Base Minimum FAR	N/A ¹		
Base Maximum FAR	N/A ¹		
Maximum FAR with Amenity Bonuses	N/A ¹		
Maximum FAR with Affordable Housing Bonus	N/A ¹		
FAR Bonuses Proposed	N/A ¹		
Proposed FAR	11.09		
Density	209 DU per acre		
Total Above Grade Gross Floor Area	684,955 SF		
Stories/Height	45 stories/490 feet		
Amount of Commercial Space	15,130 SF		
Amount of Office Space	N/A		
Housing Unit Summary	#	Range	Average
Total Number of Housing Units	296		
2BR	206	1,036 to 1,603 SF	1,345 SF
2BR + Den	39	1,717 to 2,342 SF	1,735 SF
3BR	26	1,769 to 2,827 SF	1,810 SF
3BR + Den	25	2,173 to 3,576 SF	2,453 SF
Number of Units to be Demolished	0		
Number of Buildings over 45 Years Old	0		
Inclusionary Affordable Housing Compliance	Payment of Inclusionary Fee (\$9.51 per SF) Estimated Payment: \$3,896,490 (\$13,164 per DU)		
Automobile Parking			
Residential (Required / Proposed)	296 (1 per DU) ² / 297 ³		
Affordable (Required / Proposed)	N/A		
Commercial (Required / Proposed)	0 ² / 0		
Motorcycle Parking (Required / Proposed)	15/ 15		
Bicycle Parking (Required / Proposed)	59/ 62		
Common Indoor Space			
Required	N/A ⁴		
Proposed	20,411 SF		
Common Outdoor Open Space			
Required	N/A ⁴		
Proposed	14,802 SF		

Private Open Space (Balconies and Decks) Required Proposed	N/A ⁴ 84% of DU
Pet Open Space Required Proposed	N/A ⁴ 0 SF
Residential Storage	240 cubic feet per DU
Assessor's Parcel Nos.	533-471-09-00
Sustainability	Not participating in any recognized program

1. DA supersedes the CCPDO -- maximum Gross Floor Area: 684,955 SF
2. Guest parking is not required per the DA
3. Plus additional tandem spaces for a total of 453 automobile parking spaces
4. Not a requirement of the DA

Permits Required

- CCDP: required for new construction with Design Review approval by the CivicSD Board for developments over 50 DU;
- CDP: required for projects within the CZ overlay;
- NDP: required for construction of a privately owned structure proposed to encroach into a public right-of-way (ROW) dedicated for a street or an alley where the applicant is the record owner of the underlying fee title. The encroachment proposed is the subterranean garage; and,
- Amendments to the 2012 DA to allow a primarily residential use on this site prior to 2017.

No deviations from the development standards of the DA are proposed.

Per the San Diego Municipal Code (SDMC) section 112.0103, when an Applicant applies for more than one permit or other approval for a single development, the applications shall be consolidated for processing and shall be reviewed by a single decision maker. The decision maker shall act on the consolidated application at the highest level of authority for that development, and the findings required for approval of each permit shall be considered individually. As this Project requires DCP, CCPDO, and DA amendments, the decision process for this Project is Process Five per SDMC sections 122.0105, 123.0105, and 124.0104, respectively; with the City Council acting as final decision maker without appeal.

DCP Analysis

The DCP envisions Downtown as a multi-use regional center, with strong employment and residential components; targeting a residential buildout population of approximately 90,000 people with a market for a broad array of supporting stores and services with opportunities to live close to jobs and transit. The DCP envisions Downtown as a quilt of distinctive, walkable neighborhoods with unique identities. Diversity in scale, design, texture, and light will help build complexity and an engaging human experience. Urban design strategies identified in the DCP seek to maximize the advantage of San Diego's climate, foster vital and active street life,

ensure that development is designated with a pedestrian orientation, promote fine-grain development where appropriate, and is sustainable. Sustainable planning entails promoting infill, adaptive reuse, and redevelopment; at the building level it encourages daylighting, cross ventilation, building re-use, building heat island reduction, and techniques to reduce stormwater surface runoff; and in non-design and construction-related activities it encourages waste reduction and recycling. The DCP implements the City of Villages strategies of the City's General Plan by directing growth in limited areas served by transit as an efficient use of urban land that reduces the need to develop outlying areas while creating opportunities for realistic alternatives to automobile travel.

The Columbia neighborhood offers the promise of a reinvigorated, connected waterfront; with improving waterfront connections as a major thrust in planning for the neighborhood. Activity and development is to be organized in the high-intensity inland area, a waterfront-oriented visitor-serving commercial area, and the waterfront itself, and around the neighborhood's three major boulevards – Broadway, Harbor Drive, and Pacific Highway.

Two distinct yet interrelated areas within Columbia will emerge in addition to the waterfront. High-intensity office, residential, hotel, and cultural activity inland of Pacific Highway will evolve in a largely high-rise environment; with plazas, the C Street Corridor, Santa Fe Depot, and museums contributing variety and interest to this area. A waterfront-oriented, mixed-use center is planned between Pacific Highway and the San Diego Bay, serving locals and visitors alike.

Applicable DCP Goals and Policies

- 3.3-G-1 Provide a range of housing opportunities suitable for urban environments and accommodating a diverse population;
- 5.1-G-2 Protect public views of the San Diego Bay by establishing view corridors which accentuate key public rights-of-way with appropriate setbacks, stepbacks, and design standards, and capture new public views where possible as waterfront sites are redeveloped; and,
- 6.2-G-1 Develop 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.

DESIGN REVIEW

The proposed Project is a companion to the previously-approved and under construction Pacific Gate residential tower located directly to the south across Broadway. The sleek residential tower design inherited much from its companion with a predominantly vertical expression of curtain wall glazing with vertical metal fins juxtaposed by horizontal end balconies, but in a larger mass and tripartite configuration compared to the original's oval form in plan. This overlapping arc shaped tower is oriented east-west to minimize its exposure to western sunlight, while maximizing the Downtown view corridor towards the waterfront with a maximum 140 foot north-south dimension. The tower engages the ground through a varying-height, unfolding and overlapping base podium connecting to a large public plaza along Broadway.

The Project site is an approximately 62,000 SF premises located on the north side of Broadway between Pacific Highway and the Santa Fe Depot, including the vacated C Street ROW, in the Columbia neighborhood. The site has a modest slope from the highpoint at the southeast corner to the low point at the northwest corner of approximately two-and-a-half feet in elevation change. The site currently is used as a marginally-improved surface parking lot. Adjacent land uses include the Santa Fe Depot to the east, The Grande South at Santa Fe Condominiums to the north, the future Lane Field South hotel across Pacific Highway to the west, and the Pacific Gate condominium tower under construction across Broadway to the south. The immediate neighborhood contains office, hotel, and cultural land uses and the first phase of the NEVP improvements along Harbor Drive.

Podium Design

This Project's four-story podium generously sets back along Broadway in order to provide the DA required 50-foot deep open public plaza. A stepping curved wall theme is employed consistently to both the podium and tower. The double height commercial space occupies the majority of the ground floor and all of the Broadway frontage. The residential lobby faces onto the former C Street ROW. Residential amenities are included in the two floors above the ground floor commercial space and on the roof which contains a landscaped pool deck. The street wall along Pacific Highway has varying street wall heights of 17 to 55 feet, with small green pockets inset in-between the unfolding curving window walls with areas for both repose and access into the commercial suites. Similar recessed pockets with ground floor commercial entries are provided along the pedestrian access way along the Santa Fe Plaza that continues the linear park from the north to Broadway with the same trellis. The podium is clad in a combination of glazing with vertical fins of warm beige limestone to complement the color pallet of the historic Downtown. Along the Broadway Plaza the podium design includes a lower stepped wall with less glazing and more limestone cladding that provides a change in scale from the pedestrian to the taller podium and eventually to the tower while incorporating the same sculptural language of the tower crown at this lower level.

Tower Design

This Project mainly consists of three layers of curved glass tower elements rising up to 490 feet, with each layer offset from the other by about 30 feet with balconies set within the ends. The upper end of the curving glass and steel planes are alternatively sloped to create a unique top when viewed from the west and south, although not as prominent when viewed from the east and north. This layered curved wall theme is a continuation from the podium up the tower, concluding with sloping roof lines similar to its predecessor across Broadway. These two towers are designed to form a dramatic gateway to Downtown and to greatly animate the waterfront skyline, although this second tower is wider than its elliptical counterpart to the south.

Vertical painted metal fins accentuate the tower's verticality and help to enhance the energy performance by blocking solar heat gain from western sunlight. High performance insulating glass with low-e coating is applied throughout the building. The major material selection is shared between both towers across Broadway to strengthen the sense of gateway.

The curtain wall glazing of the tower extends above the interior occupied spaces to form the unique tower crown. This crown employs both glazed and unglazed portions within the window structural system, unglazed to provide unobstructed views at the balconies and roof decks. The appearance of the crown extension should continue the same reflectivity, color, and opacity of the glazing below to achieve the desired effect of a continuous and elegant tower design.

Broadway Plaza

The Applicant will be required to install street improvements along Broadway consistent with the requirements of the NEVP. These improvements include signature lighting, enhanced granite paving and a double row of Medjool Date Palm trees. Additional small trees and other landscaping are located in raised planters.

The Broadway Plaza design includes blending of the paving between the NEVP along Broadway and Broadway Plaza that creates different use zones within this Plaza allowing for areas of repose (cafe tables) and more vigorous activity towards the sidewalk. The low landscaped barriers with water features provide a subtle separation and needed softness. These improvements will provide an attractive and activated public gathering space at this important location while respecting the view corridor and enhancing views to and from the Santa Fe Depot forecourt plaza.

Santa Fe Transit Courtyard

The DA requires all developments along the Santa Fe Transit Courtyard to provide a minimum 12-foot wide pedestrian pathway along the rail lines, along with some form of pedestrian covering. Previous developments to the north have constructed the pathway with enhanced pavers with a landscaped arcade consisting of concrete columns and wood trellises. This Project is proposing to continue these materials southward to the Broadway Plaza. The Santa Fe Transit Courtyard and plaza connects to the Broadway Plaza at the southern terminus of the pedestrian arcade with the Broadway Plaza maintaining its own identity through enhanced concrete paving that compliments the concrete pavers of the Santa Fe Plaza. The Project's ground floor commercial spaces can also be accessed directly from this pedestrian pathway.

C Street Former ROW

The intent for the use of the vacated former C Street ROW is to provide the vehicular access to the Project, a pedestrian connection from the Santa Fe Transit Courtyard to Pacific Highway, and to protect the public view corridor to and from the historic Santa Fe Depot building. This Project includes such pedestrian improvements on the northern half of the former ROW on the adjacent parcel in order to complete the vision of the DA. The Project driveway will align with any future signalization at the Pacific Highway/C Street intersection (note: the Lane Field hotel developments originally proposed a traffic signal, but have withdrawn the proposal which the City has determined not to be necessary for traffic circulation). At this time, access to the Project will be right turn in, right turn out only. Low landscaping and limited trees are an appropriate accent in this area, with larger trees and structures located where street trees would normally be permitted along the former C Street ROW. The residential entrance court focuses on vehicular drop-off and a parking entrance. A covered pedestrian promenade exists at the base of the building connecting Pacific Highway to the residential lobby entrance with enhanced paving.

The vehicle court is located at-grade providing access to the driveway ramp into the underground parking has been incorporated into east-side of the building. The pedestrian passageway from the Santa Fe Transit Courtyard to Pacific Highway has been provided with enhanced paving and connects to the pedestrian walkway track crossing at the east, and includes landscape planters and low seat walls that preserves the view corridor through this area.

The Project's loading functions have been located adjacent to the underground parking entrance at the end of the pedestrian entrance promenade from Pacific Highway. This loading bay has been rendered with a concealing retractable door or gate that is complimentary to the adjacent beige limestone cladding of this portion of the ground floor.

Public Art Obligation

This Project is subject to the Bosa Public Art Master Plan ("Master Plan") which fulfills an obligation under the original DA for seven parcels located along Pacific Highway, Kettner Boulevard, Broadway, and E Street between Ash and F streets. Under the Master Plan and current DA, the Applicant is required to expend one percent of the base building costs and land value for design, fabrication and installation of public art for this project. While there exists some credits to the Project from previous expenditures for public art along this corridor and the Applicant originally proposed to spend the remainder of the public art obligation funds on the Pacific Gate project on the south side of Broadway, this Project will incorporate public art in the Broadway Plaza to be determined as the Project progresses through construction drawing phase.

CCDP

CivicSD is responsible for the administration of planning and zoning for the City within the Centre City Planned District (CCPD). A CCDP is required for construction with 1,000 SF or more of gross floor area not within an existing structure. A CCDP may be granted according to CCPDO section 156.0304(e)(1)(D) if the decision maker finds that the development is consistent with the DCP, CCPDO, Centre City Streetscape Manual, SDMC, and all other adopted plans or policies of the City pertaining to the CCPD.

Draft Finding

In order to grant approval of a CCDP, the following finding must be made:

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.*
The proposed development is consistent with the DA (subject to the proposed amendments), and as applicable the DCP (subject to the proposed amendments), CCPDO (subject to the proposed amendments), SDMC, 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.

In addition, with approval of CCDP/CDP/NDP No. 2014-71, this Project will be consistent with the requirements of the DA (subject to the proposed amendments), SDMC, and CCPDO (subject to the proposed amendments).

CDP

The Project is located within the CZ and requires approval of a CDP. The purpose of the CDP procedure is to establish a City review process for coastal development that is consistent with the Local Coastal Program, the California Coastal Act of 1976 (Public Resources Code section 30000, et seq.) and the California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 17.

Draft Findings

In order to grant approval of a CDP, the following findings must be made:

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; and,

This proposed development is consistent with the DCP (subject to the proposed amendments), CCPDO (subject to the proposed amendments), 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.

NDP

The purpose of the NDP regulations is to establish a review process for proposed development that may be desirable but may have some limited physical impacts on the surrounding properties. The intent of these procedures is to determine if the proposed development complies with the development regulations of the applicable zone, as well as supplemental regulations for the type of development proposed, and to apply limited conditions if necessary to achieve conformance with these regulations. A NDP is required for construction of a privately owned structure proposed to encroach into a ROW dedicated for a street or an alley where the applicant is the record owner of the underlying fee title.

Draft Findings

In order to grant approval of a NDP, the following findings must be made:

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;*
and,
Compliance with CBC regulations and City Council Policy 700-18 for subterranean encroachments into the ROW will assure such encroachments are not detrimental to the health, safety, and welfare of the public.

3. *The proposed development will comply with the applicable regulations of the SDMC including any allowable deviations pursuant to the SDMC.*

Through approval and recording of this Permit, this Project is in compliance with the applicable regulations of the SDMC.

DEVELOPMENT AGREEMENT

As stated in the Background Section of this report, the DA controls development of this site and was entered into in 2012 just prior to when the DCP and CCPDO were formally certified by the Coastal Commission in the CZ and therefore the applicable land use plans were the 1992 Centre City Community Plan and CCPDO as amended through 2004. While the E overlay zone designations were not formally in place at the time of the DA approval, the DA included the requirement that any development of this parcel contain at least 50% commercial land uses. However, this requirement was only to be in effect until June 2017 to encourage Irvine to pursue its office building on this site. However, the previously approved office building project has been abandoned by Irvine and the continuing challenged office market makes an office use on this site within the next year highly unlikely. Since the DA allows for residential development after June 30, 2017, staff is recommending that this requirement be deleted from the DA at this time.

The DA Amendment must be consistent with the applicable land use plans, the DCP and the CCPDO. With the exception of the E overlay, which is under consideration for removal from the site, the DA Amendment will be consistent with the development standards of the DCP and CCPDO. Additionally, the DA Amendment will be consistent with other land uses in the area, which primarily consist of high-rise residential development.

Under the DA, development has additional obligations beyond the land use and development standards. The following are two requirements which pertain to this site:

1. Parking Lot Landscaping – under the DA, the existing parking lot was to be provided with trees at a ratio of one tree for every 12 spaces unless a building permit application was submitted within 12 months of the execution of the DA (or December 17, 2013). The trees were never planted and the Applicant is wishing to continue to defer the planting as it is anticipated to submit building permits in the next 12 months and start construction in 2017. Although the applicant is currently in violation of the DA, staff is recommending that the 12 months be reinstated based on the date of the amendment if approved by the City Council; however, staff is recommending that there also be immediate improvements to the Broadway frontage of the site. Phase I of the NEVP improvements have been completed, creating an attractive pedestrian promenade along Harbor Drive and reconstructing Broadway west of Pacific Highway with concrete paving, enhanced signature street lighting, and median landscaping. To improve the pedestrian experience along Broadway to and from the waterfront, staff is recommending that the existing ten foot wide asphalt paving be widened to a minimum of 20 feet with the addition of a ten-foot deep planter behind the sidewalk to contain plantings to compliment the Broadway medians (drought tolerant native species).

2. Pacific Highway Medians – the original DA required the Catellus Development Corporation to pay for 50% of the costs of installing landscaped medians from Ash Street south to E Street. However, this reimbursement obligation only became effective if the City commenced the construction of the medians and would have expired with the original 1992 agreement. The 2012 DA continued this obligation for the entire five blocks and apportioned the costs of such reimbursement 80% to Bosa and 20% to Irvine (based on the number of blocks each entity was anticipated to construct). However, due to the State of California's elimination of redevelopment agencies and the accompanying tax increment funding, there is no current plan for the design and neither construction of the Pacific Highway medians nor the remainder of the NEVP improvements along Harbor Drive. The median project is further complicated by the fact that their installation anticipated a 130-foot ROW, which currently doesn't exist due to the U.S. Navy properties and buildings along the west side of Pacific Highway between A Street and midway between B and C streets. In addition, San Diego Gas & Electric (SDG&E) installed a new 69kV power line in Pacific Highway several years ago that may prevent the installation of landscaping due to its location.

Staff has met with representatives of the City, the Port District, and the developers of the Lane Field hotel project to attempt to devise a plan for the installation of the medians. However, the following obstacles exist:

- There are no funding sources currently designated for the median improvements.
- The Lane Field development is under no obligation to contribute to the construction of the medians.
- The installation of landscaping in the medians (originally envisioned to be large trees) may not be possible due to the installation of a 69kV power transmission line by SDG&E several years ago.
- There is no landscaping maintenance funding identified.

Therefore, unless the medians are designed and construction contract awarded by 2022, the DA obligation for the 50% private contribution will expire. At this time, the only potential for the median project to proceed is to have the project placed in the City's Capital Improvements Program (CIP). In order to have this median project considered and potentially advanced prior to 2022, the following steps are proposed by staff:

1. A requirement will be added to the DA for Bosa to fund and complete a feasibility analysis, concept design, and preliminary cost estimates for the medians between Ash and E streets within six months from the date of the amended DA approval.
2. A traffic analysis has been completed (as part of the on-going Downtown San Diego Mobility Plan work) to evaluate potential lane configurations, including potential bicycle facilities (in lieu of the previously proposed 4.5 foot wide bike lane located between a vehicular travel lane and the parking lane in the NEVP Schematic Drawings).

3. Based on the results of these two 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. Because of the 50% private matching funds, it could score well in its evaluation.
4. Staff would report back to the CivicSD Board within the next year on the results of these studies.

CONCLUSION

Because the Project is consistent with the DDG and the DA (subject to the proposed amendments), staff recommends that the Planning Commission recommends that the City Council approves:

1. Amendment to the DA between the City and Bosa and Irvine; and
2. CCDP/CDP/NDP No. 2014-71.

Respectfully submitted:

Concurred by:



Aaron Hollister
Senior Planner



Reese A. Jarrett
President



Brad Richter
Assistant Vice President, Planning

Attachments: A – Project Data Sheet
B – Applicant's Architectural Narrative
C – Ownership Disclosure Statements
D – 2012 Development Agreement
E – Letter from Richard Weir, Bosa Development dated June 24, 2015
F – Draft CCDP/CDP/NDP No. 2014-71
G – Draft City Council Resolution for CCDP/CDP/NDP No. 2014-71
H – Basic Concept/Schematic Drawings dated September 15, 2015

PROJECT DATA SHEET		
PROJECT NAME	Pacific and Broadway – Parcel 1	
PROJECT DESCRIPTION	Mixed-use development on an approximately 62,000 square-foot premises located at the northeast corner of Broadway and Pacific Highway in the Columbia neighborhood of the Downtown Community Plan (DCP) area. The 45-story project (approximately 490 feet tall) is comprised of 296 residential dwelling units, approximately 15,130 SF of commercial space, and approximately 450 automobile parking spaces. Approval of the Project requires amendments to the development agreement (DA) that governs the site in order to allow residential uses on the site prior to 2017. Amendments to the DCP and Centre City Planned District Ordinance (CCPDO) are also required to remove the Employment overlay zone from the property.	
COMMUNITY PLAN	Downtown Community Plan	
COMMUNITY PLAN LAND USE DESIGNATION	Core	
<p style="text-align: center;">ZONING INFORMATION</p> <p>ZONE: Core (C) – The project site is governed by a DA that supersedes the typical zoning requirements of the CCPDO.</p> <p>HEIGHT LIMIT: 500 Feet Above Mean Sea Level</p> <p>LOT SIZE: 62,000 Square Feet</p> <p>FRONT SETBACK: 0 Feet</p> <p>SIDE SETBACK: 0 Feet</p> <p>REAR SETBACK: 0 Feet</p> <p>PARKING: 296 Required / 450 Provided (297 Code-Compliant)</p>		
ADJACENT PROPERTIES	LAND USE DESIGNATION	EXISTING LAND USE
NORTH	Core	Residential Condominiums
SOUTH	Core	Construction Site (Future Residential Condominiums)
EAST	Core	Union Station
WEST	San Diego Unified Port District	Surface Parking (Future Hotel)
DEVIATIONS OR VARIANCES REQUESTED	No deviations or variances are required to meet the standards of the DA.	
COMMUNITY PLANNING GROUP RECOMMENDATION	On September 16, 2015, the Downtown Community Planning Council voted 17-0 to recommend that the CivicSD Board grants Design Review approval and that the City Council approves the requested permits, DA amendment, and DCP/CCPDO amendments.	

S:\Planning\APPLICATIONS\Dev Permits\2014-71 Broadway & Pacific - Parcel 1\Review Meetings\Planning Commission\2014-16_160128_CDP-DA_PC_Pacific&Broadway_ProjectDataSheet.docx

PACIFIC & BROADWAY PARCEL 1 SOUTH, SAN DIEGO, CALIFORNIA

ARCHITECTURAL NARRATIVE

THE PROPOSED DEVELOPMENT CONSISTS OF A 45 STORY CONCRETE RESIDENTIAL TOWER WITH 296 UNITS ABOVE THREE LEVELS OF UNDERGROUND PARKING. THE 3 LAYERS OF GENTLY CURVED GLASS TOWER RISE UP TO 500FT FROM MEAN SEA LEVEL WITH EACH LAYER STEPS AND SLOPES DOWN TO FORM AN ICONIC SKYLINE. A 4 STORY PODIUM LINES ON THE SOUTH AND WEST SIDE OF TOWER, CONTAINING LARGE COMMERCIAL SPACES ON THE GROUND LEVEL, AND RESIDENTIAL UNITS AND AMENITY SPACES ON THE FLOORS ABOVE. A STEPPING CURVED WALL THEME IS CONSISTENTLY APPLIED TO THE PODIUM AS A RESPONSE TO THE ARCHITECTURAL LANGUAGE OF THE TOWER. THE LAYERED COMPOSITION OF SLOPED ROOF LINES OF THE TOWER AND THE PODIUM IS HARMONIOUS RESPONSE TO ITS PREDECESSOR ACROSS BROADWAY, THE RESIDENTIAL TOWER ON LOT 9, YET UNIQUE ENOUGH TO HOLD ITS OWN CHARACTER. THESE 2 TOWERS ARE DESIGNED TO FORM A DRAMATIC GATEWAY TO THE DOWNTOWN SAN DIEGO AT THE JUNCTION OF BROADWAY AND PACIFIC HIGHWAY, AND TO GREATLY ANIMATE THE WATERFRONT SKYLINE OF SAN DIEGO.

THE BUILDING GENEROUSLY SETS BACK ALONG BROADWAY WITH MINIMUM 50FT WIDTH TO PROVIDE AN OPEN PUBLIC PLAZA. TOGETHER WITH THE ONE AT LOT 9 ACROSS THE STREET, THESE OPEN PUBLIC AREAS TRULY CELEBRATE THE GATEWAY TO THE HISTORIC DOWNTOWN. WITH GOOD SOUTHERN SUN EXPOSURE IN SUCH A BENIGN CLIMATE, THE PLAZA IS LANDSCAPED WITH RAISED PLANTERS WITH VARIETY OF LOCAL PLANT SPECIES. A NUMBER OF OUTDOOR SEATING AND MOVABLE FURNITURE WITH THE LAYERS OF SHADING TREES WILL GUARANTEE IT BECOMES ENJOYABLE OUTDOOR SPACE FOR PEDESTRIANS.

15,130 S.F. OF DOUBLE HEIGHT COMMERCIAL/RETAIL SPACE OCCUPIES THE GROUND FLOOR ALONG BROADWAY AND PACIFIC HIGHWAY. AN INNOVATIVE STREET WALL ALONG PACIFIC HIGHWAY IS PROVIDED BY THE RETAIL PODIUM WITH VARYING STREET WALL HEIGHTS OF 17' TO 55'. THE SMALL GREEN POCKETS ALONG PACIFIC HIGHWAY ARE CREATED BY THE SAW TOOTH PROFILE OF THE PODIUM WALLS, SOFTENING THE COMMERCIAL/RETAIL FRONT. A GENEROUS RESIDENTIAL ENTRANCE COURT AND A PARKING ENTRANCE SHARE THE ACCESS FROM PACIFIC HIGHWAY AT THE NORTHERN END OF THE LOT. A CEREMONIAL RESIDENTIAL DROP-OFF IS LOCATED RIGHT AT THE FOOT OF THE TOWER, LINED WITH A WELCOMING WATER FEATURE WALL. 3 LEVELS OF UNDERGROUND PARKING PROVIDE 458 (INCLUDING 156 TANDEM) SPACES. A PEDESTRIAN CONNECTION TO SANTA FE TRAIN STATION PLATFORM AND THE LINEAR PARK IS LOCATED ALONG THE NORTH SIDE OF THE PARKING ACCESS RAMP.

AN AESTHETIC OF SLEEK RESIDENTIAL TOWER DESIGN OF THE PREDECESSOR AT LOT 9 IS INHERITED AND FURTHER REFINED BY A THOUGHTFUL UNIT LAYOUT AND USES OF END BALCONIES. THE OVERLAPPED ARC SHAPED TOWER IS ORIENTED EAST-WEST TO MINIMIZE

ITS EXPOSURE TO WESTERN SUNLIGHT, WHILE MAXIMIZING THE DOWNTOWN VIEW CORRIDOR TOWARDS THE WATERFRONT. VERTICAL PAINTED METAL FINS ACCENTUATE THE TOWER'S VERTICALITY AND HELP TO ENHANCE THE ENERGY PERFORMANCE BY BLOCKING SOLAR HEAT GAIN FROM WESTERN/EASTERN SUNLIGHT. HIGH PERFORMANCE INSULATING GLASS UNITS WITH LOW-E COATING ARE APPLIED THROUGHOUT THE BUILDING AND WARM BEIGE LIMESTONE IS SELECTED FOR THE PODIUM TO COMPLEMENT THE COLOR PALLET OF THE HISTORIC DOWNTOWN. THE MAJOR MATERIAL SELECTION IS SHARED AT THE BOTH OF THE TOWERS ACROSS BROADWAY, TO STRENGTHEN THE SENSE OF GATEWAY.

LANDSCAPE PLAYS AN IMPORTANT ROLE ON THE GROUND PLANE, ON VARIOUS ROOFS OF THE PODIUM, AND AT THE TOP OF THE TOWER. A LARGE RESORT STYLE POOL DECK ON LEVEL 5 IS PROTECTED FROM WIND AND NOISE BY EXTENDED GLASS AND LIMESTONE WALLS WHICH ALLOW THE PODIUM TO EXPRESS A CLEAN, SINGULAR ARCHITECTURAL EXPRESSION TOWARD THE SOUTH PLAZA. LARGE NUMBERS OF PLANTERS AND GREEN VERTICAL PLANTED WALLS PROVIDE WELL SHADED HUMAN SCALE COMMON SPACES. THE PUBLIC PLAZA ALONG BROADWAY NOT ONLY PROVIDES PUBLIC SHELTERS WITH LUSH GREEN, BUT ALSO BECOMES AN INVITING PLACE OF INTEREST WITH EXCITING SITE FURNITURE, LIGHTING, AND LARGE SCALE PUBLIC ART.

THE NEW GATEWAY TOWERS AT PACIFIC HIGHWAY AND BROADWAY WILL BECOME TRUE LANDMARKS TO THE DOWNTOWN CORE, AND SUCH ICONIC FEATURES TO SAN DIEGO SKYLINE.



Ownership Disclosure Statement

Approval Type: Check appropriate boxes for type of approval(s) requested:

- | | | |
|--|--|--|
| <input type="checkbox"/> Limited Use Approval | <input type="checkbox"/> Neighborhood Development Permit | <input checked="" type="checkbox"/> Centre City Development Permit |
| <input type="checkbox"/> Temporary Use Permit | <input checked="" type="checkbox"/> Planned Development Permit | <input type="checkbox"/> Gaslamp Quarter Development Permit |
| <input type="checkbox"/> Neighborhood Use Permit | <input type="checkbox"/> Site Development Permit | <input type="checkbox"/> Marina Development Permit |
| <input type="checkbox"/> Conditional Use Permit | <input checked="" type="checkbox"/> Coastal Development Permit | <input type="checkbox"/> Other: _____ |

Project Title: Lot 1 (working title)

Project Address: 820 West Broadway

Assessor Parcel Number(s): 533-471-09-00

Part 1 – To be completed by property owner when property is held by individual(s)

By signing this Ownership Disclosure Statement, the property owner(s) acknowledges that an application for a permit, map, or other matter, as identified above, will be filed with Civic San Diego on the premises that is the subject of the application, with the intent to record an encumbrance against the property or properties. List below the owner(s) and tenant(s) (if applicable) of the above referenced property or properties; all subject properties must be included. The list must include the names and addresses of all persons who have an interest in the property or properties, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property or properties). Original signatures are required from at least one property owner for each subject property. Attach additional pages if needed. Note: The Applicant is responsible for notifying the Project Planner of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Planner at least thirty days prior to any public hearing on the subject property or properties. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached: ☒ Yes ☐ No

Name of Individual (type or print):

Assessor Parcel Number(s):

Street Address:

City/State/Zip Code:

Phone Number:

E-mail:

Signature:

Date:

Name of Individual (type or print):

Assessor Parcel Number(s):

Street Address:

City/State/Zip Code:

Phone Number:

E-mail:

Signature:

Date:

Project Title: Lot 1 (working title)

Part 2 – To be completed by property owner when property is held by a corporation or partnership
 By signing this Ownership Disclosure Statement, the property owner(s) acknowledges that an application for a permit, map, or other matter, as identified above, will be filed with Civic San Diego on the premises that is the subject of the application, with the intent to record an encumbrance against the property or properties. List below the names, titles, and addresses of all persons who have an interest in the property or properties, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and/or all partners in a partnership who own the property or properties). Original signatures are required from at least one corporate officer or partner who own the property for each subject property. Attach additional pages if needed. Provide the articles of incorporation, articles or organization, or partnership agreement identifying all members of the corporation or partnership. Note: The applicant is responsible for notifying the Project Planner of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Planner at least thirty days prior to any public hearing on the subject property or properties. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached: ☒ Yes ☐ NoCorporation/Partnership Name (type or print):
The Irvine Company LLC (Owner)☐ Corporation ☒ LLC ☐ Partnership

Assessor Parcel Number(s):

533-471-09-00

Street Address:

111 Innovation Drive

City/State/Zip Code:

Irvine, CA 92617

Name of Corporate Officer/Partner (type or print):

Thomas Sullivan

Title:

SVP

Phone Number:

949-720-2763

E-mail:

tsullivan@irvinecompany.com

Signature:

T. Sullivan

Date:

2/18/15

Corporation/Partnership Name (type or print):

Bosa Development California II, Inc. (Applicant)☒ Corporation ☐ LLC ☐ Partnership

Assessor Parcel Number(s):

533-471-09-00

Street Address:

121 W. Market Street

City/State/Zip Code:

San Diego, CA 92101

Name of Corporate Officer/Partner (type or print):

Richard Weir

Title:

Vice-President/Secretary

Phone Number:

619-702-0760

E-mail:

richardw@bosadev.com

Signature:

Richard Weir

Date:

2/18/15

CERTIFICATE OF ASSISTANT SECRETARY

OF

THE IRVINE COMPANY LLC

I, Angie Finch Holland, do hereby certify and state:

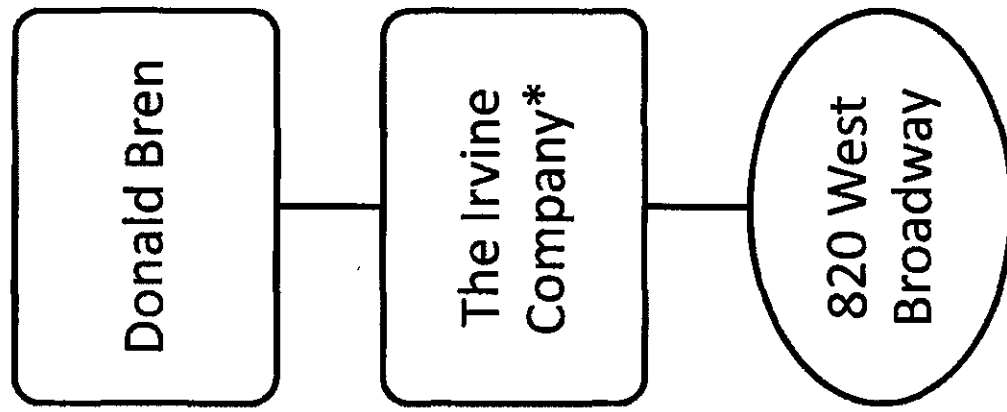
1. That I am and at all times herein mentioned have been the duly elected and acting Assistant Secretary of The Irvine Company LLC, a Delaware limited liability company (the "Company"), and as such I am authorized to execute this certificate;

2. That Donald Bren is the owner of 100% of the membership units of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand February 16, 2015.



Angie Finch Holland
Assistant Secretary



*Donald Bren owns 100% of the membership units of The Irvine Company LLC

2547294

ARTICLES OF INCORPORATION
OF
BOSA DEVELOPMENT CALIFORNIA II, INC.

FILED
In the office of the Secretary of State
of the State of California

AUG 11 2003

Kevin Shelley
KEVIN SHELLEY, Secretary of State

I

The name of the corporation is Bosa Development California II, Inc.

II

The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

III

The name and address in the State of California of this corporation's initial agent for service of process is: CT Corporation System.

IV

This corporation is authorized to issue only one class of shares of stock and the total number of shares which this corporation is authorized to issue is 1,000,000.

V

The liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law, as such law exists from time to time.

VI


This corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, vote of shareholders or disinterested directors or otherwise, in excess of the

indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to applicable limits set forth in Section 204 of the California Corporations Code.

VII

This corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of the California Corporations Code. The fact that this corporation owns all or a portion of the shares of the company issuing a policy of insurance shall not render this Article void if any policy issued by such company is limited to the extent required by applicable California law.

DATED: August 6, 2003



Michelle Cardinal, Incorporator

CONSENT TO USE OF NAME

The undersigned, Bosa Development California, Inc., a California corporation, hereby consents to the use of a deceptively similar name by Bosa Development California II, Inc., a California corporation.

Dated: August 7, 2003

Bosa Development California, Inc.
a California corporation

By: _____
Name: Huan Bosa
Its: President

BOSA DEVELOPMENT CALIFORNIA II, INC.

a California corporation
Common Stockholder Ledger

Authorized Common Stock: 1,000,000
Outstanding Common Stock: 1,000
Available Common Stock: 999,000

Name of Shareholder	Corp. No.	No. of Shares Issued	No. of Shares Cancelled	Date of Cancellation	Original Issue	Unpaid Dividend
Bosa Holding II Inc.	1	1,000		08/11/03	Original Issue	
Total Shares Issued/Cancelled:		1,000	0			

Number of Shares Issued: 1,000
Number of Shares Cancelled: 0
Total Number of Outstanding Shares: 1,000

Project Title: Lot 1 (working title)

Part 3 – To be completed by all other financially interested parties

List below the names, titles, and addresses of all financially interested parties and state the type of financial interest (e.g., applicant, architect, lead design/engineering professional). Original signatures are required from at least one individual, corporate officer, and/or partner with a financial interest in the application for a permit, map, or other matter, as identified above. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Planner of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Planner at least thirty days prior to any public hearing on the subject property or properties. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached: ☐ Yes ☐ No

Name of Individual (type or print):

Charles E. Black

☐ Applicant ☐ Architect ☒ Other Attorney

Street Address:

14668 Encendido

City/State/Zip Code:

San Diego

Phone Number:

858-771-5111

E-mail:

cblack@cburbandevelopment.com

Signature:

Date:

Corporation/Partnership Name (type or print):

Kohn Pedersen Fox Associates

☒ Corporation ☐ LLC ☐ Partnership
☐ Applicant ☐ Architect ☒ Other Design Architect

Street Address:

11 West 42nd Street

City/State/Zip Code:

New York, NY 10036

Name of Corporate Officer/Partner (type or print):

~~Gene Kohn~~ MICHAEL GREENE

Title:

~~Partner~~ PRINCIPAL

Phone Number:

212-977-6500

E-mail:

2249_Bosa_Tower2@kpf.com

Signature:

Date:

Name of Individual (type or print):

☐ Applicant ☐ Architect ☐ Other _____

Street Address:

City/State/Zip Code:

Phone Number:

E-mail:

Signature:

Date:

Corporation/Partnership Name (type or print):

Chris Dikeakos Architects, Inc.

☒ Corporation ☐ LLC ☐ Partnership
☐ Applicant ☒ Architect ☐ Other _____

Street Address:

3989 Henning Drive, Suite 212

City/State/Zip Code:

Burnaby, British Columbia, Canada

Name of Corporate Officer/Partner (type or print):

Chris Dikeakos

Title:

Partner

Phone Number:

604-291-2660

E-mail:

mike.a@diakos.com

Signature:

Date:

Project Title: Lot 1 (working title)

Part 3 – To be completed by all other financially interested parties

List below the names, titles, and addresses of all financially interested parties and state the type of financial interest (e.g., applicant, architect, lead design/engineering professional). Original signatures are required from at least one individual, corporate officer, and/or partner with a financial interest in the application for a permit, map, or other matter, as identified above. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Planner of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Planner at least thirty days prior to any public hearing on the subject property or properties. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached: ☐ Yes ☐ No

Name of Individual (type or print):

Charles E. Black

☐ Applicant ☐ Architect ☒ Other Attorney

Street Address:

14668 Encendido

City/State/Zip Code:

San Diego

Phone Number:

858-771-5111

E-mail:

cblack@cburbandevelopment.com

Signature:

Date:

Name of Individual (type or print):

☐ Applicant ☐ Architect ☐ Other _____

Street Address:

City/State/Zip Code:

Phone Number:

E-mail:

Signature:

Date:

Corporation/Partnership Name (type or print):

Kohn Pedersen Fox Associates

☒ Corporation ☐ LLC ☐ Partnership
☐ Applicant ☐ Architect ☒ Other Design Architect

Street Address:

11 West 42nd Street

City/State/Zip Code:

New York, NY 10036

Name of Corporate Officer/Partner (type or print):

Gene Kohn

Title:

Partner

Phone Number:

212-977-6500

E-mail:

2249_Bosa_Tower2@kpf.com

Signature:

Date:

Corporation/Partnership Name (type or print):

Chris Dikeakos Architects, Inc.

☒ Corporation ☐ LLC ☐ Partnership
☐ Applicant ☒ Architect ☐ Other _____

Street Address:

3989 Henning Drive, Suite 212

City/State/Zip Code:

Burnaby, British Columbia, Canada

Name of Corporate Officer/Partner (type or print):

Chris Dikeakos

Title:

Partner

Phone Number:

604-291-2660

E-mail:

mike.a@dikeyakos.com

Signature:

Date:

CM *ML* 2/16/2015



Federal Aviation
Administration

« OE/AAA

Project Submission Success
Project Name: BOSA -000305372-15

Project BOSA -000305372-15 has been submitted successfully to the FAA.

Your filing is assigned Aeronautical Study Number (ASN):
2015-AWP-1889-OE

Please refer to the assigned ASN on all future inquiries regarding this filing

Please return to the system at a later date for status updates.

It is the responsibility of each e-filer to exercise due diligence to determine if coordination of the proposed construction or alteration is necessary with their state aviation department. Please use the link below to contact your state aviation department to determine their requirements:
State Aviation Contacts

To ensure e-mail notifications are delivered to your inbox please add noreply@faa.gov to your address book. Notifications sent from this address are system generated FAA e-mails and replies to this address will NOT be read or forwarded for review. Each system generated e-mail will contain specific FAA contact information in the text of the message.

Recording Requested by:

CITY OF SAN DIEGO

When Recorded Mail To:

CITY OF SAN DIEGO
c/o Civic San Diego
401 B. Street, Fourth Floor
San Diego, California 92101
Attention: Brad Richter

FREE RECORDING
GOVERNMENT CODE
SECTION 6103

DEVELOPMENT AGREEMENT

by and among

CITY OF SAN DIEGO,

THE IRVINE COMPANY LLC,

and

BOSA DEVELOPMENT CALIFORNIA II, INC.

ATTACHMENT D

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is executed this ____ day of _____, 2012, by and among: (1) CITY OF SAN DIEGO ("City"), (2) THE IRVINE COMPANY LLC ("Irvine") and (3) BOSA DEVELOPMENT CALIFORNIA II, INC. ("Bosa"). Irvine and Bosa together shall be referred to as "Landowners." The Landowners and City collectively shall be referred to as "Parties".

RECITALS

- A. In 1983, the City and Catellus Development Corporation, a Delaware corporation, formerly known as Santa Fe Pacific Realty Corporation, a Delaware corporation, a successor by merger to Santa Fe Land Improvement Company, a California Corporation, entered into a Development Agreement dated as of April 25, 1983 and recorded June 9, 1983 for the development of certain property within the City of San Diego 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 (the "Catellus Site").
- B. Catellus Development Corporation, predecessor in interest to Catellus Operating Limited Partnership, a Delaware limited liability company ("COLP"), and the City are the parties to that certain Amended and Restated Development Agreement dated April 9, 1993, 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, as amended by that certain First Amendment to Development Agreement, signed by Catellus Development Corporation on November 12, 1995, and signed by the City on March 5, 1996; that certain Second Amendment to Development Agreement, dated December 4, 1997, and recorded in the Office of the County Recorder of San Diego County, as Document No. 1998-0406402, on July 1, 1998; that certain Third Amendment to Development Agreement, dated February 18, 2003, and recorded in the Office of the County Recorder of San Diego County, as Document No. 2003-0190135, on February 19, 2003; and that certain Fourth Amendment to Development Agreement dated as of July 12, 2004, and recorded in the Office of the County Recorder of San Diego County, as Document No. 2004-0711679, on July 29, 2004, (as amended, the "Catellus Development Agreement").
- C. The Catellus Development Agreement applies to the Catellus Site, that being certain property owned by Catellus at the time of the Catellus Development Agreement. The parties to the Catellus Development Agreement decided in 1983 and reaffirmed in 1992 that special development regulations should apply to this unique property and that those regulations should be preserved so that the Catellus Site could be developed over a period of time in a consistent and organized manner, preserving certain design intensities, features, and characteristics that would apply throughout the Catellus Site.
- D. In 2003, Bosa purchased certain property described on Exhibit A attached hereto (the "880 W. Broadway Site") from Catellus and in connection therewith assumed certain obligations under the Catellus Development Agreement relating to the 880 W. Broadway Site pursuant to that certain Development Agreement Assignment and Assumption of Interest and Obligations dated December 1, 2003, by and between Bosa and Catellus.

- E. On January 11, 2007, Irvine acquired the 880 W. Broadway Site from Bosa pursuant to that certain Purchase Agreement and Joint Escrow Instructions dated September 5, 2006, by and between Bosa and Irvine, as amended. In connection therewith, Irvine assumed all of Bosa's rights, title, and interests in connection with the 880 W. Broadway Site pursuant to that certain Development Agreement Assignment and Assumption of Interests and Obligations, dated January 11, 2007, by and between Bosa and Irvine.
- F. On June 12, 2008, the Centre City Development Corporation issued Centre City Development Permit and Coastal Development Permit No. 2007-19 for a proposed office building on the 880 W. Broadway Site (the "880 W. Broadway Building").
- G. On August 15, 2003, Bosa acquired the "Pacific and Broadway Site," as described in Exhibit B, pursuant to that certain Agreement of Purchase and Sale and Joint Escrow Instructions for Santa Fe Depot Parcel 9, dated December 31, 2002, as amended from time to time, by and between Bosa and COLP, and in connection therewith Bosa assumed certain obligations under the Catellus Development Agreement relating to the Pacific and Broadway Site pursuant to that certain Development Agreement Assignment and Assumption of Interest and Obligations dated August 15, 2003, by and between Bosa and COLP.
- H. On August 7, 2012, the Centre City Development Corporation issued Centre City Development Permit and Coastal Development Permit No. 2012-23 for a proposed residential building on the Pacific and Broadway Site (the "Pacific and Broadway Building").
- I. Pursuant to that certain Assignment and Assumption of Sale Agreements (Santa Fe Depot) dated November 2004, by and between COLP and FOCIL-SFD, LLC, a Delaware limited liability company ("FOCIL"), COLP assigned to FOCIL all of COLP's right, title and interest in and to all existing purchase and sale contracts for all parcels comprising the Catellus Site. Thereafter, (i) Bosa acquired from FOCIL the "Option Parcel" described in the Catellus Development Agreement pursuant to that certain Agreement of Purchase and Sale and Joint Escrow Instructions for Santa Fe Depot Parcel 5, dated March 15, 2004, by and between Bosa and COLP, as amended from time to time, and in connection therewith Bosa assumed certain obligations under the Catellus Development Agreement relating to the Option Parcel pursuant to that certain Development Agreement Assignment and Assumption of Interest and Obligations dated October 17, 2005, by and between Bosa and FOCIL, and (ii) Bosa acquired from a third party the "Ash/Kettner Parcel" described in the Catellus Development Agreement. The Option Parcel and the Ash/Kettner Parcel (collectively hereinafter referred to as the "Kettner and Ash Site" and as described in Exhibit C) are being developed as a single project pursuant to the Catellus Development Agreement.
- J. On March 10, 2012, the Centre City Development Corporation issued Centre City Development Permit and Coastal Development Permit No. 2011-14 for a proposed residential building on the Kettner and Ash Site (the "Kettner and Ash Building").
- K. The Catellus Development Agreement expires on December 7, 2012. The Pacific and Broadway Site, the Kettner and Ash Site and the 880 W. Broadway Site (the "Undeveloped Sites," as illustrated in Exhibit D) remain undeveloped due to current market conditions, and it is uncertain when their development may occur. However, each of the Undeveloped Sites

have approvals for development that were issued under the rules and regulations contained in the Catellus Development Agreement, and the Landowners wish to ensure that certain development regulations contained in the Catellus Development Agreement that are in effect through December 7, 2012, continue to govern such approved developments. Additionally, the City desires to ensure that certain key development regulations in force for the Catellus Site through December 7, 2012, under the Catellus Development Agreement should continue in effect for the Undeveloped Sites to accomplish the original purposes of consistent and harmonious development such that the Undeveloped Sites will remain consistent with the previously developed portions of the Catellus Site. Among other things, this will insure appropriate and consistent development along the railroad corridor and Pacific Highway at a development pattern and intensity which complements these existing developed portions. At the same time, the City also desires to update certain development regulations and set forth all the regulations applicable to the Undeveloped Sites in a clear and consistent manner.

- L. The Parties intend to enter into a new and separate Agreement and do not wish to amend or extend the prior Catellus Development Agreement. By entering into a new and separate Agreement, the Parties intend to keep in place certain Development Regulations (defined below) which are now in force for the Undeveloped Sites and will be in effect for the Undeveloped Sites at the time that this new and separate Agreement is executed.
- M. The continuation of such entitlements and Development Regulations will not affect the Catellus Development Agreement. Pursuant to Government Code Section 65866, the parties to a development agreement may provide that, unless otherwise specified, "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 policies in force at the time of execution of the agreement." The Parties intend that this Agreement shall be executed by the City on the Effective Date (as defined below), which Effective Date shall be during the term of the Catellus Development Agreement to continue without lapse those specified rules and regulations concerning development of the Undeveloped Sites originally set forth for such Undeveloped Sites in the Catellus Development Agreement.
- N. The City finds that this Agreement provides for significant benefits to the City that could not be derived or provided except through this Agreement including: the coordinated development of multiple, individually owned sites in conformance with the Centre City Community Plan's population and employment goals; monetary contributions for future installation of Pacific Highway median improvements to be constructed by the City; the completion of Transit Courtyard improvements; the provision of enhanced public plazas along Broadway; the inclusion of public art within the development projects; and the upgrading of existing parking lots with landscaping and lighting.
- O. The City finds that this Agreement is consistent with the City of San Diego's General Plan and Local Coastal Program including the Centre City Community Plan adopted in 1992, as amended through 2004, and that the City has completed all necessary proceedings in accordance with the City's rules and regulations for its approval. Additionally, the City finds that the 1992 Centre City Planned Development Ordinance, as amended through 2004 (and

also part of the City's Local Coastal Program), provides that the Catellus Development Agreement shall govern the development of the Undeveloped Sites where conflicts with the Centre City Planned District Ordinance occur. The City finds that this Agreement provides for the build-out of the Undeveloped Sites in the manner contemplated by the Catellus Development Agreement.

AGREEMENT

NOW, THEREFORE, City and Landowners agree as follows:

1. Purpose. The purpose of this Agreement is to accomplish the objectives set forth in the Recitals to this Agreement, to set forth the terms and conditions for how the Undeveloped Sites may be developed by the Landowners, and to assure the Landowners that the Undeveloped Sites can be developed in accordance with the Development Regulations described in this Agreement.
2. Property. This Agreement shall apply to the Undeveloped Sites.
3. Effective Date; Term. This Agreement shall not become effective and no Party shall have any rights or obligations hereunder until the "Effective Date," which for purposes of this Agreement shall mean the thirty-first (31st) day following the approval or adoption of this Agreement by the City Council and signature by the City. The term of this Agreement ("Term") shall commence on the Effective Date and shall continue thereafter until the earlier of the following: (i) the date that is ten (10) years after the Effective Date; or (ii) the date this Agreement is terminated pursuant to Section 15 or 17.1 of this Agreement. The Parties shall each execute this Agreement on or before the Effective Date.
4. Scope of Development.
 - 4.1. Land Uses. The land uses permitted within the Undeveloped Sites shall be those land uses contemplated by the City for the original development of the Catellus Site, including but not limited to office, retail, hotel, and residential uses, subject to the limitations stated in Sections 4.1.1, 4.1.2 and 4.1.3. For purposes of this section, commercial lease space shall contain commercial uses that are accessible to the general public, that generate walk-in clientele, and that contribute to a high-level of pedestrian activity including retail shops, restaurants, bars, theaters and the performing arts, commercial recreation and entertainment, personal and convenience services, banks, travel agencies, museums, and galleries.
 - 4.1.1. 880 W. Broadway Site Land Use. ~~Any development of the 880 W. Broadway Site other than the 880 W. Broadway Building or a building that is in "Substantial Conformance" (as defined in the City's Development Services Information Bulletin 500, dated May 2012) with the 880 W. Broadway Building that is applied for before June 30, 2017, shall provide a minimum of fifty (50) percent of its gross floor area in commercial (non-residential) uses. No development permit application proposing less than fifty (50) percent commercial land uses on the 880 W. Broadway Site shall be submitted prior to this date without a proposed amendment to this Agreement.~~ Any development of the 880 W. Broadway Site shall provide at least one hundred

(100) percent of the building ground floor frontage facing Broadway with commercial uses, including but not limited to office or hotel lobby or commercial lease space. Such commercial space shall maintain a minimum average depth of twenty-five (25) feet and a minimum ground floor height of twenty (20) feet, measured from the finished floor of the ground floor to the finished floor of the second floor.

4.1.2. Pacific and Broadway Site Land Use. Any development of the Pacific and Broadway Site shall provide that one hundred (100) percent of the building ground floor frontage facing Broadway shall be used only for commercial purposes, including but not limited to office or hotel lobby or commercial lease space. Such commercial space shall maintain a minimum average depth of twenty-five (25) feet and a minimum ground floor height of twenty (20) feet, measured from the finished floor of the ground floor to the finished floor of the second floor.

4.1.3. Kettner and Ash Site Land Use. Any development of the Kettner and Ash Site shall provide commercial lease space along at least sixty (60) percent of the building frontage along Ash Street. Such commercial lease space shall maintain a minimum average depth of twenty-five (25) feet and a minimum ground floor height of thirteen (13) feet, measured from the finished floor of the ground floor to the finished floor of the second floor.

4.2. Building Area. The following maximum building gross floor areas permitted for each of the Undeveloped Sites are as follows:

880 W. Broadway Site	681,666 square feet
Kettner and Ash Site	585,000 square feet
Pacific and Broadway Site	515,533 square feet

A minimum floor area ratio of 4.0 shall apply to the Undeveloped Sites.

4.3. Building Height. The following maximum building heights permitted for each of the Undeveloped Sites shall apply:

880 W. Broadway Site	500 feet above mean sea level (“ <u>msl</u> ”)
Kettner and Ash Site	420 feet above msl
Pacific and Broadway Site	500 feet above msl

4.4. View Corridor Setbacks. The following view corridor building setbacks, measured from the property line abutting existing or previously existing right of way lines, including linear extensions of right of ways existing to the east, shall apply to the Undeveloped Sites:

Broadway	50 feet at ground level
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C Street	25 feet at a height of 50 feet above grade
B Street	25 feet at a height of 50 feet above grade
A Street	25 feet at a height of 50 feet above grade
Ash Street	25 feet at a height of 50 feet above grade
Pacific Highway	15 feet at a height of between 45 and 130 feet above grade

4.5. Tower Standards. Any portion of a building tower constructed on the Undeveloped Sites located above a height of eighty-five (85) feet shall not exceed a north-south building dimension of one hundred forty (140) feet, measured in elevation drawings (not including balconies with glass railings). Any two towers on an individual Undeveloped Site shall be separated by a minimum dimension of seventy-five (75) feet.

4.6. Parking. The Catellus Development Agreement did not provide for any minimum requirements but did establish certain maximum parking requirements for the Undeveloped Sites. However, the parking maximums were voided when the Centre City Planned District Ordinance was amended in 1998 to delete any parking maximums within the Downtown area. The parking regulations, consistent with existing approvals for the Undeveloped Sites, shall be as follows:

4.6.1. There shall be no maximum parking requirements.

4.6.2. Minimum parking requirements shall be as follows:

4.6.2.1. Residential Use: One parking space per residential unit shall be required.

4.6.2.2. Hotel Use: 0.3 parking spaces per hotel room shall be required.

4.6.2.3. Commercial Office Use: One space per 1,000 square feet of gross commercial office space shall be required.

Ground floor retail space shall be considered accessory to the primary uses of the building and Landowners shall not be required to provide parking for ground floor retail space.

4.7. Design Guidelines. As of the Effective Date of this Agreement, each of the Undeveloped Sites have approved Centre City and Coastal Development Permits (individually, "Permit" and collectively "Permits") as listed in Recitals F, H, and J of this Agreement. These Permits, including the building designs approved with such permits, shall be valid for the time periods specified in each Permit, including any extensions approved under provisions of the City Municipal Code or other City ordinance, including any alterations determined to be in Substantial Conformance with any such approvals as provided for in the City Municipal Code. If such Permits expire, the Landowners shall be permitted to submit new Permit applications in Substantial Conformance with the previous approvals. The submittal of new development Permit applications not in Substantial Conformance with the previous approvals, including alterations to existing Permits found not to be in Substantial Conformance with previous

approvals, shall be required to obtain new or amended Permits. The design of such developments shall conform to the Scope of Development provisions set forth in Section 4 of this Agreement and the Downtown Design Guidelines approved by the City Council by Resolution R-307143 in November, 2011.

5. Interim Parking Lot Improvement Obligations. Each Landowner agrees to fund and construct with respect to its Undeveloped Site(s) the following interim parking lot improvements: (1) One tree, minimum thirty-six (36) inch container size, shall be planted for every twelve (12) parking stalls; (2) Along all public street frontages, a thirty-six (36) inch high black or green vinyl-coated chain link fence with pedestrian gaps of no more than every one hundred (100) feet; (3) Security lighting in compliance with City standards in effect on the Effective Date of this Agreement. The improvements described in this section shall be required to be installed at each Undeveloped Site (a) no later than twelve (12) months after the Effective Date of this Agreement unless a construction permit application (at minimum, grading and shoring) has been submitted to the City for plan check during such twelve (12) month period with respect to such Undeveloped Site; or (b) no later than twenty-four (24) months after the Effective Date of this Agreement if (a) above is satisfied unless a construction permit (at minimum, grading and shoring) has been issued by the City during such twenty-four (24) month period with respect to such Undeveloped Site. Within 60 days of the execution of the amended Development Agreement, the existing pavement area within the public right-of-way along Broadway shall be widened to twenty (20) feet. In addition, a ten (10) foot deep landscape planter shall be installed behind the Broadway sidewalk and shall contain plantings complementary to the Broadway median plantings (drought tolerant species).
6. Median Obligations. As part of the North Embarcadero Visionary Plan implementation, the City plans on constructing medians within Pacific Highway concurrently with installation of other street improvements. These street improvements are dependent on the acquisition of additional right-of-way on properties under the jurisdiction of the San Diego Port District and United States Navy and such dedication may not occur until after development on the Undeveloped Sites. Therefore, the Landowners agree to pay to City fifty (50) percent of the cost of installing a median on Pacific Highway between Ash Street and E Street within thirty (30) days after the City provides Landowners with written notice that contracts for the work have been entered into by the City. The payment shall be for the City's actual costs for plans, specifications, permits, and/or construction, as documented by the City in written notice to Landowners. Bosa shall pay eighty (80) percent, and Irvine shall pay twenty (20) percent, of the Landowners' obligation under this paragraph, and neither Bosa nor Irvine shall be liable for the portion owed by the other party. The City shall not solicit bids for the work described in this paragraph without first providing a copy of the proposed bid specifications to Landowners at least fifteen (15) days prior to the publication thereof, and during such fifteen (15) day period, the City shall give good faith consideration to comments which Landowners may make regarding the proposed bid specifications. Landowners' sole obligation with respect to the improvements described in this paragraph shall be to provide the funds set forth in this paragraph. Landowners shall have no obligation to provide plans for such improvements and shall have no responsibility for their construction. Each of the Landowners may separately agree with the City on a cash payment or other alternative performance to satisfy this condition. Bosa Development shall fund a feasibility analysis,

concept design, and preliminary cost estimates for the potential median project between Ash and E streets with consideration to existing utility conflicts and the proposed Downtown San Diego Mobility Plan Traffic Analysis. This feasibility analysis, concept design and preliminary cost estimates shall be provided to the satisfaction of Civic San Diego within six months of the effective date of this amended Development Agreement.

7. Street Frontage Improvement Obligations. Each Landowner shall design and construct public improvements along the street frontages of each such Landowner's respective Undeveloped Site(s), including but not limited to, curbs, gutters, sidewalks, street trees, and street lighting to current City standards at the time of development of each Undeveloped Site.
8. Transit Courtyard/Linear Park Obligations. Bosa and Irvine shall each construct a minimum twelve-foot wide pedestrian pathway along the rail corridor (located along the west frontage of the Kettner and Ash Site and eastern frontage of the 880 W. Broadway Site, respectively) adjoining such Landowner's respective Undeveloped Site(s) compatible with adjoining pathways constructed by adjoining developments. The paving materials shall be concrete pavers to match existing adjoining materials. Each development shall incorporate a pedestrian arcade, building canopy projections, or other pedestrian coverings which complement those of adjoining developments and existing approvals. Bosa shall provide enhanced architectural treatment of the Pacific and Broadway Building along the Linear Park and design private improvements which complement the existing Linear Park improvements. The Parties agree that the approved Permits meet the requirements in this section. Irvine shall not be responsible for the transit corridor obligations of Bosa, and Bosa shall not be responsible for the transit corridor obligations of Irvine.
9. Public Art Obligations. Each Landowner shall develop a fine arts program that will result in the provision of publicly accessible works of public art with the development of each Undeveloped Site. The fine arts program shall provide for the provision of funds equivalent to one percent of the assessed value of land and proposed building at the time of issuance of building permits for each Undeveloped Site. The Parties agree that the approved Permits meet the requirements in this section. Each Landowner shall be required to provide the specifics of each piece of public art to be installed with each development to Civic San Diego and/or the City prior to the issuance of a construction permit for each Undeveloped Site. The public art for each development shall be installed at the completion of development prior to the issuance of a certificate of occupancy.

Irvine shall not be responsible for the public art obligations of Bosa, and Bosa shall not be responsible for the public art obligations of Irvine. Bosa has previously submitted and received approval of a Public Art Master Plan in 2007 for the properties currently and previously owned by Bosa and/or its affiliates (including the Pacific and Broadway and Kettner and Ash Sites, as well as the previously developed Grande North, Grand South and Bayside sites). However, Bosa or its affiliates have not met this obligation with respect to the Grande North development. Therefore, consistent with the previous Public Art Master Plan approval, Bosa shall expend, or cause its affiliates to expend, a minimum of \$563,805 for public art within, or adjacent to, the former Catellus Site, including but not limited to the Grande North site and the two Undeveloped Sites owned by Bosa. Bosa shall provide the specifics of the public art to be so installed to Civic San Diego and/or the City, and such plan

shall be approved by Civic San Diego and/or the City, prior to the issuance of a construction permit for the next Undeveloped Site to be developed by Bosa. Such public art shall be installed at the completion of development of such Undeveloped Site prior to the issuance of a certificate of occupancy therefor.

The obligations for each Undeveloped Site under this section may be satisfied through the provision of public art on each Undeveloped Site or combined in a single or multiple locations within the area covered by this Agreement as approved by Civic San Diego and/or the City. The public art obligations set forth in this section shall be offset by the credits described in Exhibit E.

10. Development Regulations. The rules, regulations, and official policies governing the permitted uses of land, density, design, and improvement of the Undeveloped Sites (the "Development Regulations") shall be those set forth in Section 4 of this Agreement, and to the extent they are consistent with the terms of this Agreement, the 1992 Planned District Ordinance, as amended through 2004. These Development Regulations shall not be changed during the Term of this Agreement except upon mutual consent of the City and Landowners with respect to each Landowner's respective Undeveloped Site(s).

- 10.1. Changes in Building and Fire Codes. Notwithstanding any provision of this Agreement to the contrary, development of the Undeveloped Sites shall be subject to changes which may occur from time to time in the California Building Standards and Fire Codes, as such Codes are adopted by the City of San Diego.

- 10.2. Changes Mandated by Federal or State Law. This Agreement shall not preclude the application to development of the Undeveloped Sites of changes in, or additions to, state and federal laws and regulations. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

11. Subsequent Approvals and Permits and Acts of the City. Except as otherwise set forth in this Agreement, City shall not require Landowners to obtain any further approvals or permits for the development of the Undeveloped Sites in accordance with this Agreement during the term of the Agreement unless such permits or approvals are required by the Development Regulations or by the terms of this Agreement. As set forth in Section 4.7, Landowners shall be required to obtain Coastal Development Permits and Centre City Development Permits for new development of the Undeveloped Sites or development that is not in Substantial Conformance with the previous approvals. The procedures for obtaining such Permits shall be those procedures set forth in the City Municipal Code in effect on the Effective Date of this Agreement. Such developments shall also be required to undergo design review for conformance with the requirements of this Agreement. In the event any further approvals or permits are required by the City for the development of the Undeveloped Sites during the term of this Agreement, the City agrees to grant all such approvals and permits to Landowners provided: (1) the development authorized by such permit or approval is in substantial accordance with this Agreement; and (2) Landowners have complied with the rules, regulations, and official policies for obtaining such approvals or permits set forth in the

Development Regulations and as otherwise provided in this Agreement. This paragraph shall not prevent the City from exercising such discretion as it may have under the Development Regulations. The City agrees that the terms, conditions, and requirements for such permits or approvals shall not prevent Landowners' development of the Undeveloped Sites in substantial accordance with the terms of this Agreement.

12. Police Power. In all respects not provided for in this Agreement, City shall retain full rights to exercise its police power to regulate the development of each Landowner's respective Undeveloped Site(s). Any uses or developments requiring a use permit, tentative tract map, or other discretionary permit or approval in accordance with the Development Regulations shall require a permit or approval pursuant to this Agreement, and, notwithstanding any other provision set forth herein, this Agreement is not intended to vest Landowners' rights to the issuance of such permit or approval nor to restrict City's exercise of discretion with respect thereto, provided that pursuant to Government Code section 65865.2, "such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development" set forth in this Agreement. Not by way of limitation of the foregoing, it is specifically understood that City reserves the right to amend, pursuant to procedures provided by law and this Agreement, City laws, rules, regulations, and policies applicable to the Undeveloped Sites as to which Landowners' rights are not expressly vested and such amendment or amendments shall be binding on the Undeveloped Sites except to the extent that the same conflict with the express provisions of this Agreement, which provide, inter alia, that no amendment to the Development Regulations shall be applicable if not agreed to by Landowner in writing pursuant to Section 15 of this Agreement or as authorized by Section 17.1 of this Agreement.
13. Tentative Subdivision Maps. City agrees that Landowners may file and process new and existing vesting tentative maps for any of the Undeveloped Sites consistent with California Government Code sections 66498.1-66498.9. Pursuant to the applicable provision of the California Subdivision Map Act (California Government Code section 66452.6(a)), any tentative subdivision map approved for any of the Undeveloped Sites, whether designated a "vesting tentative map" or otherwise, shall be extended for the Term of this Agreement.
14. No Third Party Beneficiaries. The only parties to this Agreement are City, Bosa, and Irvine. This Agreement does not involve any third party beneficiaries, and it is not intended and shall not be construed to benefit or be enforceable by any other person or entity.
15. Amendments or Cancellation of This Agreement. Except as otherwise permitted herein, this Agreement may be amended or terminated only by the mutual written and executed consent of the City and of the Landowner(s) whose property may be affected by the amendment and only in the same manner as its adoption by an ordinance as set forth in Government Code sections 65867, 65867.5, and 65868, and City Municipal Code sections 124.0104 and 124.0108. Notwithstanding the foregoing, this Agreement may be amended or terminated with respect to an Undeveloped Site, without affecting the rights and obligations of the Landowner(s) of the other Undeveloped Sites, by the mutual written and executed consent of the City and the Landowner of such Undeveloped Site, and in the same manner as its adoption by an ordinance as set forth in Government Code sections 65867, 65867.5, and 65868, and City Municipal Code sections 124.0104 and 124.0108.

16. Periodic Review. The City shall review Landowners' performance pursuant to the terms of this Agreement at least once every twelve months during the term hereof. The City may delegate its review to Civic San Diego. During each periodic review Landowners shall demonstrate good faith compliance with the terms hereof. In connections with such review, the City shall have a reasonable opportunity to assert matters which it believes have not been undertaken in accordance with the Agreement, to explain the basis for such assertion, and to receive from Landowners a justification of their positions on such matters.

17. Events of Default.

17.1. Default by Landowners. Pursuant to California Government Code section 65865.1, if the City determines following a noticed public hearing and on the basis of substantial evidence that one or both Landowners have not complied in good faith with their obligations pursuant to this Agreement, City shall by written notice to any such non-complying Landowner, specify the manner in which such party has failed to comply and state the steps that such party must take to bring itself into compliance. If the non-complying party does not commence all steps reasonably necessary to bring itself into compliance as required and diligently pursue steps to completion within thirty (30) days after receipt of the written notice from City specifying the manner in which such non-complying party has failed to comply (or, if such non-compliance cannot reasonably be cured within said thirty (30) day period, failed to commence such cure within said period and thereafter diligently pursued the same to completion), then such non-complying Landowner shall be deemed to be in default under the terms of this Agreement. City may then: (1) seek a modification of this Agreement as to such party; (2) terminate this Agreement as to such party; or (3) seek any other available remedies against such party as provided in this Agreement. Notwithstanding any of the foregoing or any other provision of this Agreement, neither Bosa nor Irvine shall be liable under this Agreement for a default by the other.

17.2. Default by City. If City has not complied in good faith with its obligations under this Agreement, Landowners shall by written notice to City specify the manner in which City has failed to comply and shall state the steps necessary for City to bring itself into compliance. If City does not commence all steps reasonably necessary to bring itself into compliance as required and diligently pursue steps to completion within thirty days after receipt of the written notice from Landowners specifying the manner in which City has failed to comply, then City shall be deemed to be in default under the terms of this Agreement. Landowners may then exercise any of all of the following remedies: (1) seek a modification of this Agreement; or (2) seek a specific performance or similar equitable remedy as provided in Section 17.3 of this Agreement.

17.3. Specific Performance and Damages Remedies. The Parties acknowledge that, except as provided in this Section 17.3 and in Section 17.4 of this Agreement, money damages and remedies at law generally are inadequate and that specific performance is appropriate for the enforcement of this Agreement. The remedy of specific performance or, in the alternative, a writ of mandate, shall be the sole and exclusive remedy available to either Party in the event of the default or alleged default by the other, with the exception that City shall be entitled to damages against a Landowner for such

Landowner's breach of its obligations under Section 19 of this Agreement. The limitations on the remedy of damages in this Agreement shall not prevent City from enforcing a Landowner's monetary obligations hereunder.

- 17.4. Recovery of Legal Expenses by Prevailing Party in Any Action. If any legal action is brought by any party to this Agreement as a result of any breach of this Agreement or to enforce any provision of this Agreement, the prevailing party shall be entitled to recover all expenses incurred therefor including reasonable attorneys' fees and court costs.
18. Force Majeure. No party to this Agreement shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused, through no fault of the party whose performance is prevented or delayed, by floods, earthquakes, other acts of God, fires, wars, riots or similar hostilities, strikes or other labor difficulties, state or federal regulations, or court actions. Except as specified above, nonperformance shall not be excused because of the act or omission of a third person.
19. Hold Harmless. Each Landowner agrees to indemnify, defend, and hold harmless the City, its officers, agents, employees, and representatives from liability for damage or claims for damage for personal injury including death and claims for property damage which may arise from the direct and indirect operations of such Landowner or those of its contractors, subcontractors, agents, employees, or other persons acting on its behalf which relate to the development of such Landowner's Undeveloped Site(s). Such obligation shall not be joint and several, and each Landowner shall be liable only for its own actions, and those of its own contractors, agents, employees and other persons acting on its behalf in connection with its own Undeveloped Site(s). City shall have the right to select and retain counsel to defend any actions, and, subject to the foregoing sentence, Landowners shall pay the reasonable cost for this defense. The provisions of this paragraph shall not apply to the extent such damage, liability, or claim is proximately caused by the intentional or negligent act of the City or its officers, agents, employees, or representatives. The indemnity provisions in this paragraph shall survive termination of this Agreement.

Landowners shall defend, indemnify, and hold harmless the 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 Development Agreement 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 Landowners of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Landowners 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, Landowners 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 Landowners 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 Landowners

shall not be required to pay or perform any settlement unless such settlement is approved by Landowners. The indemnity provisions in this paragraph shall survive termination of this Agreement.

20. Fees. This Agreement does not preclude the inclusion of and changes to facility benefit assessments, facility financing plans, development impact fees or other related fees adopted on a community or City-wide basis where such inclusion or change is caused by inflation, later more accurate cost estimation, later commonly accepted higher standards of construction or to address community facility deficiencies arising from and attributing to unforeseen circumstances in the development of the Undeveloped Sites.
21. Assignment. The rights and obligations of Landowners under this Agreement may be transferred or assigned, provided such transfer or assignment is made as part of a transfer, assignment, sale or lease of all of any portion of the Undeveloped Sites, provided that no partial transfer shall violate the Subdivision Map Act (California Government Code sections 66410-66499.58). Any such transfer or assignment shall be subject to the provisions of this Agreement and the controls and limitations contained herein, including but not limited to use, height, intensity, and design review restrictions. Any sale or transfer shall include the assignment and assumption of the rights, duties, and obligations arising from this Agreement to the transferee with respect to the part of the Undeveloped Sites transferred. Irvine or Bosa, as applicable, shall no longer be obligated under this Agreement for the part of the Undeveloped Sites that was sold or transferred if Irvine or Bosa, as applicable, is not in default under this Agreement at the time of the sale or transfer.
22. Agreement Binding on Successors and Assigns. The burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors of interest of the Parties to this Agreement, and constitute covenants that run with the Undeveloped Sites. In order to provide continued notice, the Parties will record this Agreement and any subsequent amendments.
23. Relationship of Parties. The Parties acknowledge that Landowners are not agents of the City and the City is not an agent of either or both the Landowners.
24. Notices. Any notice or demand that shall be required or permitted by law or any provision of this Agreement shall be in writing. If the notice or demand will be served upon a Party, it either shall be personally delivered to the Party; deposited in the United States mail, certified, return receipt requested, and postage prepaid; or delivered by a reliable courier service that provides a receipt showing date and time of delivery with courier charges prepaid. The notice or demand shall be addressed as follows:

TO CITY:	City of San Diego Office of the City Attorney 1200 Third Avenue Suite 1620 San Diego, California Attn: City Attorney
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TO IRVINE:

The Irvine Company LLC
550 Newport Center Drive
Newport Beach, California 92660-0015
Attn: General Counsel

TO BOSA:

Bosa Development California II, Inc.
#500 – 1901 Rosser Avenue
Burnaby B.C. V5C6S3
Canada
Attn: Richard Weir

25. Severability. If any provisions of this Agreement shall be held to be invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, unless the court shall specifically find that the invalid part of so fundamental and essential to the understanding of the Parties that the entire Agreement shall be invalidated.
26. Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. No waiver of any right or remedy in respect to any occurrence or event shall be deemed a waiver of any right or remedy in respect to any other occurrence or event.
27. Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.
28. Time Is of the Essence. Time is of the essence regarding each provision of this Agreement in which time is an element.
29. Notice of Intention. In enacting this Agreement, the City has provided for public notice and hearing in the manner provided by California Government Code Section 65867.
30. Compliance with California Government Code Section 65867.5. California Government Code Section 65867.5 provides that a development agreement is a legislative act that shall be approved by ordinance and subject to referendum. A development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan. These requirements of California Government Code Section 65867.5 have been satisfied by the City's finding that this Agreement is consistent with the City's General Plan and certified Local Coastal Program including the Centre City Community Plan and Centre City Planned District Ordinance, and the City's approval of this Agreement by ordinance.
31. Section Headings. All section headings are inserted for convenience only and shall not affect construction or interpretation of this Agreement.
32. Incorporation of Exhibits. The following exhibits are attached to this Agreement and incorporated by this reference as follows:

EXHIBIT DESIGNATION	DESCRIPTION
A	Legal Description of the 880 W. Broadway Site
B	Legal Description of the Pacific and Broadway Site
C	Legal Description of the Kettner and Ash Site
D	Illustration of Undeveloped Sites
E	Arts Fee Summary

33. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be identical and may be introduced in evidence or used for any other purpose without any other counterpart, but all of which shall together constitute one and the same Agreement.
34. Authority to Execute. The persons executing this Agreement warrant and represent that they have the authority to execute this Agreement on behalf of the party for which they are executing this Agreement. They further warrant and represent that they have the authority to bind their respective party to the performance of its obligations under this Agreement.
35. Recordation. This Agreement and any amendment, modification, or cancellation to it shall be recorded in the Office of the County Recorder of the County of San Diego in the period required by California Government Code Section 65868.5 and City of San Diego Municipal Code Section 124.0105.
36. Date of Agreement. The date of this Agreement shall be the date when the Agreement shall have been executed by the City.

[SIGNATURE PAGE FOLLOWS]

**SIGNATURE PAGE TO
DEVELOPMENT AGREEMENT**

“IRVINE”

THE IRVINE COMPANY LLC

By: _____

Its:

“BOSA”

BOSA DEVELOPMENT CALIFORNIA II,
INC.

By: _____

Its:

“CITY”

CITY OF SAN DIEGO

By: _____

Its: Mayor

APPROVED AS TO FORM AND LEGALITY:
JAN GOLDSMITH
CITY ATTORNEY

BY: _____
Deputy City Attorney

State of California)
County of San Diego)

On _____ before me,

_____, personally

appeared _____

_____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California)
County of San Diego)

On _____ before me,

_____, personally

appeared _____

_____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California)
County of San Diego)

On _____ before me,

_____, personally

appeared _____

_____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A TO DEVELOPMENT AGREEMENT

Description of Real Property – 880 W. Broadway Site

Real property in the City of San Diego, County of San Diego, State of California, described as follows:

Parcel A:

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.

Together with that portion of Pacific Highway (formerly Atlantic Street) and the North Half of Broadway (formerly Spring Street) adjoining the above described land, as said streets are dedicated to public use, which upon closing would revert, by operation of law, to the above described land.

Excepting therefrom: All right, title, and interest in and to all water rights, coal, oil, gas and other hydrocarbons, geothermal resources, precious metals ores, base metal ores, industrial-grade silicates and carbonates, fissionable minerals of every kind and character, metallic or otherwise, whether or not presently known to Science or Industry, now known to exist or hereafter discovered upon, within or underlying the surface of said land regardless of the depth below the surface at which any such substance may be found; however, Grantor, or its successors and assigns, shall not have the right for any purpose whatsoever to enter upon, into or through the surface of the first 500 feet of the subsurface of the property in connection therewith.

Parcel B:

Those certain non-exclusive cross street and perimeter easements created by and defined in Amended and Restated Agreement Granting Street Cross-Easements and Covenants for Maintenance and Repair, recorded August 5, 2002 as instrument no. 2002-0659797 of Official Records.

Excepting therefrom any portion of said easement lying within Parcel A described above.

APN: 533-471-09-00

EXHIBIT B TO DEVELOPMENT AGREEMENT

Description of Real Property – Pacific and Broadway Site

Real property in the City of San Diego, County of San Diego, State of California, described as follows:

ALL OF PARCEL 1 OF PARCEL MAP NO. 19274, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON JULY 11, 2003 AS FILE NO. 2003-0826597 OF OFFICIAL RECORDS.

TOGETHER WITH THAT PORTION OF PACIFIC HIGHWAY (FORMERLY ATLANTIC STREET), THE SOUTH HALF OF BROADWAY (FORMERLY 'D' STREET), AND THE NORTH HALF OF 'E' STREET, ADJOINING THE ABOVE DESCRIBED LAND, AS SAID STREETS ARE DEDICATED TO PUBLIC USE, WHICH UPON CLOSING WOULD REVERT, BY OPERATION OF LAW, TO THE ABOVE DESCRIBED LAND.

APN: 533-531-03-00

EXHIBIT C TO DEVELOPMENT AGREEMENT

Description of Real Property – Kettner and Ash Site

Real property in the City of San Diego, County of San Diego, State of California, described as follows:

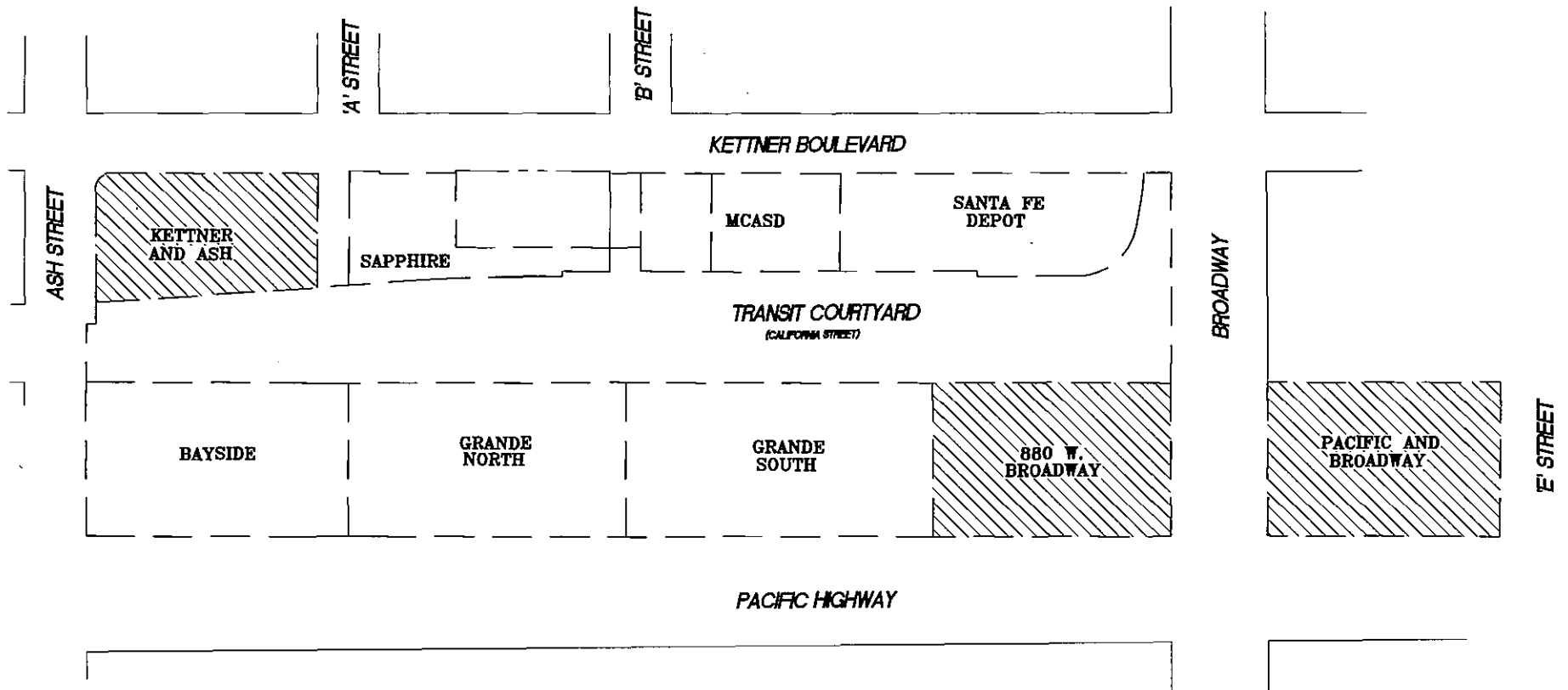
Parcel A

Parcel 1 of Parcel Map No. 20582 in the City of San Diego, County of San Diego, State of California, filed in the Office of County Recorder of San Diego County, September 23, 2008 as Instrument No. 2008-0504099 and amended pursuant to that certain Certificate of Correction recorded December 8, 2010 as Instrument No. 2010-0677212 of Official Records.

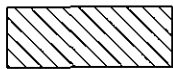
EXHIBIT D TO DEVELOPMENT AGREEMENT

Illustration of Undeveloped Sites

— Z —
NOT TO SCALE



LEGEND



UNDEVELOPED SITES UNDER PROPOSED 2012 DEVELOPMENT AGREEMENT

DATE: 8-30-12

EXHIBIT E TO DEVELOPMENT AGREEMENT

PUBLIC ART OBLIGATIONS

Under Section 9 of this Agreement, as was required under the Fine Art Program provisions of the previous Catellus Development Agreement applying to the Undeveloped Sites, each new development shall provide public art equivalent to 1% of the combined land value and building valuation at the time of the issuance of building permits for each development site. However, based on Catellus' previous building improvements to, and value of, the Baggage Building, there existed a \$3.2 million credit towards the future Fine Arts Program obligations. This credit was pro-rated among the development sites within the Catellus Development Agreement area. These pro-rated credits will continue to apply to the Public Art obligations of the Undeveloped Sites as follows:

880 W. Broadway	\$546,568
Kettner and Ash	\$482,741
Pacific and Broadway	\$413,361



June 24, 2015

Brad Richter
Assistant Vice President – Planning
Civic San Diego
401 B Street, Suite 400
San Diego, CA 92101

Re: Amended and Restated Agreement Granting Street Cross Easements and Covenants for Maintenance and Repair under California Civil Code Section 1468 (the "Agreement").

Dear Brad,

We are writing to respond to, and correct, certain comments made on behalf of the Grande South HOA regarding the ownership, configuration and use of the future "C" Street between the Grande South and Santa Fe Depot Parcel 1.

All of the lots comprising the Santa Fe Depot are benefited and burdened by the above referenced Agreement. Among other things, the Agreement grants to the Parcel 1 owner the right and privilege to construct, maintain, repair and use public or private roadway, landscape and landscape improvements on the entirety of "C" Street. Furthermore it gives the Parcel 1 owner the exclusive right and privilege to i) determine the exact configuration of street improvements on "C" Street; ii) to reconfigure such street improvement from time to time; and iii) to make other changes thereto from time to time... including without limitation such changes as the location and relocation of entrances, exits, parking spaces and restricted use area, traffic direction and flow and similar matters.

Any prior use of the "C" Street easement area by residents and visitors of the Grande South HOA has been specifically permitted by the Parcel 1 owner, establishes no right to future use by the Grande South, and does not have any effect on the rights of the Parcel 1 owner to determine the use and configuration of "C" Street in its unfettered discretion.

Thank you for your attention to this matter.

Richard Weir
Vice President & Secretary

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

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

**DRAFT CENTRE CITY DEVELOPMENT PERMIT
CENTRE CITY PLANNED DISTRICT
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 Civic San Diego (“CivicSD”) to The Irvine Company, LLC, Owner, and Bosa Development California II, Inc., Permittee, to allow the construction of a mixed-use 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, on a 62,000 SF premises 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 as follows and on the approved Basic Concept / Schematic Drawings and associated Color and Materials Boards dated September 15, 2015, on file at CivicSD.

1. General

The Owner and/or Permittee shall construct, or cause to be constructed on the site, 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.

2. Coastal Development Permit

The City Council hereby grants a Coastal Development Permit (CDO) pursuant to Chapter 12, Article 6, Division 7 of the San Diego Municipal Code (SDMC) consistent with the DCP, the CCPDO, and the SDMC.

3. Neighborhood Development Permit

The City Council hereby grants a Neighborhood Development Permit (NDP) pursuant to SDMC Section 126.0402(j) for the 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 shall include a subterranean garage, transformer vault and overhead projections including awnings, canopies, balconies, and other architectural appendages as permitted by the Uniform Building Code. All underlying fee title of the adjacent ROW (to the centerline of the adjacent streets) must be transferred to the Project Applicant prior to recordation of the CCDP and the NDP.

4. 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.

5. 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. A navigation easement must be recorded with the County Recorder;

PLANNING AND DESIGN REQUIREMENTS

6. 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 are encouraged where they are consistent with the design theme of the structure. 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. The development shall implement a recycling program to provide for the separation of recyclable materials from the non-recyclable trash materials.
- 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. A single, centralized interior mail area in a common lobby area is encouraged for all residential units within a development, including associated townhouses with individual street entrances. 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. Such plan shall be submitted in conjunction with 100% Construction Drawings.

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

- 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 shall be submitted with 100% Construction Drawings.
 - j. Roof Tops – A rooftop equipment and appurtenance location and screening plan shall be prepared and submitted with 100% Construction Drawings. Any roof-top mechanical equipment must be grouped, enclosed, and screened from surrounding views (including views from above); except where exempted by this Permit. Individual condenser units are exempted from overhead screening when grouped in an orderly fashion.
 - k. Signage – All signs shall comply with the City Sign Regulations and the CCPDO.
 - l. Lighting – A lighting plan which highlights the architectural qualities of the proposed development and also enhances the lighting of the ROW shall be submitted with 100% Construction Drawings. All lighting shall be designed to avoid illumination of adjoining properties.
 - m. 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. All mechanical equipment shall be located to mitigate noise and exhaust impacts on adjoining development, particularly residential. Owner and/or Permittee shall provide evidence of compliance at 100% Construction Drawings.
 - n. Energy Considerations – The design of the improvements shall include, where feasible, energy conservation construction techniques and design, including cogeneration facilities, and active and passive solar energy design. The Owner and/or Permittee shall demonstrate consideration of such energy features during the review of the 100% Construction Drawings.
 - o. Street Address – Building address numbers shall be provided that are visible and legible from the ROW.
7. 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 with the 100% Construction Drawings. Any on-site landscaping shall establish a high quality of design and be sensitive to landscape materials and design planned for the adjoining ROW.
8. 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

9. 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:

Off-Site Improvements	Broadway	Pacific Highway
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.

The Owner and/or Permittee will be responsible for evaluating, with consultation with the CivicSD, whether any existing trees within the ROW shall be maintained and preserved. 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.
- 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.

- 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 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 where feasible. 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, 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.

10. 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.

11. 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:

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.

STANDARD REQUIREMENTS

12. 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.

13. Development Impact Fees

The development will be subject to Centre City Development Impact Fees. For developments containing commercial space(s) 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;

and 2) applicable floor plans showing those areas outlined for verification. 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.

14. 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.

15. 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.

16. 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
- Development name
- Developer
- Completion Date
- For information call _____

Additional development signs may be provided around the perimeter of the site. All signs shall be limited to a maximum of 160 SF per street frontage. Graphics may also be painted on any barricades surrounding the site. All signs and graphics shall be submitted to the CivicSD for approval prior to installation.

17. Tentative Map

The Owner and/or Permittee shall be responsible for obtaining all map approvals required by the City prior to any future conversion of the residential units and/or commercial spaces to condominium units for individual sale.

18. 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 Section 126.0108 of the

SDMC within the 36 month period, this permit shall be void unless an Extension of Time (EOT) has been granted pursuant to Section 126.0111 of the SDMC.

19. Issuance of this Permit by CivicSD does not authorize the Owner and/or Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies.
20. 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 and/or Permittee and any successor(s) in interest.
21. This development shall comply with the standards, policies, and requirements in effect at the time of approval of this development, including any successor(s) or new policies, financing mechanisms, phasing schedules, plans and ordinances adopted by the City.
22. No permit for construction, operation, or occupancy of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until this Permit is recorded in the Office of the San Diego County Recorder.
23. The Owner and/or Permittee shall defend, indemnify, and hold harmless the CivicSD and the 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 CivicSD will promptly notify the Owner and/or Permittee of any claim, action, or proceeding and, if CivicSD should fail to cooperate fully in the defense, the Owner and/or Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. CivicSD 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, the Owner and/or 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 CivicSD and the Owner and/or Permittee regarding litigation issues, the CivicSD 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 and/or Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner and/or Permittee.

This CCDP/CDP/NDP is granted by the City Council on February 29, 2016.

CIVIC SAN DIEGO:

OWNER:

Aaron Hollister
Senior Planner

Thomas F. Sullivan
The Irvine Company, LLC

Note: Notary acknowledgment must be attached per Civil Code Section 1189 et seq

PERMITTEE:

Richard Weir
Bosa Development California II, Inc.

S:\Planning\APPLICATIONS\Dev Permits\2014-71 Broadway & Pacific - Parcel 1\Permit\2014-71_CDP_Pacific&Broadway-Parcel1_DraftPermit.docx

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

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.

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 pursuant to Resolution No. XXXX-PC; and

WHEREAS, Development within the Downtown Community Plan is covered under the FEIR for the San Diego Downtown Community Plan, CCPDO, and 10th Amendment to the Centre City Redevelopment Plan, certified by the Former Redevelopment Agency ("Former Agency") and City Council ("Council") on March 14, 2006 (Resolutions R-04001 and R-301265, respectively) 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), August 3, 2010 (Former Agency Resolution R-04544) and certified by Council on February 12, 2014 (Resolution R-308724) and July 14, 2014 (Resolution R-309115). The FEIR is a "Program EIR" prepared in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15168. An FEIR Consistency Evaluation ("Evaluation") was prepared in accordance with suggested best practices outlined in CEQA Guidelines Section 15168. The Evaluation concluded that the environmental impacts of the project were adequately addressed in the FEIR and that the project is within the scope of the development program described in the FEIR. Therefore, no further environmental documentation is required under CEQA; and

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

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:

CENTRE CITY DEVELOPMENT PERMIT (CCPDO §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.

The proposed development is consistent with the DA (subject to the proposed amendments), and as applicable the DCP (subject to the proposed amendments), CCPDO (subject to the proposed amendments), SDMC, 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.*

COASTAL DEVELOPMENT PERMIT (SDMC § 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 setback 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; and,

This proposed development is consistent with the DCP (subject to the proposed amendments), CCPDO (subject to the proposed amendments), 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.

NEIGHBORHOOD DEVELOPMENT PERMIT (SDMC § 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; and,

Compliance with CBC regulations and City Council Policy 700-18 for subterranean encroachments into the ROW will assure such encroachments are not detrimental to the health, safety, and welfare of the public.

3. The proposed development will comply with the applicable regulations of the SDMC including any allowable deviations pursuant to the SDMC.

Through approval and recording of this Permit, this Project is in compliance with the applicable regulations of the SDMC.

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the City Council, 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 Permit No. 2014-71, a copy of which is attached hereto and made a part hereof.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
Deputy City Attorney

Date
Or.Dept: Civic San Diego
Doc. No.: _____

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor