



THE CITY OF SAN DIEGO

## Report to the Planning Commission

DATE ISSUED: April 4, 2022 REPORT NO. PC-22-014

HEARING DATE: April 21, 2022

SUBJECT: BOSA DEVELOPMENT AGREEMENT. Process Five Decision

PROJECT NUMBER: [691185](#)

REFERENCE: [City Council Report for 2012 Development Agreement dated October 3, 2012](#)  
[City Council Report for 2016 Amendment to 2012 Development Agreement dated February 5, 2016](#)

OWNER/APPLICANT: Bosa Development California II, Inc.

### SUMMARY

Issue: Should the Planning Commission recommend to the City Council approval of the proposed development agreement (DA) between the City of San Diego ("City") and Bosa Development California II, Inc. ("Bosa") for the undeveloped block located at the northeast corner of Pacific Highway and Broadway ("Site") within the Downtown Community Plan (DCP) area and rescission of the existing 2012 Development Agreement?

Staff Recommendation: Staff recommends that the Planning Commission recommend that the City Council ("Council") approve the proposed DA for the Site.

Community Planning Group Recommendation: The Downtown Community Planning Council reviewed the proposed DA at their meeting on August 18, 2021 and voted 14-0 to recommend approval of the proposed DA. Recommendation included as Attachment 6.

Other Recommendations: None.

Environmental Review: Development within the DCP area is covered under the following documents, all referred to as the "Downtown FEIR": Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and 10<sup>th</sup> 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); 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), July 14, 2014 (City Council Resolution R-309115), and November 17, 2020 (City Council Resolution R-313302); and, the Final Supplemental Environmental Impact Report for the Downtown San Diego Mobility Plan certified by the City Council on June 21, 2016 (Resolution R-310561). Development within the DCP area is also covered under the following documents, all referred to as the "CAP FEIR": FEIR for the City of San Diego Climate Action Plan (CAP), certified by the City Council on December 15, 2015 (City Council Resolution R-310176), and the Addendum to the CAP, certified by the City Council on July 12, 2016 (City Council Resolution R-310595). Development within the DCP area is also consistent with the FEIR for Complete Communities: Housing Solutions and Mobility Choices (SCH No. 2019060003) certified by the San Diego City Council on November 9, 2020 (Resolution R313279). The Downtown FEIR, CAP FEIR, and Complete Communities FEIR are "Program EIRs" prepared in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15168. The information contained in the Downtown FEIR, CAP FEIR, and Complete Communities FEIR reflects the independent judgement of the City of San Diego as the Lead Agency. The environmental impacts of the Project were adequately addressed in the Downtown FEIR, CAP FEIR, and Complete Communities FEIR; the Project is within the scope of the development program described in the Downtown FEIR, CAP FEIR, and Complete Communities FEIR and are adequately described within each document for the purposes of CEQA; and, none of the conditions listed in CEQA Guidelines Section 15162 exist. Therefore, no further environmental documentation is required under CEQA. All environmental documents for the DCP area are available here: <https://www.sandiego.gov/development-services/news-programs/downtown-development/eirs>, the CAP FEIR is available here: <https://www.sandiego.gov/ceqa/final>, and the Complete Communities FEIR is available here: <https://www.sandiego.gov/complete-communities>. The Project Consistency Evaluation is attached to this staff report (Attachment 9) for informational purposes only; no action regarding the Evaluation is required by the decision maker.

Fiscal Impact Statement: None with this action. Associated costs are recovered from a deposit account funded by the applicant.

Code Enforcement Impact: None.

Housing Impact Statement: The proposed DA is intended to provide certainty in the development approval process with the City but it does not approve an actual project. Any future project constructed on the Site is subject to the development regulations set forth in the proposed DA and would be required to comply with the City's Inclusionary Housing Ordinance. According to the San Diego Housing Commission, as of March 2022, there are a total of 5,663 active deed-restricted affordable housing units within the DCP area. According to SANDAG 2020 estimates, there are approximately 30,622 housing units within the DCP area.

## BACKGROUND

Development agreements are authorized by the California Government Code Section 65865 et seq. The San Diego Municipal Code (SDMC) provides additional regulations for the adoption of development agreements in Chapter 12, Article 4, Division 1. Development agreements are a Process 5 review under the SDMC requiring a recommendation from the Planning Commission. Under the required findings to approve a development agreement in SDMC Section 124.0104(c), the City Council must find that:

1. The development agreement is consistent with the applicable land use plans, Local Coastal Program, and the Land Development Code;
2. The development agreement will provide significant public benefits in proportion to the rights granted under the development agreement; and,
3. The significant public benefits will be in excess of what would be obtained under existing policies and regulations and otherwise would not reasonably be derived or provided except through the development agreement.

In 1983, the City entered into a DA with Catellus Development Corporation ("Catellus") for the redevelopment of the properties generally bounded by Ash Street on the north, Kettner Boulevard to the east, E Street to the south, and Pacific Highway to the west (excluding the block bounded by Broadway, Kettner, E, and California streets, now occupied by the Electra condominium project). In 1992, the City Council approved the Amended and Restated DA ("Catellus DA") between the City and Catellus, which governed the site for 20 years.

The 1983/1992 Catellus DA provided for:

1. The orderly redevelopment of 17 acres in a consistent and coordinated manner to create a mixed-use center near Downtown's waterfront, consistent with the certified Local Coastal Plan including the 1992 Centre City Community Plan and Centre City Planned District Ordinance (CCPDO). The Scope of Development and Design Guidelines essentially provided for the redistribution of the Community Plan density from the historic Santa Fe Depot property to the other redevelopment sites.
2. The installation of transit rail improvements to accommodate the San Diego Trolley, Amtrak/Coaster passenger trains, and freight trains which utilize former California Street.
3. The creation of a Transit Courtyard and ancillary improvements to create a more attractive transit facility.
4. The rehabilitation of the historic Santa Fe Depot and Baggage Building complex.
5. The conversion of the Baggage Building into a cultural use.
6. The dedication of rights-of-way and installation of public improvements within the area.
7. The installation of enhanced pedestrian improvements along the Transit Courtyard to provide for an extension of the Linear Park north of Broadway along both sides of the tracks.
8. The installation of landscaped medians within Pacific Highway with anticipated future street widening.
9. The provision of public art throughout the complex equivalent to a 1% fee based on current property and building valuations.

In 2012, the City Council approved a new DA ("2012 DA") (Attachment 4) to extend the terms of the Catellus DA for the three remaining undeveloped blocks at the time, as shown in the Vicinity Map included as Attachment 1. Since 2012, two of the blocks have been developed with the Savina and the Pacific Gate projects, as described above. The last remaining undeveloped block is at the Site at the northeast corner of Pacific Highway and Broadway.

In 2016, an amendment to the 2012 DA was approved by the City Council (Attachment 5) to allow a modification of the land uses within the Site, which provided the flexibility for a predominately residential project. As part of this amendment, Bosa was required to install interim improvements to the existing surface parking lot and conduct a feasibility study for landscaped medians along Pacific Highway. While the Broadway sidewalk improvements and parking lot landscaping have been installed, the feasibility study was never completed due to the adoption of the Downtown San Diego Mobility Plan (DSDMP) and changing design standards for Pacific Highway. Instead of the previous design incorporating six travel lanes and narrow bike lanes, the current design is for four travel lanes and protected bike lanes, or Cycleways. This design, along with the installation of a SDG&E 69kv transmission line down the middle of the street which essentially prevents the planting of trees, instead utilizes a narrow paved median from Harbor Drive to Laurel Street. This median has been constructed between Ash Street and Broadway by the Land Field Hotel project on Port Tidelands and the third phase of the DSDMP infrastructure. Therefore, the previous requirements for the landscaped median have been removed from this new proposed agreement.

As a result of the implementation of the Catellus DA and subsequent development agreements, the following improvements and public benefits have now been completed:

1. The installation of the required transit rail improvements (\$7.8 million).
2. The construction of the Transit Courtyard with enhanced paving, shelters, and landscaping (\$3.1 million).
3. The construction of the Santa Fe Depot forecourt improvements including a water fountain.
4. The seismic retrofit and rehabilitation of the historic Santa Fe Depot and Baggage Building complex.
5. The conversion of the Baggage Building, including new construction at its north end, into the Museum of Contemporary Art San Diego (MCASD), including conveyance of the property and buildings to MCASD.
6. The construction of six projects: the Grande North/South, Savina, Bayside and Sapphire condominium towers (total of 1,298 residential units).
7. The installation of enhanced Linear Park pedestrian paving and landscaped trellises along the rail corridor.
8. The installation of public art as follows:
  - Baggage Building: 'Santa Fe Depot' by Richard Serra (six forged steel cubes) and 'For MCASD' by Jenny Holzer (LED light with scrolling Truisms)
  - MCASD: 'Border Crossing/Cruzando El Rio Bravo' by Luis Jimenez (across from Santa Fe Depot and the Baggage Building)
  - Bayside: 'Undoing the Knot' by Shirazeh Houshiary

- Sapphire: Tower: Sapphire Tower Glass and Metal Fin by Betsy Kopshina Shultz and 'The Tracks We Leave Behind' (Tower Columns) by Betsy Kophsina Schultz
- Pacific Gate: 'Pacific Soul' by Jaume Plensa

## DISCUSSION

### Project Description:

This action proposes to rescind the existing ten-year-old 2012 DA (Attachment 4) and replace it with a new development agreement ("proposed DA") (Attachment 2) for the undeveloped property located at the northeast corner of Pacific Highway and Broadway ("Site") owned by Bosa (Applicant), as shown in the Vicinity Map (Attachment 1). Due to the impending December 2022 expiration of the existing 2012 DA, Bosa has requested to enter into the proposed DA for the Site only, as it is the one remaining undeveloped property from the 2012 DA. The proposed DA would allow for the construction of a project on the Site as set forth in Section 4 of the proposed DA or the Centre City Planned District Ordinance, consistent with the existing 2012 DA provisions and the long-range plan for this area. The draft proposed DA is included as Attachment 2.

The Catellus and subsequent DAs have achieved a majority of the obligations contained therein and as described in the Background section above. As part of the 2016 amendment of the 2012 DA (Attachment 5), Bosa was required to 1) construct a 20-foot wide asphalt sidewalk along Broadway; 2) install landscaping in a planter behind the sidewalk and install trees within the existing surface parking lot on the Site; and, 3) conduct a feasibility study for landscaped medians within Pacific Highway. While the Broadway sidewalk improvements and parking lot landscaping have been installed, the feasibility study was never completed due to the adoption of the Downtown San Diego Mobility Plan (DSDMP) and revised design standards for Pacific Highway. Instead of the previous design, which proposed six vehicular travel lanes and narrow bike lanes, the current design provides for four vehicular travel lanes and protected bike lanes (Cycleways). This design, along with the installation of a SDG&E 69 kilo-volt transmission line down the center of the street, prevents the planting of trees within the median. This median has recently been constructed between Ash Street and Broadway by the Lane Field Hotel project on Port Tidelands and the third phase of the DSDMP infrastructure. Therefore, the previous requirements for the landscaped median have been removed from the proposed DA and the other obligations have already been fulfilled.

The 2012 DA is currently set to expire on December 17, 2022, which would nullify the existing development rights, subjecting any future development on the Site to the current CCPDO land use and density provisions, resulting in less development potential. The 2012 DA allowed a maximum floor area ratio (FAR) of 11.07, while the maximum FAR allowed in the CCPDO is 8.0. The proposed DA would extend the development rights of the 2012 DA for the Site with a new expiration date and remove the previously completed obligations, while retaining the obligations to:

1. Construct a widened pedestrian path at least 12-feet wide along the rail corridor on the eastern frontage of the Site that is compatible with the pathways to the north and includes a pedestrian arcade, building canopy projects, or other pedestrian coverings that complement the adjoining developments; and,

2. Provide a publicly accessible work of public art within the 50-foot Broadway setback area, reviewed by the Commission of Arts and Culture prior to the issuance of a construction permit for the Site.

The draft City Council Resolution is included as Attachment 3, including the required findings pursuant to SDMC Section 124.0104(c).

#### Community Plan Analysis:

The Site is located within the Columbia neighborhood of the DCP. Situated on the western edge of Downtown, Columbia's distinguishing characteristic is its waterfront orientation. Columbia has evolved into a diverse neighborhood comprised of office, hotels, retail, residential, and museums. Columbia has a high-rise concentration nearing the Civic/Core's in intensity. The adjacent Santa Fe Depot remains an important transportation hub as a terminal for northbound Amtrak and Coaster trains, and a major transfer point for transit buses and the San Diego Trolley. Continued development within Columbia is creating a reinvigorated, connected waterfront, with high-intensity office, residential, hotel, and cultural activity east of Pacific Highway.

The following are key DCP goals and policies for the Site and the Columbia neighborhood:

- 3.1-G-2 - Provide for an overall balance of uses—employment, residential, cultural, government, and destination—as well as a full compendium of amenities and services.
- 6.2-G-1 - Develop Columbia as a mixed-use district, with an energetic waterfront serving local needs and has a regional draw, relating to San Diego Bay and the Civic/Core district.
- 6.2-G-2 - Establish new and improved functional and visual connections to the waterfront; enhance existing ones, especially along the entire lengths of A, B, C, E, and F streets.

The Local Coastal Plan for the area is implemented through the DCP and CCPDO. The proposed DA is consistent with the previously approved 2012 DA, the DCP, and the CCPDO; therefore, it is consistent with the Local Coastal Plan.

#### Conclusion:

Staff recommends that the Planning Commission recommend that the Council approve the proposed DA in order for the 30-year vision for the area to be completed. The proposed DA will preserve existing development rights for the Site to allow for the completion of a development project and public improvements for the last remaining block under the Catellus and subsequent development agreements.

#### ALTERNATIVES

1. Recommend approval of the proposed DA to City Council, with modifications.
2. Recommend denial of the proposed DA to City Council, if the findings required to approve a DA cannot be affirmed.

Respectfully submitted,



James Alexander  
Senior Planner, Urban Division  
Development Services Department



Brian Schoenfisch  
Deputy Director, Urban Division  
Development Services Department

Attachments:

1. Vicinity Map
2. Draft of Proposed Development Agreement
3. Draft City Council Resolution
4. 2012 Development Agreement
5. 2016 Amendment to 2012 Development Agreement
6. Downtown Community Planning Council Recommendation
7. Ownership Disclosure Statement
8. Downtown FEIR Consistency Evaluation

Bosa 2022 Development Agreement  
Vicinity Map

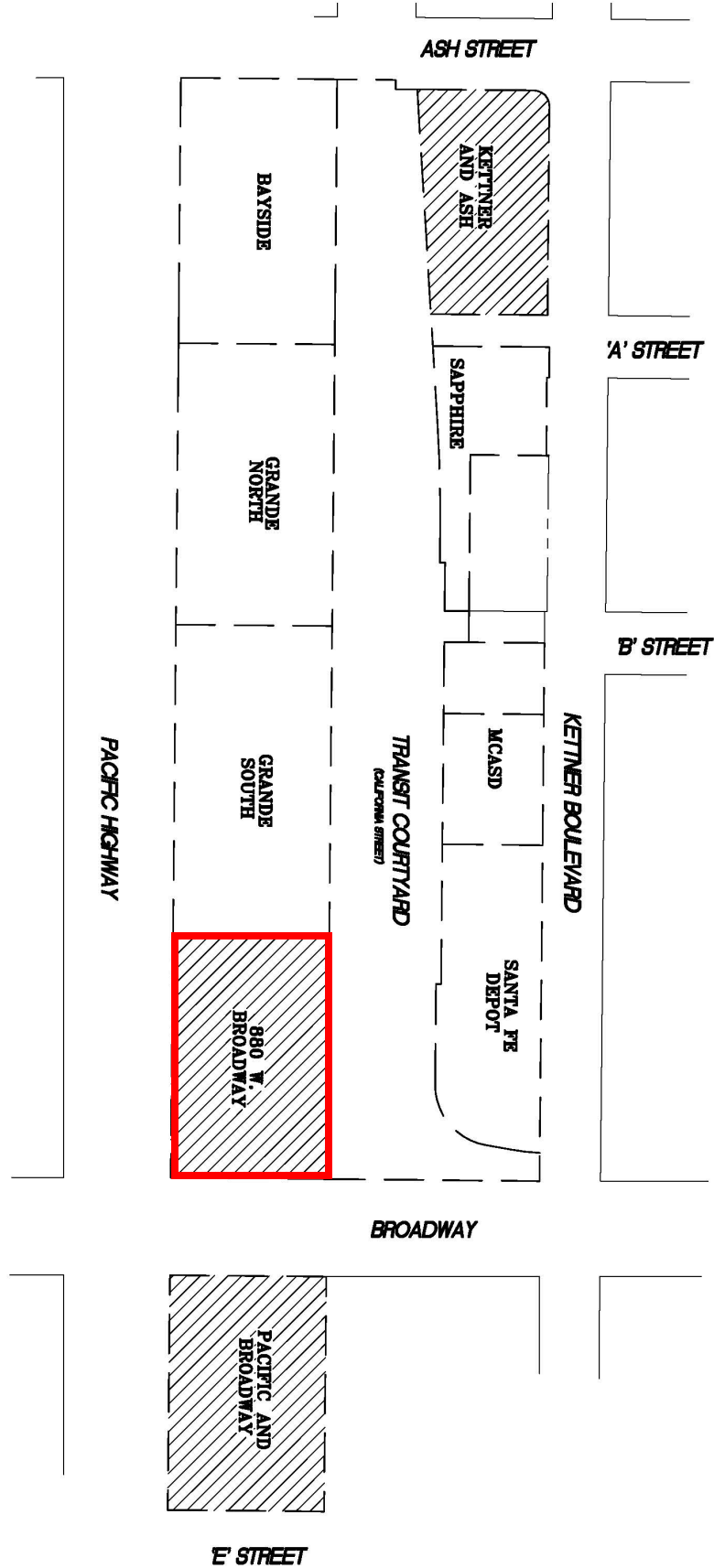
LEGEND



2012 Development  
Agreement Properties



2022 Development  
Agreement Property



NOT TO SCALE



**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION  
501

**WHEN RECORDED MAIL TO**  
CITY CLERK  
MAIL STATION 2A

INTERNAL ORDER NUMBER: 24008899

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEVELOPMENT AGREEMENT**

**by and among**

**CITY OF SAN DIEGO**

**and**

**BOSA DEVELOPMENT CALIFORNIA II, INC.**

## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is executed this \_\_\_\_ day of \_\_\_\_\_, 2022, by and among the City of San Diego ("City") and Bosa Development California II, Inc. ("Bosa"). The City and Bosa 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 ("Catellus Site") and more particularly described in Exhibit A.

B. Catellus Development Corporation and the City then entered into 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. The Catellus Development Agreement was due to expire on December 7, 2012, however three undeveloped properties ("Undeveloped Sites") remained on the Catellus Site at that time. The property owners of the Undeveloped Sites and the City wished to ensure that certain development regulations contained in the Catellus Development Agreement continued to govern the development of the Undeveloped Sites. This would ensure that the original purposes of consistent and harmonious development would occur within the Catellus Site along the railroad corridor and Pacific Highway, including at a development pattern and intensity which complements the portions of the site which had already been developed.

E. The owners of the Undeveloped Sites and the City entered into the Development Agreement by and among City of San Diego, the Irvine Company, and Bosa Development California II, Inc. recorded December 17, 2012 ("2012 Development Agreement"). The term of the 2012 Development Agreement was for ten years to expire on December 13, 2022.

F. In 2015, Bosa submitted an amendment to the 2012 Development Agreement for purposes of allowing greater flexibility of the land use regulations for one of the Undeveloped Sites and such amendment was approved by the City Council on February 22, 2016 and recorded on April 15, 2016 ("2016 Amendment"). The term of the 2012 Development Agreement remained the same and is due to expire on December 13, 2022.

G. Two of the Undeveloped Sites have now been developed consistent with the 2012 Development Agreement and 2016 Amendment and the remaining site yet to be developed is 880 West Broadway, located on the block located at the northeast corner of Pacific Highway and Broadway (Site) owned by Bosa. Bosa does not plan on developing the property prior to the expiration of the 2012 Development Agreement and wishes to extend the development regulations contained in the 2012 Development Agreement and 2016 Amendment for another ten years for the Site only.

H. The City finds that this Agreement provides for significant benefits to the City that would not otherwise be provided except through this Agreement including: ensuring the development of the Site with a high density project consistent with the remainder of the former sites within the Catellus Site; the completion of Transit Courtyard improvements; the provision of enhanced public plazas along Broadway; and, the inclusion of public art within the 880 West Broadway project.

I. The City finds that this Agreement is consistent with the City of San Diego's General Plan and Local Coastal Program and that the City has completed all necessary proceedings in accordance with the City's rules and regulations for its approval. The City finds that this Agreement provides for the build-out of the Site in the manner contemplated by the Catellus Development Agreement and the 2012 Development Agreement, including the 2016 Amendment.

#### AGREEMENT

NOW, THEREFORE, City and Bosa agree as follows:

1. Purpose. The purpose of this Agreement is to accomplish the objectives set forth in the Recitals to the Agreement, to set forth the terms and conditions for how the Site may be developed by Bosa, and to assure Bosa that the Site can be developed in accordance with the Development Regulations described in the Agreement.

2. Property. This Agreement shall apply to the Pacific and Highway Site, more particularly described in Exhibit A.

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 date that the Agreement is approved by the City Council and is executed

by the City Attorney in accordance with Charter Section 40. The Parties shall each execute this Agreement on or before the Effective Date. This Agreement shall expire on the day that is 10 years after the Effective Date.

4. Scope of Development.

4.1 Land Uses. The land uses permitted on the Site shall be those permitted by the Centre City Planned District Ordinance. Any development shall provide at least one hundred (100) percent of the building ground floor frontage facing Broadway with commercial uses. 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.

4.2 Building Area. The Site may be developed with a maximum 684,955 square feet of gross floor area, or floor area ratio (FAR) of 11.07, as defined by the San Diego Municipal Code. A minimum floor area ratio of 7.0 shall apply to the Site.

4.3 Building Height. The maximum building height shall be 500 feet above mean sea level, subject to approval by the FAA and a finding of consistency with the Airport Land Use and Compatibility Plan for San Diego International Airport.

4.4 View Corridor Setbacks. There shall be no building area within the former C Street right-of-way. The following setbacks/stepbacks, measured from the property line abutting existing or previously existing right-of-way lines, including linear extensions of right-of-way existing to the east, shall apply to development of the Site:

Broadway: 50 feet at grade.

C Street (former right-of-way): 25 feet at a height of 50 feet above grade.

Pacific Highway 15 feet at a height of between 45-130 feet above grade.

4.5 Tower Standards. Any portion of a building tower constructed on the Site 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 the Site shall be separated by a minimum dimension of seventy-five (75) feet.

4.6 Design Regulations. Proposed development of the Site may require various discretionary permits per the San Diego Municipal Code Chapters 11-14, including, but not limited to, a Coastal Development Permit. Development of the Site is subject to the Downtown Design Guidelines.

5. Street Frontage Improvement Obligations. Bosa shall design and construct public improvements along the street frontages of the Site, including but not limited to, curbs, gutters, sidewalks, street trees, and street lighting to current City standards at the time of development.

6. Transit Courtyard Obligations. Bosa shall construct a minimum twelve-foot wide pedestrian pathway along the rail corridor (located along the eastern frontage of the Site compatible with adjoining pathways constructed directly to the north. The paving materials shall be concrete

pavers to match existing adjoining materials. The development shall incorporate a pedestrian arcade, building canopy projections, or other pedestrian coverings which complement those of adjoining developments to the north.

7. Public Art Obligations. Bosa shall provide a publicly accessible work of public art within the development to be located within the Broadway setback plaza. 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. Bosa shall be required to provide the specifics of the public art to be installed to the Commission of Arts and Culture for approval prior to the issuance of a construction permit for the Site. The public art shall be installed at the completion of development prior to the issuance of a certificate of occupancy.

8. Development Regulations. The rules, regulations, and official policies governing the permitted uses of land, density, design, and improvement of the Site (the "Development Regulations") shall be those set forth in Section 4 of this Agreement or the Centre City Planned District Ordinance. These Development Regulations shall not be changed during the Term of this Agreement except upon mutual consent of the City and Bosa.

8.1 Changes in Building and Fire Codes. Notwithstanding any provision of this Agreement to the contrary, development of the Site 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.

8.2 Changes Mandated by Federal or State Law. This Agreement shall not preclude the application to development of the Site 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.

9. Subsequent Approvals and Permits and Acts of the City. As set forth in Section 4.7, Bosa shall be required to obtain a Coastal Development Permit for new development of the Site. The procedures for obtaining any development permits shall be those procedures set forth in the San Diego Municipal Code in effect on the Effective Date of this Agreement. This section shall not prevent the City from exercising such discretion it has under this Agreement, including the Development Regulations.

10. 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 the Site. Any uses or developments requiring a use permit, tentative tract map, or other discretionary permit or approval in accordance with the San Diego Municipal Code 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 Bosa's 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 Site as to which Bosa's rights

are not expressly vested and such amendment or amendments shall be binding on the Site except to the extent that the same conflict with the express provisions of this Agreement, which provide, inter alia, that no amendment to the San Diego Municipal Code shall be applicable if not agreed to by Bosa in writing pursuant to Section 13 of this Agreement or as authorized by Section 15.1 of this Agreement.

11. Tentative Subdivision Maps. City agrees that Bosa may file and process a vesting tentative map for the Site 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 the Site, whether designated a "vesting tentative map" or otherwise, shall be extended for the Term of this Agreement.

12. No Third Party Beneficiaries. The only parties to this Agreement are City and Bosa. 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.

13. 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 Bosa 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 San Diego Municipal Code sections 124.0104 and 124.0108.

14. Periodic Review. The City shall review Bosa's performance pursuant to the terms of this Agreement at least once every twelve months during the term hereof. During each periodic review Bosa 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 Bosa a justification of their positions on such matters.

15. Events of Default.

15.1 Default by Bosa. 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 Bosa has not complied in good faith with their obligations pursuant to this Agreement, City shall by written notice to Bosa, specify the manner in which such Bosa has failed to comply and state the steps that Bosa must take to bring itself into compliance. If Bosa 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 Bosa 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 Bosa shall be deemed to be in default under the terms of this Agreement. City may then: (1) seek a modification of this Agreement; (2) terminate this Agreement; or (3) seek any other available remedies against Bosa as provided in this Agreement.

15.2 Default by City. If City has not complied in good faith with its obligations under this Agreement, Bosa 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 Bosa 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. Bosa 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 15.3 of this Agreement.

15.3 Specific Performance and Damages Remedies. The Parties acknowledge that, except as provided in this Section 15.3 and in Section 15.4 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 Bosa for breach of its obligations under Section 17 of this Agreement. The limitations on the remedy of damages in this Agreement shall not prevent City from enforcing Bosa's monetary obligations hereunder.

15.4 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.

16. 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.

17. Hold Harmless. Bosa 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 Bosa or those of its contractors, subcontractors, agents, employees, or other persons acting on its behalf which relate to the development of the Site. Such obligation shall not be joint and several, and Bosa 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 the Site. City shall have the right to select and retain counsel to defend any actions, and, subject to the foregoing sentence, Bosa 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.

Bosa 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 Bosa of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, Bosa 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, Bosa 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 Bosa 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, Bosa shall not be required to pay or perform any settlement unless such settlement is approved by Bosa. The indemnity provisions in this paragraph shall survive termination of this Agreement.

18. 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 Site.

19. Assignment. The rights and obligations of Bosa 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 the site, 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 Site transferred.

20. 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 Site. In order to provide continued notice, the Parties will record this Agreement and any subsequent amendments.

21. Relationship of Parties. The Parties acknowledge that Bosa is not an agent of the City and the City is not an agent of Bosa.

22. 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

With Copy to:

City of San Diego  
Urban Division, Development Services Department  
1222 First Avenue, Third Floor,  
San Diego, CA 92101

TO BOSA:

Bosa Development California II, Inc.  
1300-2025 Willingdon Avenue  
Burnaby BC V5C 0J3  
Canada  
Attn: Richard Weir

With Copy to:

Bosa Development  
Attn: Ashley Gosal  
121 W Market Street,  
San Diego, CA 92101

23. 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.

24. 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.

25. Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

26. Time Is of the Essence. Time is of the essence regarding each provision of this Agreement in which time is an element.

27. 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.

28. 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.

29. Section Headings. All section headings are inserted for convenience only and shall not affect construction or interpretation of this Agreement.

30. Incorporation of Exhibits. Exhibit A shall contain the legal description of the Site.

31. 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.

32. 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.

33. 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.

34. 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**

"BOSA"

BOSA DEVELOPMENT CALIFORNIA II, INC.

By: \_\_\_\_\_  
Its:

"CITY"

CITY OF SAN DIEGO

By: \_\_\_\_\_  
Its: Mayor or designee

APPROVED AS TO FORM AND LEGALITY:  
Mara W. Elliott  
CITY ATTORNEY

BY: \_\_\_\_\_  
Deputy City Attorney

PTS No. 691185  
IO No. 24008899

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

## **EXHIBIT A TO DEVELOPMENT AGREEMENT**

### Description of Real Property

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

CITY COUNCIL RESOLUTION NO. \_\_\_\_\_  
APPROVAL OF DEVELOPMENT AGREEMENT NO. 2549830  
**BOSA DEVELOPMENT AGREEMENT - PROJECT NO. 691185**

WHEREAS, BOSA DEVELOPMENT CALIFORNIA II, INC. (Bosa) is the owner or equitable owner of that certain real property located at the northeast corner of Pacific Highway and Broadway (Subject Property) consisting of approximately 1.4 acres within the Downtown Community Plan (DCP) area; and

WHEREAS, the City, Bosa, and the Irvine Company LLC (Irvine) entered into that certain Development Agreement dated November 16, 2012, adopted by the City Council on October 24, 2012 by Ordinance No. O-20214, and recorded in the Office of the County Recorder of San Diego County, California, as Document No. 2012-0791444 on December 17, 2012 for the development of certain property within the Columbia neighborhood of the DCP area located at the 1.4-acre site at the northeast corner of Pacific Highway and Broadway, the 1.4-acre site at the southeast corner of Pacific Highway and Broadway, and the 1.1-acre site at the southwest corner of Kettner Boulevard and Ash Street; and

WHEREAS, the City, Bosa, and Irvine entered into that certain Amended Development Agreement dated March 8, 2016, adopted by the City Council on February 22, 2016 by Ordinance No. O-20612, and recorded in the Office of the County Recorder of San Diego County, California, as Document No. 2016-0175458, on April 15, 2016; and

WHEREAS, the Development Agreement recorded on December 17, 2012, as amended, will expire by its terms on December 17, 2022; and

WHEREAS, the Subject Property is the last remaining undeveloped parcel of the Development Agreement recorded on December 17, 2012; and

WHEREAS, the City and Bosa desire to enter into this Development Agreement relating to the Subject Property in conformance with the provisions of the Government Code in order to achieve the development of private land uses, together with the provision of public services, public uses, and urban infrastructure, all in the promotion of the health, safety, and general welfare of the City of San Diego; and

WHEREAS, the City of San Diego (City), a charter city, is authorized pursuant to California Government Code section 65864 et. seq. to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property in order to establish certainty in the development process; and

WHEREAS, the City will further enter into this Development Agreement pursuant to its Charter and self-rule powers and San Diego Municipal Code section 124.0101 et. seq.; and

WHEREAS, pursuant to the terms of the Development Agreement, Bosa will provide substantial public improvements and benefits to the City. In consideration of the public improvements and benefits to be provided by Bosa pursuant to the Development Agreement and in order to strengthen the public planning process and reduce the economic costs of development, by

### ATTACHMENT 3

the Development Agreement, the City intends to give Bosa assurance that Bosa can proceed with the development of the Subject Property by the terms of the Development Agreement; and

WHEREAS, on April 21, 2022, the Planning Commission of the City of San Diego, after giving notice pursuant to California Government Code section 65090 et. seq. and San Diego Municipal Code section 112.0301 et. seq. held a public hearing on the Development Agreement and voted to recommend approval of the Development Agreement to the City Council; and

WHEREAS, under Charter section 280(a)(2), this Ordinance is not subject to veto by the Mayor because the matter requires the City Council to act as 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 City Council was required by law to consider evidence as the hearing and to make legal finding based on evidence presented; and

WHEREAS, on \_\_\_\_\_, the City Council, after giving notice pursuant to pursuant to California Government Code section 65090 et. seq. and San Diego Municipal Code section 112.0301 et. seq. held a public hearing on the Development Agreement, wherein testimony having been heard, evidence having been submitted, and the Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, the City Council finds the Development Agreement is consistent with the General Plan and the Downtown Community Plan to the extent required by law, as well as all other applicable policies and regulations of the City of San Diego; and

WHEREAS, the City Council of the City of San Diego has considered the Development Agreement, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW THEREFORE,

BE IT ORDAINED, by the City Council of the City of San Diego as follows:

Section 1. That the City Council finds and determines the facts states above to be true.

Section 2. That, in accordance with San Diego Municipal Code section 124.0104(c), the City Council adopts the following findings with respect to the Development Agreement that:

A. **The Development Agreement is consistent with the applicable land use plans, Local Coastal Program, and the Land Development Code.** The Development Agreement is consistent with the applicable land use plans, Local Coastal Plan, the DCP, and the Centre City Planned District Ordinance (CCPDO). Specifically, the Development Agreement would contribute to an intense Downtown by allowing the construction of a dense residential project with ground floor commercial uses, providing a mix of uses and an active street level that is central to not only fostering vibrant neighborhoods, but also to curtailing regional sprawl, while adding residential dwelling units to curtail the regional housing crisis. An increase in residential population will contribute to Downtown's vitality, improve economic conditions, and allow people to live close to work, transit, and culture. The Development Agreement would also contribute to the development of the Columbia neighborhood as a mixed-use district with an energetic waterfront that serves local needs and has a regional draw, relating to both the San Diego Bay and Civic/Core district. Further, the Development Agreement would continue to provide for protection of public shoreline access

and views through the maintenance of view corridors, consistent with the Local Coastal Program, which is implemented through the DCP and CCPDO.

**B. The Development Agreement will provide significant public benefits in proportion to the rights granted under the Development Agreement.** The Development Agreement would provide significant public benefits in proportion to the rights granted under the Development Agreement. Specifically, the Development Agreement would require improvements to the railway corridor along the eastern frontage of the Subject Property, including the widening of the sidewalk to at least 12 feet and installation of enhancements such as pedestrian coverings, arcades, and canopies, as well as provide a publicly accessible work of public art within the 50-foot Broadway setback area at a location that serves as a high-visibility gateway into Downtown. The proposed public benefit of the Development Agreement is in proportion to the rights granted under the Development Agreement.

**C. The significant public benefits will be in excess of what can be obtained under existing policies and regulations, and otherwise could not reasonably be derived or provided except through the Development Agreement.** The policies and regulations of the CCPDO would otherwise apply to this property, subject to the provisions set forth in the existing Development Agreement prior to its expiration. The CCPDO does not contain provisions that require public benefits achieved through the Development Agreement. The improvements along the rail corridor along the Subject Property's eastern frontage ensure proper public access through the Subject Property along the rail corridor and connectivity to adjoining sites with a design that is both compatible with the neighboring properties and pedestrian-friendly, which would not have been a requirement under existing policies and regulations. The installation of a work of public art will advance the goals and policies of the DCP by contributing to the creation of meaningful, memorable, and delightful spaces in Downtown and strengthening the Downtown's sense of arts and culture. The location of the work of public art in the 50-foot Broadway setback will create a landmark for one of the primary gateways into Downtown at Pacific Highway and Broadway, near the waterfront. A significant work of public art provided for in the Development Agreement would not be required under existing policies and regulations, as only non-residential projects with a valuation of \$5,000,000 are subject to the public art requirement of the current code. The public benefits provided by the Development Agreement are in excess of what would otherwise be required under existing policies and regulations.

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

THE ORIGINAL OF THIS DOCUMENT  
WAS RECORDED ON DEC 17, 2012  
DOCUMENT NUMBER: 2012-0791444  
Ernest J. Dronenburg, Jr., COUNTY RECORDER  
SAN DIEGO COUNTY RECORDER'S OFFICE  
TIME: 11:41 AM

FREE RECORDING  
GOVERNMENT CODE  
SECTION 6103

## DEVELOPMENT AGREEMENT

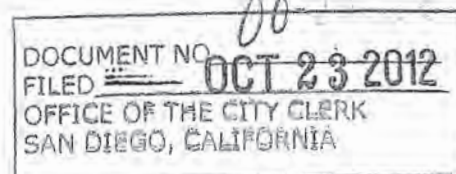
by and among

CITY OF SAN DIEGO,

THE IRVINE COMPANY LLC,

and

BOSA DEVELOPMENT CALIFORNIA II, INC.





## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is executed this 16<sup>th</sup> day of November, 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	684,955 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
----------	-------------------------



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.
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.
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

## 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

EXHIBIT DESIGNATION	DESCRIPTION
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: T. Sullivan  
Its: SENIOR VICE PRESIDENT

“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





# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of OrangeOn September 14, 2012 before me,Ronyak K Clause, Notary Public

Here Insert Name and Title of the Officer

personally appeared Thomas Francis Sullivan

Name(s) of Signer(s)

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

Ronyak K Clause

Signature of Notary Public

Place Notary Seal Above



## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: Development AgreementDocument Date: Not Dated.Number of Pages: 24Signer(s) Other Than Named Above: Boss Development California IICity of San Diego.

### Capacity(ies) Claimed by Signer(s)

Signer's Name: Thomas Francis Sullivan☐ Individual☒ Corporate Officer — Title(s): SVP, Office☐ Partner — ☐ Limited ☐ General☐ Attorney in Fact☐ Trustee☐ Guardian or Conservator☐ Other: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

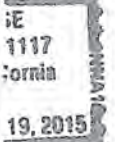
Signer Is Representing: The District Attorney

Signer's Name: \_\_\_\_\_

☐ Individual☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Attorney in Fact☐ Trustee☐ Guardian or Conservator☐ Other: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer Is Representing: \_\_\_\_\_



**SIGNATURE PAGE TO  
DEVELOPMENT AGREEMENT**

“IRVINE”

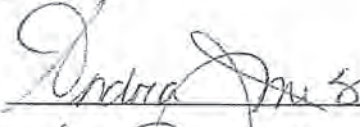
THE IRVINE COMPANY LLC

By: \_\_\_\_\_

Its:

“BOSA”

BOSA DEVELOPMENT CALIFORNIA II,  
INC.

By: 

Its: Vice President

“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 10/4/12 before me,

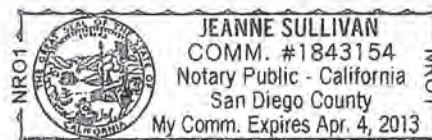
JEANNE SULLIVAN, NOTARY PUBLIC, personally

appeared ANDREA JONES

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 Jeanne Sullivan (Seal)



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~~ chief operating officer

APPROVED AS TO FORM AND LEGALITY:  
JAN GOLDSMITH  
CITY ATTORNEY

BY:  \_\_\_\_\_  
Deputy City Attorney KEITH SAUERLE



State of California    )  
 County of San Diego    )

On 11-16-12 before me,

Linda D. Irvin, Notary, personally  
 appeared Jay M. Goldstone

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 Linda D. Irvin (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

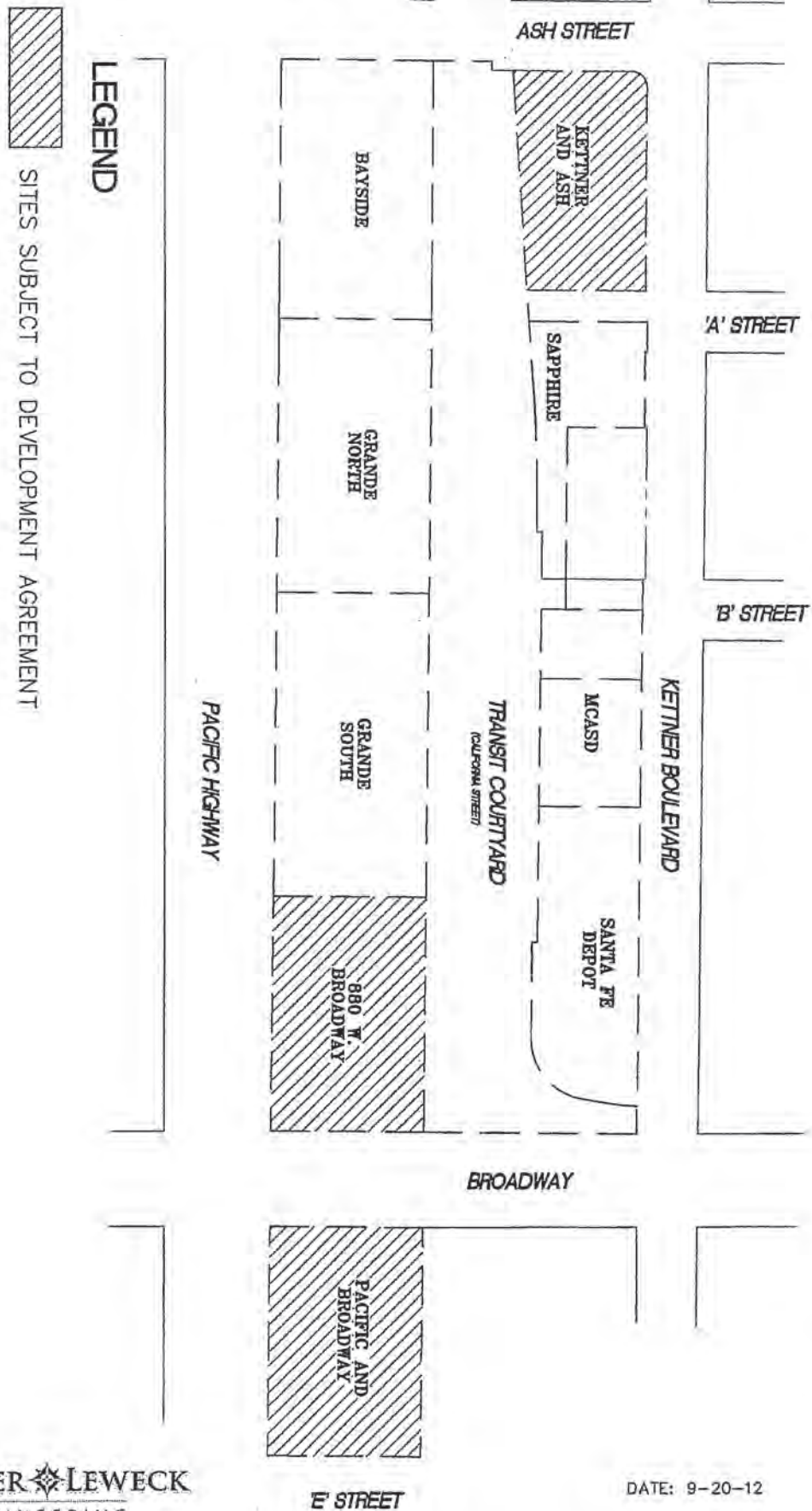
Real property in the City of San Diego, County of San Diego, State of California, described as follows:

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



NOT TO SCALE

DATE: 9-20-12

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



Apr 15, 2016 12:44 PM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,  
SAN DIEGO COUNTY RECORDER

FEES: \$0.00

PAGES: 22

PLEASE COMPLETE THIS INFORMATION.

RECORDING REQUESTED BY:

SAN DIEGO CITY CLERK

AND WHEN RECORDED MAIL TO:

CITY OF SAN DIEGO

CITY CLERK'S OFFICE

MAIL STATION: 2A

ATTN: JEANNETTE SANTOS

THIS SPACE FOR RECORDER'S USE ONLY

Ordinance Number O-20612

Development Agreement Amendment – Approving an Amendment to a Development Agreement with the Irvine Company LLC, and Bosa Development California II, Inc. for construction of a 45-story mixed-use development.

File Location: MEET

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(Additional recording fee applies)

**ORIGINAL**

**ATTACHMENT 5**

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 AMENDMENT**

**by and among**

**CITY OF SAN DIEGO,**

**THE IRVINE COMPANY LLC,**

**and**

**BOSA DEVELOPMENT CALIFORNIA II, INC.**

DOCUMENT NO 00-20612  
FILED MAR 18 2016  
OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA

## DEVELOPMENT AGREEMENT AMENDMENT

THIS DEVELOPMENT AGREEMENT AMENDMENT ( "Amendment") is executed this 8<sup>th</sup> day of March, 2016, 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. The Parties entered into a Development Agreement recorded in the San Diego County Recorder's office as Document No. 2012-0791444 on December 17, 2012 ("Development Agreement") pursuant to the City's Charter and self-rule powers and San Diego Municipal Code section 124.0101 *et seq.*
- B. The Development Agreement applies to three sites listed in the Development Agreement as the "880 W. Broadway" site, the "Pacific and Broadway" site, and the "Ash and Kettner" site ("Subject Properties"), more particularly described in Exhibit A, Exhibit B, and Exhibit C, respectively.
- C. The Development Agreement establishes the Scope of Development for the Subject Properties, including permitted land uses and applicable development regulations.
- D. The Parties wish to amend certain provisions in the Development Agreement including the Scope of Development and Landowner Obligations. Specifically, the Parties wish to allow greater than 50 percent residential use at the 880 W. Broadway site prior to June 30, 2017, to require the widening of existing pavement area within the public right-of-way along Broadway and a 10-foot deep landscape planter behind the Broadway sidewalk, and to require the funding of a feasibility analysis, concept design, and preliminary cost estimates for a median project between Ash and E Streets.
- E. The City finds that this Amendment is consistent with the City of San Diego's General Plan and Local Coastal Program including the Downtown Community Plan adopted in 2006 and subsequently amended in 2016.
- F. The City finds that this Amendment provides for significant benefits to the City that could not be derived or provided except through this Amendment.

AMENDMENT

NOW, THEREFORE, City and Landowners agree as follows:

1. Purpose. The purpose of this Amendment is to accomplish the objectives set forth in the Recitals to the Development Agreement and this Amendment, to set forth the terms and conditions for how the Subject Properties may be developed by the Landowners, and to assure the Landowners that the Subject Properties can be developed in accordance with the Development Regulations described in the Development Agreement and this Amendment.

2. Property. This Amendment shall apply to the Subject Properties.
3. Effective Date; Term. This Amendment shall not become effective and no Party shall have any rights or obligations hereunder until the “Effective Date,” which for purposes of this Amendment shall mean the date that this Amendment is executed by the City Attorney in accordance with City Charter Section 40, or the date that the State of California Coastal Commission unconditionally certifies Downtown Community Plan Amendment No. 2016-01 removing the Employment Required Overlay designation from the Subject Properties and Centre City Planned District Ordinance Amendment 2016-1 removing the Employment Overlay Zone from the Subject Properties as a local coastal program amendment, whichever date occurs later.
4. Section 4.1.1 of the Development Agreement is hereby amended to read:  
  
880 W. Broadway Site Land Use. Any development at 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.
5. Section 5 of the Development Agreement is hereby amended to read:  
  
Interim Parking Lot Improvement Obligations. Each Landowner agrees to fund and construct with respect to its Subject Property 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 date of recordation of this Amendment. The improvements described in this section shall be required to be installed at each Subject Property (a) no later than twelve (12) months after the date of recordation of this Amendment 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 Subject Property; or (b) no later than twenty-four (24) months after the date of recordation of this Amendment 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 Subject Property. Additionally, no later than May 8, 2016, Landowners shall widen the existing pavement area within the public right-of-way along Broadway along the 880 W. Broadway site to twenty (20) feet. In addition, no later than May 8, 2016, Bosa shall also install a ten (10) foot deep landscape planter behind the Broadway sidewalk, which shall contain plantings complementary to the Broadway median plantings (drought tolerant species) to the satisfaction of Civic San Diego.
6. Section 6 of the Development Agreement is hereby amended to read:



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. In addition, Bosa shall fund a feasibility analysis, concept design, and preliminary cost estimates for the potential median improvement project between Ash Street and E Street with consideration to existing utility conflicts and the proposed Downtown San Diego Mobility Plan Technical Report. Bosa shall provide this feasibility analysis, concept design, and preliminary cost estimates to the satisfaction of Civic San Diego no later than September 8, 2016.

7. Incorporation of Exhibits. The following exhibits are attached to this Amendment 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

8. Counterparts. This Amendment 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 Amendment.

9. Authority to Execute. The persons executing this Amendment warrant and represent that they have the authority to execute this Amendment on behalf of the party for which they are executing this Amendment. They further warrant and represent that they have the authority to bind their respective party to the performance of its obligations under this Amendment.
10. Recordation. This Amendment 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 124.0106.
11. Date of Amendment. The date of this Amendment shall be the date when the Amendment shall have been executed by the City. However, this Amendment shall only become effective as set forth in Section 3 of this Amendment.

**[SIGNATURE PAGE FOLLOWS]**



SIGNATURE PAGE TO  
DEVELOPMENT AGREEMENT

"IRVINE"

THE IRVINE COMPANY LLC

By: T. Sullivan  
Its: SENIOR VICE PRESIDENT

"BOSA"

BOSA DEVELOPMENT CALIFORNIA II,  
INC.

By: [Signature]  
Its: VICE PRESIDENT/SECRETARY

"CITY"

CITY OF SAN DIEGO

By: [Signature]  
Its: Mayor / or designee

APPROVED AS TO FORM AND LEGALITY:  
JAN GOLDSMITH  
CITY ATTORNEY

BY: [Signature]  
Deputy City Attorney

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of San Diego )On February 5, 2016 before me, Megan M. Naylor (Notary Public),  
Date Here Insert Name and Title of the Officerpersonally appeared Thomas Sullivan  
Name(s) of Signer(s)

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 Megan Naylor  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of San Diego )On February 10, 2016 before me, Megan M. Naylor (Notary Public),  
Date Here Insert Name and Title of the Officerpersonally appeared Richard John Weir  
Name(s) of Signer(s)

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 Megan M. Naylor  
Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

## Description of Attached Document

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

## Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

On April 13, 2016, before me, Linda D. Irvin, Notary Public in and for said State, personally appeared David Graham, 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 forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Linda D. Irvin  
Linda D. Irvin, Notary Public



Commission # 2119110 Exp 8/8/2019

**EXHIBIT A TO AMENDMENT**

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 AMENDMENT**

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 AMENDMENT**

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.



<b>Page 3</b>		<b>City of San Diego · Information Bulletin 620</b>		<b>May 2020</b>	
		<b>City of San Diego Development Services</b>		<b>Community Planning Committee Distribution Form</b>	
Project Name: <b>BOSA Development Agreement</b>			Project Number: <b>691185</b>		
Community: <b>Downtown</b>					
<p>For project scope and contact information (project manager and applicant), log into OpenDSD at <a href="https://aca.accela.com/SANDIEGO">https://aca.accela.com/SANDIEGO</a>.</p> <p>Select "Search for Project Status" and input the Project Number to access project information.</p>					
<input checked="" type="radio"/> Vote to Approve <input type="radio"/> Vote to Approve with Conditions Listed Below <input type="radio"/> Vote to Approve with Non-Binding Recommendations Listed Below <input type="radio"/> Vote to Deny					
# of Members Yes <b>14</b>		# of Members No <b>0</b>		# of Members Abstain <b>0</b>	
Conditions or Recommendations:					
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)					
NAME: <b>Robert B. Link</b>					
TITLE: <b>DCPC Interim Chair</b>				DATE: <b>September 27, 2021</b>	
<i>Attach additional pages if necessary (maximum 3 attachments).</i>					

	<p><b>City of San Diego Development Services</b> 1222 First Ave., MS 302 San Diego, CA 92101 (619) 446-5000</p> <p><b>Ownership Disclosure Statement</b></p>	<p><b>FORM</b> <b>DS-318</b> <b>October 2017</b></p>
---	--	--

**Approval Type:** Check appropriate box for type of approval(s) requested: ☐ Neighborhood Use Permit ☐ Coastal Development Permit  
☐ Neighborhood Development Permit ☐ Site Development Permit ☐ Planned Development Permit ☐ Conditional Use Permit ☐ Variance  
☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment • ☐ Other \_\_\_\_\_

**Project Title:** \_\_\_\_\_ **Project No. For City Use Only:** \_\_\_\_\_

**Project Address:** \_\_\_\_\_

**Specify Form of Ownership/Legal Status (please check):**

☐ Corporation ☐ Limited Liability -or- ☐ General – What State? \_\_\_\_\_ Corporate Identification No. \_\_\_\_\_

☐ Partnership ☐ Individual

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the owner(s), applicant(s), and other financially interested persons of the above referenced property. A financially interested party includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver or syndicate with a financial interest in the application. If the applicant includes a corporation or partnership, include the names, titles, addresses of all individuals owning more than 10% of the shares. If a publicly-owned corporation, include the names, titles, and addresses of the corporate officers. (A separate page may be attached if necessary.) If any person is a nonprofit organization or a trust, list the names and addresses of **ANY** person serving as an officer or director of the nonprofit organization or as trustee or beneficiary of the nonprofit organization. A signature is required of at least one of the property owners. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager 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 Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

**Property Owner**

Name of Individual: \_\_\_\_\_ ☐ Owner ☐ Tenant/Lessee ☐ Successor Agency

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Additional pages Attached: ☐ Yes ☐ No

**Applicant**

Name of Individual: \_\_\_\_\_ ☐ Owner ☐ Tenant/Lessee ☐ Successor Agency

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Additional pages Attached: ☐ Yes ☐ No

**Other Financially Interested Persons**

Name of Individual: \_\_\_\_\_ ☐ Owner ☐ Tenant/Lessee ☐ Successor Agency

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Additional pages Attached: ☐ Yes ☐ No



**DOWNTOWN FEIR CONSISTENCY EVALUATION FOR THE  
Bosa Development Agreement  
PTS No. 668014**

**March 2022**

**Prepared by:** City of San Diego, Development Services Department  
1222 First Avenue, MS 501  
San Diego, California 92101

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## **LIST OF ACRONYMS AND ABBREVIATIONS**

ACM	asbestos-containing material
ADT	average daily trips
ALUCP	Airport Land Use Combability Plan
CAP FEIR	City of San Diego FEIR for the Climate Action Plan CBC California Building Code
CCPDO	Centre City Planned District Ordinance
CEQA	California Environmental Quality Act
CNEL	community noise equivalent level
CRHR	California Register of Historical Resources
dB(A)	A-weighted decibels
DCP	Downtown/Centre City Community Plan
EIR	Environmental Impact Report
ESA	Environmental Site Assessment
FAR	floor-to-area ratio
FEIR	Final Environmental Impact Report
GHG	greenhouse gas
HABS	Historic American Building Survey
I-5	Interstate 5
LBP	lead-based paint
LOS	level of service
MMRP	Mitigation, Monitoring and Reporting Program
MTS	Metropolitan Transit System
NRHP	National Register of Historic Places
NS	Not Significant
OPR	Office of Planning and Research
PCB	polychlorinated biphenyl
PRC	Public Resources Code
SANDAG	San Diego Association of Governments
SB	Senate Bill
SDAPCD	San Diego Air Pollution Control District
SDIA	San Diego International Airport
SDMC	San Diego Municipal Code
SM	Significant but Mitigated
SNM	Significant and Not Mitigated
SWPPP	Storm Water Pollution Prevention Plan
TDM	Transportation Demand Management
TPA	Transit Priority Area
TSM	Traffic Study Manual
VMT	vehicle miles traveled
WSA	water supply assessment



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## CEQA CONSISTENCY EVALUATION

1. **PROJECT TITLE:** Bosa Development Agreement ("Project"); Project No. 691185
2. **APPLICANT:** Bosa Development California II, Inc.
3. **PROJECT LOCATION:** The Project site is located in the City of San Diego on the 1.4-acre site at the northeast corner Pacific Highway and Broadway and within the Downtown Community Plan (DCP) area.
4. **PROJECT SETTING:** The Site is located within the Columbia neighborhood of the DCP. Situated on the western edge of Downtown, Columbia's distinguishing characteristic is its waterfront orientation. Columbia has evolved into a diverse neighborhood comprised of office, hotels, retail, residential, and museums. Columbia has a high-rise concentration nearing the Civic/Core's in intensity. The adjacent Santa Fe Depot remains an important transportation hub as a terminal for northbound Amtrak and Coaster trains, and a major transfer point for transit buses and the San Diego Trolley. Continued development within Columbia is creating a reinvigorated, connected waterfront, with high-intensity office, residential, hotel, and cultural activity east of Pacific Highway. The site is currently a parking lot and is surrounded by residential and commercial development.
5. **PROJECT DESCRIPTION:** The Project proposes the approval of the development agreement (DA) for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. This action proposes to rescind an existing ten-year-old 2012 development agreement and replace it with a new DA for the undeveloped property located at the northeast corner of Pacific Highway and Broadway ("Site") owned by Bosa (Applicant), as shown in the Vicinity Map. Due to the impending December 2022 expiration of the existing 2012 DA, Bosa has requested to enter into the proposed DA for the Site only, as it is the one remaining undeveloped property from the 2012 DA. The proposed DA would allow for the construction of a project on the Site as set forth in Section 4 of the proposed DA and the Centre City Planned District Ordinance, consistent with the existing 2012 DA provisions and the long-range plan for this area.

The Catellus and subsequent DAs have achieved a majority of the obligations contained therein and as described in the Background section above. As part of the 2016 amendment of the 2012 DA, Bosa was required to 1) construct a 20-foot wide asphalt sidewalk along Broadway; 2) install landscaping in a planter behind the sidewalk and install trees within the existing surface parking lot on the Site; and, 3) conduct a feasibility study for landscaped medians within Pacific Highway. While the Broadway sidewalk improvements and parking lot landscaping have been installed, the feasibility study was never completed due to the adoption of the Downtown San Diego Mobility Plan (DSDMP) and revised design standards for Pacific Highway. Instead of the previous design, which proposed six vehicular travel lanes and narrow bike lanes, the current design provides for four vehicular travel lanes and protected bike lanes (Cycleways). This design, along with the installation of an SDG&E 69 kilo-volt transmission line down the center of the street, prevents the planting of trees within the median. This median has recently been constructed between Ash Street and Broadway by the Lane Field Hotel project on Port Tideland and the third phase of the DSDMP infrastructure. Therefore, the previous

requirements for the landscaped median have been removed from the proposed DA and the other obligations have already been fulfilled.

The 2012 DA is currently set to expire on December 17, 2022, which would nullify the existing development rights, subjecting any future development on the Site to the current CCPDO land use and density provisions, resulting in less development potential. The 2012 DA allowed a maximum floor area ratio (FAR) of 11.07, while the maximum FAR allowed in the CCPDO is 8.0. The proposed DA would extend the development rights of the 2012 DA for the Site with a new expiration date and remove the previously completed obligations, while retaining the obligations to:

1. Construct a widened pedestrian path at least 12-feet wide along the rail corridor on the eastern frontage of the Site that is compatible with the pathways to the north and includes a pedestrian arcade, building canopy projects, or other pedestrian coverings that complement the adjoining developments; and,
2. Provide a publicly accessible work of public art within the 50-foot Broadway setback area, reviewed by the Commission of Arts and Culture prior to the issuance of a construction permit for the Site.

**6. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE:** The following environmental document and its appendices, which were prepared prior to this Consistency Evaluation and are hereby incorporated by reference, include the project site within the DCP area:

1. FEIR for the DCP, CCPDO, and 10<sup>th</sup> Amendment to the Redevelopment Plan for the Centre City Project (State Clearinghouse Number 2003041001, certified by the Redevelopment Agency (Resolution No. R-04001) and the City Council (Resolution No. R-301265), with date of final passage on March 14, 2006.
2. Addendum to the FEIR for the amendments to the Centre City Redevelopment Plan, DCP, and CCPDO certified by the Redevelopment Agency (Resolution No. R-04193) and by the City Council (Resolution No. R-302932), with date of final passage on July 31, 2007.
3. Second Addendum to the FEIR for amendments to the DCP, CCPDO, and Centre City Redevelopment Plan certified by the Redevelopment Agency (Resolution No. R-04508), with date of final passage on April 21, 2010.
4. Third Addendum to the FEIR for the Residential Emphasis District Amendments to the CCPDO certified by the Redevelopment Agency (Resolution No. R-04510), with date of final passage on April 21, 2010.
5. Fourth Addendum to the FEIR for the San Diego Civic Center Complex Project certified by the Redevelopment Agency (Resolution No. R-04544) with date of final passage on August 3, 2010.
6. Fifth Addendum to the FEIR for amendments to the CCPDO Establishing an Industrial Buffer

Overlay Zone certified by the City Council (Resolution No. R-308724) with date of final passage on February 12, 2014.

7. Sixth Addendum to the FEIR for the India and Date Project certified by the City Council (Resolution No. R-309115) with date of final passage on July 14, 2014.
8. Final Supplemental Environmental Impact Report for the Downtown San Diego Mobility Plan certified by the City Council on June 21, 2016 (Resolution No. R-310561).
9. Final Supplemental Environmental Impact Report for the 1122 4<sup>th</sup> Avenue Redevelopment Project certified by the City Council (Resolution No. R-311016) on April 4, 2017.
10. Seventh Addendum to the FEIR for the Tailgate Park Project certified by the City Council (Resolution R313302) with date of final passage on November 17, 2020.
11. City of San Diego FEIR for the Climate Action Plan (CAP FEIR) certified by the City Council on December 15, 2015, (Resolution No. R-310176), including the Addendum to the CAP FEIR certified by the City Council on July 12, 2016.
12. City of San Diego Final Program Environmental Impact Report No. 2019060003 for Complete Communities: Housing Solutions and Mobility Choices (Complete Communities FPEIR) certified by the City Council on November 17, 2020 (Resolution No. R-313279); and associated resolutions amending the Land Development Manual to amend the City's CEQA Significance transportation thresholds, and adding the new Transportation Study Manual and Mobility Choices Regulations Implementing Guidelines, all relating to the City's Complete Communities Mobility Choices Program (Resolution Number R-313280). The Mobility Choices Regulations were adopted by City Council Ordinance No. 0-21274 on December 9, 2020.

As used herein, the term "Downtown FEIR" refers to the 2006 FEIR and all the addenda referenced above. The Downtown FEIR, CAP FEIR, and Complete Communities FPEIR are "Program EIRs" prepared in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15168. The aforementioned environmental documents are the most recent and comprehensive environmental documents pertaining to the proposed Project.

This Downtown FEIR Consistency Evaluation ("Evaluation") has been prepared for the Project in compliance with State CEQA and Local Guidelines. Under these Guidelines, environmental review for subsequent proposed actions is accomplished using the Evaluation process, as allowed by Sections 15168 and 15180 of the State CEQA Guidelines. The Evaluation includes the evaluation criteria as defined in Section 15063 of the State CEQA Guidelines.

Under this process, an Evaluation is prepared for each subsequent proposed action to determine whether the potential impacts were anticipated in the Downtown FEIR and the CAP FEIR. No additional documentation is required for subsequent proposed actions if the Evaluation determines that the potential impacts have been adequately addressed in the CAP FEIR and the Downtown FEIR and subsequent proposed actions implement appropriate mitigation measures identified in the MMRP that accompanies the Downtown FEIR.



If the Evaluation identifies new impacts or a substantial change in circumstances, additional environmental documentation is required. The form of this documentation depends upon the nature of the impacts of the subsequent proposed action being proposed. Should a proposed action result in: a) new or substantially more severe significant impacts that are not adequately addressed in the Downtown FEIR or CAP FEIR, or b) there is a substantial change in circumstances that would require major revision to the Downtown FEIR or the CAP FEIR, or c) that any mitigation measures or alternatives previously found not to be feasible or not previously considered would substantially reduce or lessen any significant effects of the Project on the environment, a Subsequent or Supplemental Environmental Impact Report (EIR) would be prepared in accordance with Sections 15162 or 15163 of the State CEQA Guidelines (CEQA Statutes Section 21166).

If the lead agency under CEQA finds that pursuant to Sections 15162 and 15163, no new significant impacts will occur or no new mitigation will be required, the lead agency can approve the subsequent proposed action to be within the scope of the Project covered by the Downtown FEIR and CAP FEIR, and no new environmental document is required. The Downtown FEIR is available for review at: <https://www.sandiego.gov/planning/community/profiles/downtown/eirs>. The CAP FEIR and Complete Communities FEIR are available at: <https://www.sandiego.gov/ceqa/final>.

7. **PROJECT-SPECIFIC ENVIRONMENTAL ANALYSIS:** See attached Environmental Checklist.
8. **MITIGATION, MONITORING, AND REPORTING PROGRAM (MMRP):** The approval of the DA would not result in any impacts to the environment and an MMRP will not be required.
9. **DETERMINATION:** In accordance with Sections 15168, 15162, and 15180 of the CEQA Guidelines, the potential impacts associated with future development within the DCP area are addressed in the Downtown FEIR, the CAP FEIR, and the Complete Communities FFEIR.

These documents address the potential environmental effects of future development within the DCP based on buildout forecasts projected from the land use designations, density bonus, and other policies and regulations governing development intensity and density.

Although the proposed DA project will not result in environmental impacts that would require mitigation, the Downtown FEIR and CAP FEIR, as listed in Section 6 above, concluded that development of Downtown would result in significant impacts related to the following issues (mitigation and type of impact shown in parentheses):

#### Significant but Mitigated Impacts

- Air Quality: Construction Emissions (AQ-B.1) (Direct [D])
- Land Use: Ballpark Noise (LU-B.1) (D)<sup>1</sup>
- Land Use: Ballpark Lighting (LU-B.5) (D)<sup>1</sup>
- Noise: Interior from Traffic Noise (NOI-B.1)(D)
- Noise: Interior from Ballpark Noise (NOI-B.2)(D)<sup>1</sup>

#### Significant and Not Mitigated Impacts

- Aesthetics/Visual Quality: Views of Bay and Bay Bridge(VIS-B.1) (D)
- Air Quality: Construction Emissions (AQ-B.1) (Cumulative [C])
- Air Quality: Mobile-source Emissions (C)
- Historical Resources: Historical (D/C)
- Historical Resources: Archaeological (D/C)
- Land Use: Traffic Noise (LU-B.2)(D)
- Land Use: Aircraft Noise (LU-B.3) (D)
- Land Use: Railroad Noise (LU-B.4) (D)
- Land Use: Physical Changes Related to Transient Activity (LU-B.6)(D/C)
- Noise: Traffic Noise Level Increase on Grid Streets (NOI-A.1) (D/C)
- Noise: Exterior Traffic Noise in Residential Development (NOI-C.1)(D)
- Noise: Exterior Aircraft Noise in Residential Development (NOI-C.2)(D)
- Noise: Exterior Traffic Noise in Public Parks and Plazas (NOI-D.1)(D)
- Noise: Exterior Aircraft Noise in Public Parks and Plazas (NOI-D.2)(D)
- Parking: Excessive Parking Demand (TRF-D.1)(D/C)
- Traffic: Impact on Grid Streets (TRF-A.1.1)(D)
- Traffic: Impact on Surrounding Streets (TRF-A.1.2)(D/C)
- Traffic: Impact on Freeway Ramps and Segments (TRF-A.2.1)(D/C)
- Traffic: Impact from Removal of Cedar Street Ramp (TRF-A.2.2) (D)
- Water Quality: Urban Runoff (WQ-A.1)(C)

In certifying the Downtown FEIR and approving the DCP, the City Council adopted a Statement of Overriding Considerations, which determined that the unmitigated impacts were acceptable in light of economic, legal, social, technological, or other factors including the following:

#### Overriding Considerations

- Develop Downtown as the primary urban center for the region.
- Maximize employment opportunities within the DCP area.
- Develop full-service, walkable neighborhoods linked to the assets the DCP area offers.
- Increase and improve park and public spaces.
- Maximize the advantages of Downtown's climate and waterfront setting.
- Implement a coordinated, efficient system of vehicular, transit, bicycle, and pedestrian traffic.
- Integrate historical resources into the DCP.
- Facilitate and improve the development of business and economic opportunities located in the DCP area.
- Integrate health and human services into neighborhoods within Downtown.
- Encourage a regular process of review to ensure the DCP and related activities are best meeting the vision and goals of the DCP.

SUMMARY OF FINDINGS: In accordance with PRC Section 21166 and CEQA Guidelines Sections 15168, 15162, and 15180(c) the following findings are derived from the environmental review documented by this Consistency Evaluation and the Downtown FEIR, CAP FEIR, and Complete Communities FPEIR,:

1. No substantial changes are proposed in the Downtown area, or with respect to the

circumstances under which the Downtown is anticipated to develop, which will require important or major revisions in the Downtown FEIR, CAP FEIR, or Complete Communities FPEIR due to the involvement of new significant environmental effects or substantial increase in the severity of previously identified significant effects;

2. No new information of substantial importance to the Downtown area, which was not known and could not have been known with the exercise of reasonable diligence at the time the Downtown FEIR, CAP FEIR, and Complete Communities FPEIR were certified as complete, has become available that shows the project will have any new significant and unmitigated effects not discussed previously in the Downtown FEIR, CAP FEIR, and Complete Communities FPEIR; or that any significant effects previously examined will be substantially more severe than shown in the Downtown FEIR, CAP FEIR, Complete Communities FPEIR, as mitigated; or that any mitigation measures or alternatives previously found not to be feasible are in fact feasible and would substantially reduce one or more significant effects on the environment, or that any mitigation measures or alternatives, which are considerable different from those analyzed in the Downtown FEIR, CAP FEIR, Complete Communities FPEIR, would substantially reduce one or more significant effects on the environment.
3. The proposed project will have no significant effect on the environment, except as identified and considered in the Downtown FEIR, CAP FEIR, Complete Communities FPEIR, that analyze Downtown and its geographic area.
4. Because no Subsequent EIR would be required under CEQA Guidelines Section 15162, the City can approve the proposed project as being within the scope of the Downtown FEIR, CAP FEIR, Complete Communities FPEIR, and no new environmental document is required.
5. The finding that the proposed project is within the scope of the Downtown FEIR, CAP FEIR, Complete Communities FPEIR, is based on the Consistency Evaluation and all the substantial evidence in the record that were analyzed in the Downtown FEIR, CAP FEIR, and the Complete Communities FPEIR.
6. The City has incorporated feasible and applicable mitigation measures and alternatives into the proposed project.



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Signature of Preparer/Lead Agency Representative

March 24, 2022

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Date

Figure 1- Vicinity Map

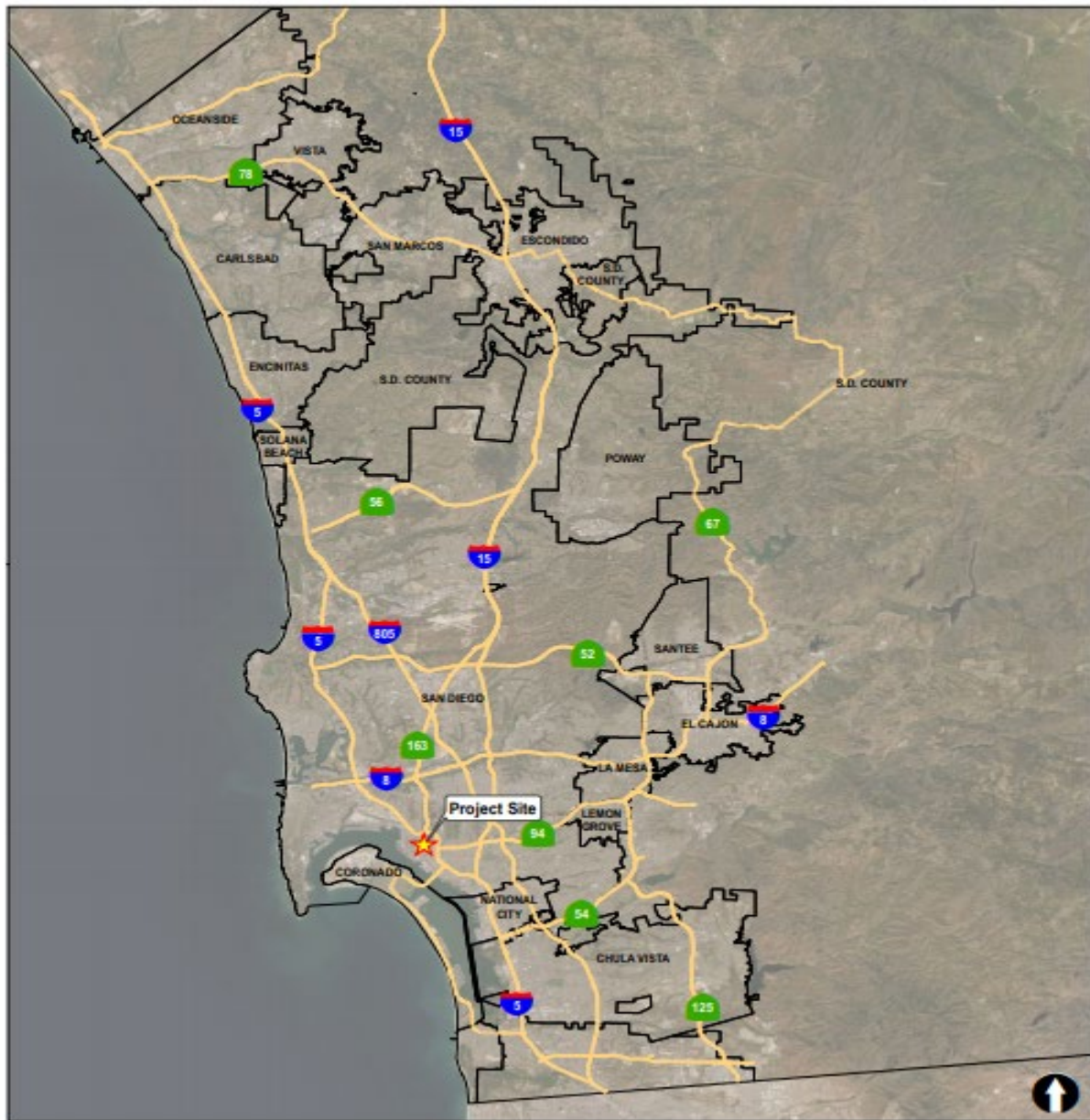




Figure 2- Project Location Map

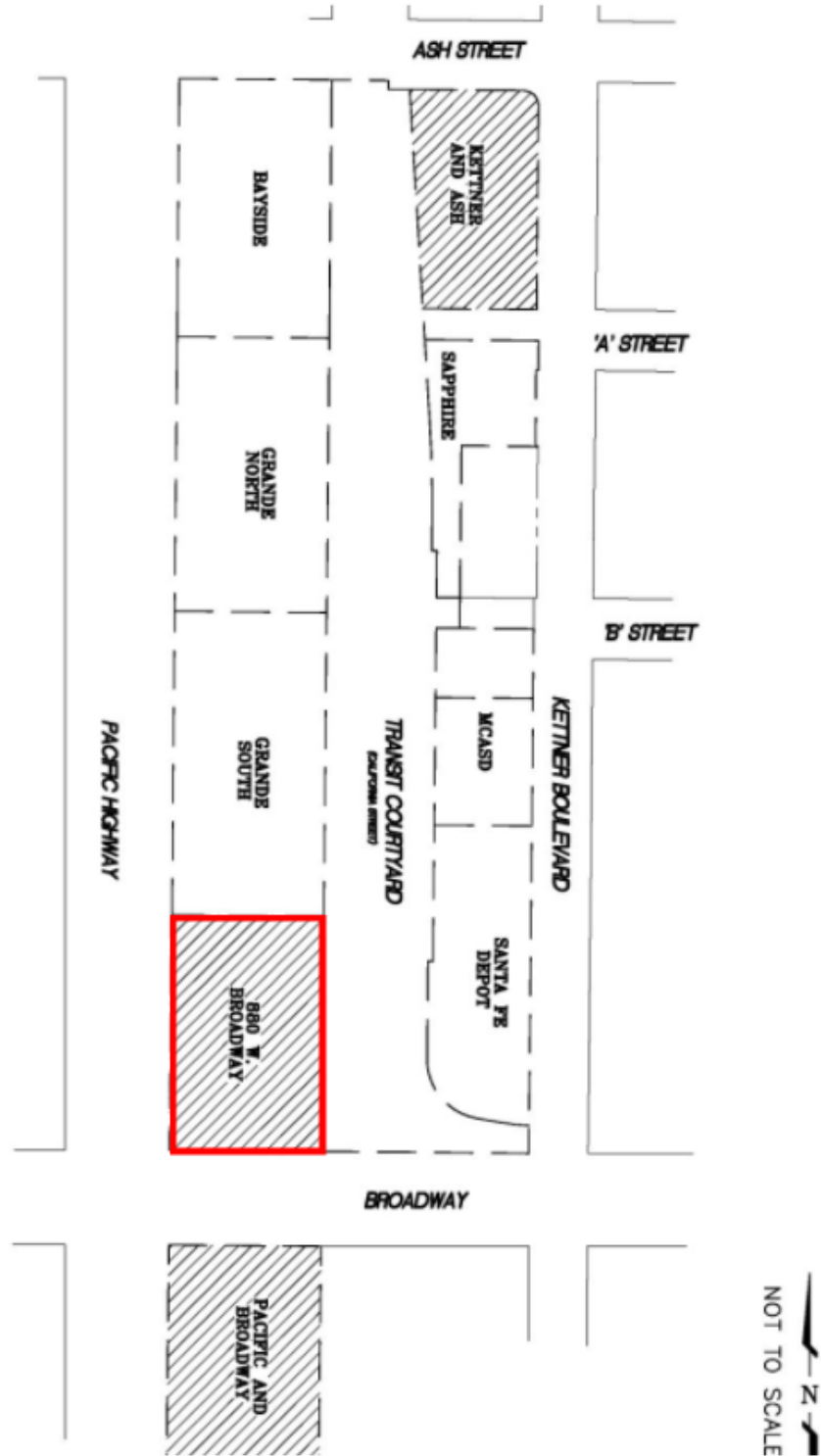
**LEGEND**



2012 Development  
Agreement Properties



2022 Development  
Agreement Property



## ENVIRONMENTAL CHECKLIST

The following Consistency Evaluation table is the written environmental checklist for evaluating the potential environmental effects of the project to determine if there are any new significant and unmitigated impacts compared to the impacts analyzed in the Downtown FEIR, CAP FEIR, and Complete Communities FPEIR to determine if an SEIR is required. As a result, the impacts are classified into one of the following categories:

- **Significant and Not Mitigated (SNM)** indicates that Downtown FEIR mitigation measures may be applicable that do not reduce the impact to below a level of significance, but the significant and unmitigated impact was already identified in the Downtown FEIR so no further environmental documentation is required beyond this Consistency Evaluation and project record. If the significant and unmitigated impact was not identified in the Downtown FEIR, or applicable sections of the CAP FEIR, then it is noted in the analysis as a significant and unmitigated impact.
- **Significant but Mitigated (SM)** indicates that FEIR mitigation measures or other feasible mitigation measures would be applicable and are accepted so no further environmental documentation is required beyond this Consistency Evaluation and project record.
- **Not Significant (NS)** indicates that the project would not result in a significant impact and no further environmental documentation is required beyond this Consistency Evaluation and project record.

The checklist identifies each potential environmental effect and provides information supporting the conclusion drawn as to the degree of impact associated with the project when compared to applicable analysis in the Downtown FEIR, CAP FEIR, and Complete Communities FPEIR. An impact conclusion follows each threshold question that reflects the project impact conclusion as determined by this Consistency Evaluation. The project impact conclusion is followed by a summary of the Downtown FEIR, Complete Communities FPEIR, and/or CAP FEIR impacts and a discussion of the project impacts based on the applicable analysis. The impact classifications checked in the columns to the right of the checklist reiterate the project impact conclusion.

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>1. AESTHETICS/VISUAL QUALITY</b>						
<p>(a) <b>Substantially disturb a scenic resource, vista, or view from a public viewing area or substantially degrade a scenic resource?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts to a scenic resource, vista, or view would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> As discussed in the Downtown FEIR, no designated scenic resources exist within the DCP area, although the northern DCP area includes an approximately 0.25-mile-long portion of the segment of State Route 163 from Ash Street to Interstate 8, which is eligible for designation as a California Scenic Highway.</p> <p>However, the approval of the DA would not result in any impacts to the environment. The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the Project would not result in any new or more severe impacts related to the disturbance to scenic resources than those identified in the Downtown FEIR.</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>(b) <b>Substantially incompatible with the bulk, scale, color and/or design of surrounding development?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts related to the bulk, scale, color, or design of surrounding development would occur with implementation of the DCP.</p> <p>As discussed in the Downtown FEIR, it is anticipated that the DCP would not adversely affect neighborhood character as the DCP would likely enhance neighborhood character through goals and policies related to landscaping, bulk and scale limitations, and urban design guidelines. Specifically, in the Civic/Core district, urban design standards in the CCPDO ensure that development would be visually compatible with the surrounding areas.</p> <p><u>Project Summary:</u> As previously stated the approval of the DA would not result in any impacts to the environment. The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. It is anticipated that the future development of the project site would comply with the goals and policies of the DCP; the design guidelines in the CCPDO; and all federal, state, and local regulations. However, any action at the project site would be subject to CEQA review and approval of the DA would not foreclose future CEQA review.</p>					X	X



Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
As such, pursuant to CEQA Guidelines Section 15162, the Project would not result in any new or more severe impacts related to the incompatibility with surrounding development than those identified in the Downtown FEIR.						
<p>(c) <b>Substantially affect daytime or nighttime views in the area due to lighting?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts associated with light or glare would occur with implementation of the DCP because the DCP and CCPDO include policies and regulations to minimize adverse lighting effects. The SDMC also contains a Light Pollution Law to protect sensitive land uses from excessive light generated by development. Further, the CCPDO requires that a light, glare, and shadow study be prepared for any building over 75 feet high.</p> <p><u>Project Summary:</u> The Project would be required to comply with the SDMC and CCPDO. The DCP area is largely developed and any new development resulting from the DCP would take place in or near developed and urbanized areas where moderate to high light and glare already exist. Lighting from future development in compliance with the SDMC, CCPDO, and policies in the DCP would not be out of character with the urban environment.</p> <p>The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, pursuant to CEQA Guidelines Section 15162, the Project would not result in any new or more severe impacts related to light and glare than those identified in the Downtown FEIR.</p>						
<b>2. AGRICULTURAL RESOURCES</b>						
<p>(a) <b>Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts to farmland would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> As discussed in the Downtown FEIR, the DCP area does not contain land designated as prime agricultural soils by the Natural Resources Conservation Service, nor does it contain prime farmlands designated by the California Department of Conservation. Pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts related to farmland than those identified in the Downtown FEIR.</p>					X	X
<p>(b) <b>Conflict with existing zoning for agricultural use, or a Williamson Act contract?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts to agricultural zoning or a Williamson Act contract would occur with implementation of the DCP.</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><u>Project Summary:</u> As discussed in the Downtown FEIR, the DCP area does not contain, nor is it near, land zoned for agricultural use or land subject to a Williamson Act contract pursuant to Section 51201 of the California Government Code. Pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts conflicting with existing agricultural zoning or a Williamson Act contract than those identified in the Downtown FEIR.</p>					X	X
<b>3. AIR QUALITY</b>						
<p>(a) <b>Conflict with or obstruct implementation of an applicable air quality plan, including the County's Regional Air Quality Strategies or the State Implementation Plan?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that, while implementation of the DCP would increase air emissions generated in the DCP area with respect to current levels, the DCP would not conflict with regional air quality planning as it would implement strategies and policies to reduce air pollution.</p> <p><u>Project Summary:</u> The proposed Project site is located within the San Diego Air Basin, which is under the jurisdiction of the San Diego Air Pollution Control District (SDAPCD). The San Diego Air Basin is designated by state and federal air quality standards as nonattainment for ozone and particulate matter (PM) less than 10 microns (PM10) and less than 2.5 microns (PM 2.5) in equivalent diameter. The SDAPCD has developed a Regional Air Quality Strategy (RAQS) to attain the state air quality standards for ozone. The</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>proposed Project is consistent with the land use and transit-supportive policies and regulations of the DCP and CCPDO; which are in accordance with those of the RAQs.</p> <p>The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to applicable air quality plans. Future development of the project site would be subject to CEQA and the approval of the DA would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts related to or conflicting with regional air quality planning than those identified in the Downtown FEIR.</p>						
<p><b>(b) Expose sensitive receptors to substantial air contaminants including, but not limited to, criteria pollutants, smoke, soot, grime, toxic fumes and substances, particulate matter, or any other emissions that may endanger human health?</b></p>					x	x
<p><u>FEIR Summary:</u> The Downtown FEIR concludes that emissions generated during demolition and construction activities could exceed acceptable local standards and pose a health risk to nearby sensitive receptors. The Downtown FEIR identifies Mitigation Measure AQ-B.1-1, which requires dust control measures to be implemented during demolition and construction.</p> <p>With implementation of Mitigation Measure AQ-</p>						



Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>B.1-1 and compliance with the City of San Diego mandated dust controls within the City Land Development Manual, Appendix O, Storm Water Standards Manual, impacts would be reduced to below a level of significance. The Downtown FEIR concludes that no significant impacts associated with mobile source, stationary, and hazardous materials emissions would occur with implementation of the DCP. However, mobile source emissions combined with other emissions in the San Diego Air Basin would result in a significant cumulative impact.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and approval of the project would not foreclose CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe air quality impacts to sensitive receptors than those identified in the Downtown FEIR.</p>						
<p>(c) <b>Generate substantial air contaminants including, but not limited to, criteria pollutants, smoke, soot, grime, toxic fumes and substances, PM, or any other emissions that may endanger human health?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that emissions generated during demolition and</p>					x	x

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>construction activities would cause the creation of dust and generate emissions from construction equipment that, when considered together, result in a significant impact. As discussed in Section 3(b), with implementation of Mitigation Measure AQ-B.1-1 and compliance with the City of San Diego mandated dust controls, impacts would be reduced to below a level of significance.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe air quality impacts related to the generation of air emissions than those identified in the Downtown FEIR.</p>						
<b>4. BIOLOGICAL RESOURCES</b>						
<p>(a) <b>Substantially effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by local, state, or federal agencies?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts to sensitive species would occur with implementation of the DCP.</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><u>Project Summary:</u> As discussed in the Downtown FEIR, due to the highly urbanized nature of the DCP area, no sensitive plant or animal species, habitats, or wildlife migration corridors are present within the DCP area. Pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts to sensitive species than those identified in the Downtown FEIR because the site is currently entirely developed as a surface parking lot.</p>						
<p>(b) <b>Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations by local, state, or federal agencies?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts to riparian habitat or other sensitive natural communities would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> As identified in the Downtown FEIR, the project site is not within a subregion of the San Diego County Multiple Species Conservation Program. The project would comply with applicable local, regional, state, and federal plans, policies, and regulations protecting riparian habitat or other sensitive natural communities and species. Pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts to riparian habitat or other sensitive natural communities than those identified in the Downtown FEIR.</p>					X	X
<b>5. HISTORICAL RESOURCES</b>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>(a) <b>Substantially impact a significant historical resource, as defined in § 15064.5?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that significant impacts to historical resources have the potential to occur with implementation of the DCP.</p> <p><u>Project Summary:</u> The project is a surface parking lot and the proposed project would not impact a designated historical resource. Furthermore, the project is the approval of the DA and no physical changes to the environment are proposed.</p>					X	X
<p>(b) <b>Substantially impact a significant archaeological resource pursuant to § 15064.5, including the disturbance of human remains interred outside of formal cemeteries?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that significant impacts to archaeological resources have the potential to occur with implementation of the DCP. The Downtown FEIR identifies Mitigation Measure HIST-B.1-1, which would require pre-construction compliance with local, state, and federal requirements and construction monitoring. The impact would be significant and not mitigated.</p> <p>As discussed in the Downtown FEIR, building demolition and construction have the potential to result in impacts to archaeological resources. However, the Downtown FEIR states that previously excavated areas are generally considered to have low potential for archaeological resources since the soil containing potential resources has been removed.</p>					X	X



Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts to archaeological resources than those identified in the Downtown FEIR.</p>						
<p>(c) <b>Substantially impact a unique paleontological resource or site or unique geologic feature?</b></p> <p>Any future development of the site is subject to the Chapter 14, Article 2, Division 1 of the San Diego Municipal Code, as amended, which would ensure that significant impacts to paleontological resources would not occur. This code section requires all projects to include paleontological monitors for excavation quantities exceeding the City's CEQA Threshold for potential impacts.</p>					x	x

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>6. GEOLOGY AND SOILS</b>						
<p>(a) <b>Substantial health and safety risk associated with seismic or geologic hazards?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts associated with seismic or geologic hazards would occur with implementation of the DCP.</p> <p>As discussed in the Downtown FEIR, the DCP area, including the project site, is located in a seismically active region. The Rose Canyon fault zone, Downtown Graben, and the San Diego Fault traverse the DCP area. According to the Downtown FEIR, a seismic event on these faults could cause significant seismic ground shaking within the DCP area. Implementation of the goals and policies in the DCP and conformance with building construction standards for seismic safety within the California Building Code (CBC) would reduce risk.</p> <p><u>Project Summary:</u> While the project is located in a seismically active region the approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the Project would not result in any new or more severe impacts related to seismic and geologic hazards than those identified in the Downtown FEIR.</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>7. GREENHOUSE GAS EMISSIONS</b>						
<p>(a) <b>Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?</b></p> <p><u>FEIR Summary:</u> The DCP provides for the growth and buildout of the DCP area. The CAP FEIR analyzed greenhouse gas (GHG) emissions on a citywide basis inclusive of the anticipated assumptions for the growth and buildout of the DCP area. The City's CAP outlines measures that would support substantial progress towards the City's 2035 GHG emissions reduction targets, which are intended to keep the City making substantial progress toward achieving its share of the state's 2050 GHG reductions targets that Executive Order B-30-15 found would "attain a level of emissions necessary to avoid dangerous climate change" because it limits global warming to 2 degrees Celsius by 2050. The CAP Consistency Checklist was adopted on July 12, 2016, to uniformly implement the CAP for project-specific analyses of GHG emission impacts.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>In addition, a CAP Consistency Checklist has been prepared that documents the project's</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
consistency with the CAP. Therefore, pursuant to CEQA Guidelines Section 15162, the Project would not result in any new or more severe impacts to GHG emissions than those identified in the CAP FEIR.						
<p>(b) <b>Conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gas?</b></p> <p><u>FEIR Summary:</u> See Section 7(a) above.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, pursuant to CEQA Guidelines Section 15162, the Project would not result in any new or more severe impacts related to conflicting with any applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions than those identified in the CAP FEIR.</p>					X	X
<b>8. HAZARDS AND HAZARDOUS MATERIALS</b>						
<p>a) <b>Substantial health and safety risk related to on-site hazardous materials?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts associated with on-</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>site hazardous materials would occur with implementation of the DCP.</p> <p>The Downtown FEIR acknowledges that demolition of buildings may expose workers to asbestos- containing material (ACM) and lead-based paint (LBP); however, the types of hazardous materials occurring within the DCP area are not likely to occur in sufficient concentrations to present health risks to construction workers. Additionally, risks would be reduced by compliance with existing mandatory federal, state, and local regulations as discussed in the Downtown FEIR.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the Project would not result in any new or more severe impacts associated with health and safety risk due to on-site hazardous materials than those identified in the Downtown FEIR. No mitigation is required.</p>					X	X
b) <b>Be located on or within 2,000 feet of a site that is included on a list of hazardous materials sites compiled pursuant to Government Code § 65962.5 and, as a result, would it create a</b>						



Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><b>significant hazard to the public or the environment?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts associated with hazardous materials sites would occur with implementation of the DCP.</p> <p>As discussed in the Downtown FEIR, the DCP area has a high potential for encountering hazardous materials sites identified on registers compiled pursuant to Government Code §65962.5. However, significant impacts would be avoided through compliance with mandatory federal, state, and local regulations.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>The project would not result in any new or more severe impacts related to hazardous materials sites than those identified in the Downtown FEIR.</p>					X	X
<b>(c)Substantial safety risk to operations at San Diego International Airport?</b>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><u>FEIR Summary:</u> According to the Airport Land Use Compatibility Plan for San Diego International Airport (SDIA), the entire Downtown is located within the SDIA Airport Influence Area. The Downtown FEIR identifies policies that regulate development within areas affected by Lindbergh Field including building heights, use and intensity limitations, and noise sensitive uses.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, no impact to the applicable air quality plan would occur. As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts related to safety risk than those identified in the Downtown FEIR.</p>						
<p>(d) <b>Substantially impair implementation of an adopted emergency response plan or emergency evacuation plan?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts to an emergency response or evacuation plan would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with emergency response or evacuation plans than those identified in the Downtown FEIR.</p>						
<b>9. HYDROLOGY AND WATER QUALITY</b>						
<p>(a) <b>Substantially degrade groundwater or surface water quality?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts related to degradation of groundwater or surface water quality would occur. As discussed in the Downtown FEIR, adherence to state and local water quality controls, such as the City Jurisdictional Runoff Management Plan, Storm Water Pollution Prevention Plan (SWPPP), City Stormwater Standards, and Hazardous Materials Release Response and Inventory Plan, would reduce potential urban runoff impacts generated by new development.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts to groundwater or surface water quality than those identified in the Downtown FEIR. No mitigation is required.</p>						
<p><b>(b) Substantially increase impervious surfaces and associated runoff flow rates or volumes?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts related to an increase in impervious surfaces and associated runoff would occur with implementation of the DCP.</p> <p>As discussed in the Downtown FEIR, the proposed mix of uses in the DCP is anticipated to replace the impervious surfaces that already exist in the area that would maintain the existing runoff characteristics. As the DCP area is highly urbanized, is paved with impervious surfaces, and contains very little vacant land, redevelopment under the DCP would not result in a substantial increase in impervious surface area. Significant impacts would be avoided through compliance with mandatory state and local regulations.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with an increase in impervious surface and associated runoff than those identified in the Downtown FEIR.</p>						
<p><b>(c) Substantially impede or redirect flows within a 100-year flood hazard area?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts related to flood flows would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts related to substantially impeding or redirecting flows than those identified in the Downtown FEIR. No mitigation is required.</p>					X	X



Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>(d) <b>Substantially increase erosion and sedimentation?</b></p> <p><u>FEIR Summary:</u> As discussed in the Downtown FEIR, the potential for erosion and sedimentation could increase in the short-term during site preparation and other construction activities. However, compliance with state and local water quality controls would ensure that impacts are not significant. The Downtown FEIR concludes that no significant impacts associated with an increase in erosion or sedimentation would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with an increase in erosion or sedimentation than those identified in the Downtown FEIR.</p>					X	X
<b>10. LAND USE AND PLANNING</b>						
<p>(a) <b>Physically divide an established community?</b></p> <p><u>FEIR Summary:</u> As discussed in the Downtown FEIR, the DCP proposes to strengthen community identity and make communities more accessible</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>through the development of neighborhood centers. The Downtown FEIR also states that the development of large facilities (projects with footprints exceeding one block) has the potential to divide an established community. The Downtown FEIR concludes that implementation of the DCP would not divide an established community.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with dividing an established community than those identified in the Downtown FEIR. No mitigation is required.</p>					X	X
<p>(b) <b>Substantially conflict with the City's General Plan and Progress Guide, Downtown Community Plan, Centre City PDO or other applicable land use plan, policy, or regulation?</b></p> <p><u>Downtown FEIR Summary:</u> The Downtown FEIR concludes that implementation of the DCP would not result in significant impacts related to conflicts with applicable land use plans.</p> <p><u>Project Summary:</u> The Project proposes the</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project was determined to not result in any new or more severe impacts associated with conflicting with land use plans than those identified in the Downtown FEIR and GP FEIR. No mitigation is required.</p>					X	X

<p><b>(d) Substantially impact surrounding communities due to sanitation and litter problems generated by transients displaced by Downtown development?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that significant impacts associated with sanitation and litter problems generated by displaced people who are homeless would occur with implementation of the DCP. The Downtown FEIR identifies that the DCP would support the efforts of the mitigation measure identified in the Final Subsequent EIR to the Final Master Environmental Impact Report for the Ballpark and Ancillary Development Projects, and Associated Plan Amendments prepared in September 1999, which created a Homeless Outreach Team consisting of a law enforcement officer and a social worker who distribute information on how to find help offered by local social service providers. Even with implementation of homeless outreach efforts, the impact would not be reduced below a level of significance.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with the displacement of people who are homeless than those identified in the Downtown FEIR. No mitigation is required.</p>					x	x
<b>11. MINERAL RESOURCES</b>						
<p><b>(a) Substantially reduce the availability of important mineral resources?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>concludes that no significant impacts to mineral resources would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts to mineral resources than those identified in the Downtown FEIR. No mitigation is required.</p>					X	X
<b>12. NOISE</b>						
<p>(a) <b>Substantial noise generation?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes development within the DCP area could generate temporary noise impacts caused by construction activities. However, short-term construction noise impacts would be avoided by adherence to construction noise limitations imposed by the City's Noise Abatement and Control Ordinance. The Downtown FEIR also concludes that significant impacts associated with traffic, aircraft, and ballpark noise increases would occur with implementation of the DCP. No feasible mitigation measures are available to reduce the significant traffic and aircraft noise increase.</p>					X	X



Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>However, prior to approval of a Building Permit for any residential, hospital, or hotel noise-sensitive use (excluding residential and hotel uses) within 475 feet of the centerline of I-5 or adjacent to a roadway carrying more than 7,000 ADT, an acoustical analysis would be performed to confirm that architectural or other design features are included, which would ensure that noise levels within habitable rooms would not exceed 45 dB(A) CNEL.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts to noise than those identified in the Downtown FEIR. No mitigation is required.</p>						
<p>(b) <b>Substantial exposure of required outdoor residential open spaces or public parks and plazas to noise levels (e.g., exposure to levels exceeding 65 dBA CNEL)?.</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that significant impacts associated with exposure of required outdoor open space and public parks and plazas to noise levels would occur with implementation of the DCP.</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts to mineral resources than those identified in the Downtown FEIR.</p>					x	x
<p>(c) <b>Substantial interior noise within habitable rooms (e.g., levels in excess of 45 dBA CNEL)?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that significant impacts associated with interior noise as a result of traffic, railroad, and ballpark noise would occur with implementation of the DCP. The Downtown FEIR identifies Mitigation Measures LU-B.4-1 and NOI-B.1-1, which would require a project-specific noise study prior to approval of a building permit for any residential, hospital, or hotel development within 475 feet of the centerline of I-5 or adjacent to a roadway carrying more than 7,000 ADT or that has the potential to expose habitable rooms to disruptive railroad noise. The Downtown FEIR also identifies Mitigation Measure NOI-B.2-1, which would require a project-specific noise study prior to approval of a building permit for any noise-sensitive land uses, including hotels within four</p>					x	x

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>blocks of the ballpark. Implementation of these mitigation measures and compliance with Title 24 and CBC requirements would reduce interior noise impacts to below a level of significance by requiring noise levels in habitable rooms to not exceed 45 dB(A) CNEL.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts that would cause substantial interior noise within habitable rooms than those identified in the Downtown FEIR.</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<b>13. POPULATION AND HOUSING</b>						
<p>(a) <b>Substantially induce population growth in an area?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that no significant impacts associated with inducing population growth would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, project-level and cumulative impacts associated with this issue are not significant. Pursuant to CEQA Guidelines Section 15162, the project does not result in any new or more severe impacts associated with inducing population growth than those identified in the Downtown FEIR.</p>					X	X
<p>(b) <b>Substantial displacement of existing housing units or people?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR found that the year 2030 residential unit projection for the DCP would be greater than that anticipated by the 2030 Cities/County Forecast. Therefore, the DCP would contribute additional housing to a region that is currently experiencing housing deficiencies</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>and would have a beneficial effect on housing supply. The Downtown FEIR concludes that no significant impacts associated with displacement of existing housing units or people would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Pursuant to CEQA Guidelines Section 15162, the project does not result in any new or more severe impacts associated with inducing population growth than those identified in the Downtown FEIR. No mitigation is required.</p>					X	X
<b>14. PUBLIC SERVICES AND UTILITIES</b>						
<p>(a) <b>Substantial adverse physical impacts associated with the provision of new schools?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that implementation of the DCP would result in additional residential units, which would generate school-aged children attending local public schools. However, no site for a future school has been identified; therefore, impacts associated with construction of a future school would be speculative.</p>						



Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with the provision of new schools than those identified in the Downtown FEIR. No mitigation is required.</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>(b) <b>Substantial adverse physical impacts associated with the provision of new libraries?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that implementation of the DCP would generate the need for a new Main Library and possibly other smaller libraries in the DCP area. However, no site for future libraries has been identified; therefore, impacts associated with construction of future libraries would be speculative. The environmental impacts of the now existing Main Library were analyzed in a Secondary Study.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with the provision of new libraries than those identified in the Downtown FEIR.</p>					X	X
<p>(c) <b>Substantial adverse physical impacts associated with the provision of new fire protection/emergency facilities?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concluded</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>that the San Diego Fire Department was in the process of securing sites for two new fire stations in the DCP area. (Since the Downtown FEIR was certified, the City closed Station 2 at 1171 10<sup>th</sup> Avenue and combined with Station 1. New Station 2 opened in 2018 at 875 West Cedar Street and serves Little Italy and the Downtown area west of the train and trolley tracks.) The Downtown FEIR concludes that implementation of the DCP would result in additional growth, which could result in the need for additional fire protection or emergency facilities. However, insufficient information exists to accurately determine that any physical impacts may occur from either of the proposed stations; therefore, impacts associated with construction of future facilities would be speculative.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with the provision of new fire protection or emergency facilities than those identified in the Downtown FEIR. No mitigation is required.</p>					X	X
(d) <b>Substantial adverse physical impacts associated</b>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><b>with the provision of new law enforcement facilities?</b></p> <p><u>FEIR Summary:</u> Similar to schools, libraries, and fire protection/emergency facilities, the Downtown FEIR concludes that implementation of the DCP would result in additional growth, which could result in the need for additional law enforcement facilities. However, no site for a future substation has been identified; therefore, impacts associated with construction of a future substation would be speculative.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with the provision of new law enforcement facilities than those identified in the Downtown FEIR. No mitigation is required.</p>					X	X
<p>(e) <b>Substantial adverse physical impacts associated with the provision of new water transmission or treatment facilities?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that implementation of the DCP would result in</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>additional growth, which would increase the demand for treated water. However, the Alvarado Water Treatment Plant has the capacity to support the additional DCP population. Further, the San Diego Water Department routinely replaces and upsizes deteriorating and under-sized pipes through its Capital Improvement Project program, which is categorically exempt from environmental review pursuant to CEQA.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with the provision of new water supply facilities than those identified in the Downtown FEIR.</p>					X	X
<p>(f) <b>Substantial adverse physical impacts associated with the provision of new storm water facilities?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that implementation of the DCP would not result in an increase in impervious surfaces and associated runoff and, therefore, would not result in a significant impact to the storm drain system.</p>						



Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with the provision of new storm water facilities than those identified in the Downtown FEIR. No mitigation is required.</p>					X	X
<p><b>(g) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that implementation of the DCP would result in additional growth, which would increase the demand for treated water. The San Diego County Water Authority indicated that it will have a local water supply sufficient to support the increase in water use. Additionally, SB 610 and SB 221 require a water supply assessment (WSA) for any development that would construct 500 or more dwelling units, 500 or more hotel rooms, or a project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Pursuant to CEQA Guidelines Section 15162, the Project would not result in any new or more severe impacts associated with the provision of new or expanded entitlements than those identified in the Downtown FEIR.</p>						
<p>(h) <b>Substantial adverse physical impacts associated with the provision of new wastewater transmission or treatment facilities?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that implementation of the DCP would result in growth, which would increase the demand for wastewater services. The Downtown FEIR determined that the Point Loma Water Treatment Plant would have capacity to treat the additional wastewater generated by the growth described in the DCP and analyzed in the Downtown FEIR.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with the provision of new wastewater treatment facilities than those identified in the Downtown FEIR. No mitigation is required.</p>						
<p>(i) <b>Substantial adverse physical impacts associated with the provision of new landfill facilities?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that implementation of the DCP would result in additional growth, which would generate additional solid waste. Waste would be disposed of at Miramar Landfill and at an alternative landfill once Miramar Landfill closes. However, no site for a future landfill has been identified; therefore, impacts associated with construction of a future landfill would be speculative. Future projects that include 50 residential units or at least 40,000 square feet of commercial space are required to submit a Waste Management Plan to limit construction and demolition waste as well as manage long-term solid waste generated after construction.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with the provision of new landfill facilities than those identified in the Downtown FEIR. No mitigation is required.</p>						
<b>15. PARKS AND RECREATIONAL FACILITIES</b>						
<p>(a) <b>Substantial increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that implementation of the DCP would not result in an increase in the use of existing park and recreation facilities that would lead to accelerated deterioration. As discussed in the Downtown FEIR, implementation of the goals and policies in the DCP and implementation of a Transfer of Development Rights would facilitate new park space in the DCP area. The Downtown FEIR concludes that the additional resident population anticipated at buildout of the DCP area would be accommodated by the parks proposed in the DCP.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with a substantial use of parks.</p>						
<b>16. TRANSPORTATION/TRAFFIC</b>						
<p>(a) <b>Cause the level of service (LOS) on a roadway segment or intersection to drop below LOS E?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that significant traffic impacts on 62 intersections in the DCP area would occur with implementation of the DCP. The Downtown FEIR identifies improvements at 50 of the impacted intersections that would maintain an acceptable LOS. Due to constraints imposed by adjacent land use, up to 12 intersections would not be within acceptable LOS and the impact would be significant and not mitigated.</p> <p>The Downtown FEIR also concludes that significant traffic impacts to roadway segments in the DCP area would occur with implementation of the DCP. The Downtown FEIR identifies Mitigation Measures TRF-A.1.1-1 and TRF-A.1.1-2, which would require subsequent monitoring and project-specific traffic studies to determine appropriate future improvements. Even with</p>					X	X



Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>implementation of Mitigation Measures TRF-A.1.1-1 and TRF-A.1.1-2, as no specific information on potential improvements exists at this time and there is no guarantee that improvements would be implemented, the impact would be significant and not fully mitigated.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Therefore, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with roadway segments and intersections than those identified in the Downtown FEIR and no new project-specific mitigation is required.</p>						
<p><b>(b) Cause the LOS on a freeway segment to drop below LOS E or cause a ramp delay in excess of 15 minutes?</b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that significant traffic impacts on nine freeway segments and 14 freeway ramps would occur with implementation of the DCP. The Downtown FEIR identifies Mitigation Measure TRF-A.2.1-1, which would require initiation of a multi-jurisdictional effort to develop a detailed, enforceable plan to identify improvements to</p>					X	X

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>reduce congestion on I-5 through the DCP area and identify funding sources. Even with implementation of Mitigation Measure TRF- A.2.1-1, as the City of San Diego does not have jurisdiction to improve the freeway system, the impact would be significant and not mitigated.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Thus, the Project's cumulative-level impacts to freeways would not result in impacts and the Project would not have a direct impact on freeway segments and ramps.</p>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>(c) <b><i>Substantially discourage the use of alternative modes of transportation or cause transit service capacity to be exceeded?</i></b></p> <p><u>FEIR Summary:</u> The Downtown FEIR concludes that implementation of the DCP would not result in significant impacts associated with discouraging the use of alternative modes of transportation or cause transit service capacity to be exceeded.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The proposed DA Project in and of itself does not include any features that would discourage the use of alternative modes of transportation. The Project's proximity to several other community serving uses, including nearby shopping and recreational activities also encourage walking. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>As such, pursuant to CEQA Guidelines Section 15162, the project would not result in any new or more severe impacts associated with discouraging the use of alternative modes of transportation or cause transit service capacity to be exceeded than those identified in the Downtown FEIR.</p>					X	X
<b>17. MANDATORY FINDINGS OF SIGNIFICANCE</b>						

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>(a) <b>Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</b></p> <p><u>FEIR Summary:</u> As discussed in Section 4, the Downtown FEIR concludes that no significant impacts to biological resources would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> The Project proposes the approval of a DA for the site at the northeast corner of Pacific Highway and Broadway. No physical changes to the site or environment are proposed as part of the DA. The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Pursuant to CEQA Guidelines Section 15162, the project was determined to not result in any new or or significant impacts to California History or Prehistory.</p>					X	X
<p>(b) <b>Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in</b></p>					x	x

Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p><b>connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?</b></p> <p><u>FEIR Summary:</u> As acknowledged in the Downtown FEIR, implementation of the DCP would result in cumulative impacts associated with air quality, historical resources, land use, noise, traffic and circulation, and water quality. Even with implementation of applicable mitigation measures, cumulative impacts would be significant and not fully mitigated.</p> <p><u>Project Summary:</u> As acknowledged in the Downtown FEIR, the buildout of Downtown would result in cumulative impacts associated with: air quality, historical resources, paleontological resources, physical changes associated with transient activities, noise, parking, traffic, and water quality. However, the approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>This Project's contribution would not be greater than anticipated by the Downtown FEIR and therefore no further analysis is required.</p>						
<p><b>(c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?</b></p> <p><u>FEIR Summary:</u> Impacts associated with air quality, noise, and geology and soils have the potential to cause substantial adverse effects on human beings.</p>					X	X



Issues and Supporting Information	Significant and Not Mitigated (SNM)		Significant but Mitigated (SM)		Not Significant (NS)	
	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)	Direct (D)	Cumulative (C)
<p>The Downtown FEIR concludes that no significant impacts associated with air quality and with geology and soils would occur with implementation of the DCP.</p> <p><u>Project Summary:</u> As acknowledged in the Downtown FEIR, the build-out of Downtown would result in cumulative impacts associated with; air quality, historical resources, paleontological resources, physical changes associated with transient activities, noise, traffic, and water quality.</p> <p>The approval of the DA would not result in any impacts to the environment. Future development of the project site would be subject to CEQA and the approval of the project would not foreclose future CEQA review.</p> <p>Pursuant to CEQA Guidelines Section 15162, the project was determined to not result in any new or or significant impacts related to adverse effects to human beings.</p>						

## REFERENCES

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