

Introduced by: _____

ORDINANCE NO. _____

AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PASADENA AND FULLER SEMINARY TO IMPLEMENT FULLER SEMINARY'S MASTER PLAN

WHEREAS, California Government Code Section 65864 provides, in pertinent part:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning, which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development”; and

WHEREAS, California Government Code Section 65865 provides, in pertinent part:

“(a) Any city...may enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property as provided in this article...”; and

WHEREAS, California Government Code Section 65865.2 provides, in pertinent part:

“A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms,

restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement...”; and

WHEREAS, the City of Pasadena provides a process for the adoption and amendment of development agreements pursuant to the Pasadena Municipal Code, Title 17, Chapter 17.66, which sets forth specific findings that must be made before a development agreement may be approved or amended; and

WHEREAS, on April 30, 2007, by Uncodified Ordinance No. 7095, the City entered into a Development Agreement by and between the City of Pasadena, a California municipal corporation, and Fuller Theological Seminary, a California nonprofit corporation; and

WHEREAS, on June 8, 2022, the Planning Commission held a duly noticed public hearing concerning an amendment to the Development Agreement (“Amendment to the DA”), which amendment would exclude the property at 282 N. Los Robles Avenue (AIN:5723-005-044) from the Development Agreement, in order to facilitate the construction of a six-story multi-family residential in-fill development with 105 dwelling units. After the public hearing, the Planning Commission recommended approval of the Amendment to the DA to the City Council; and

WHEREAS, on January 23, 2023, the City Council of the City of Pasadena conducted a duly noticed public hearing regarding the Amendment to the DA, after which the Council: (1) found that the project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Sections 15305 (Class 5: Minor Alterations in Land Use Limitations) and 15332 (Class 32: In-fill Development Projects); and (2) adopted findings in support of the Amendment to the DA, and approved the Amendment to the DA; and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, the People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance due to its length and the corresponding cost of publication will be published by title and summary as permitted by Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

“Summary

Ordinance No. _____ is an uncodified ordinance through which an Amendment to the Development Agreement between the City of Pasadena and Fuller Theological Seminary is approved. The purpose of the Amendment to the Development Agreement is to exclude the property at 282 N. Los Robles Avenue (AIN:5723-005-044) from the Development Agreement, in order to facilitate the construction of a six-story multi-family residential in-fill development with 105 dwelling units. The Amendment to the Development Agreement (including legal descriptions of all affected parcels), and findings in support of the Amendment to the Development Agreement, are attached to the Ordinance and are on file in the City Clerk’s Office.”

SECTION 2. As required by Chapter 17.66 of the Pasadena Municipal Code, the City Council finds the following with respect to the Amendment to the DA:

1. Would be in the best interest of the City;

The Development Agreement required all net new dwelling units constructed pursuant to the Master Plan to be affordable units reserved for Fuller’s use (e.g. students, faculty). However, because Fuller no longer owns the 282 N. Los Robles Avenue property, it cannot construct any housing on that property, nor has it indicated any desire for a third-party to construct housing for Fuller use. The continued inclusion of 282 N. Los Robles Avenue in the Development Agreement would result in no changes to the existing surface parking lot. Conversely, the removal of 282 N. Los Robles Avenue from the Development Agreement, to facilitate a proposed housing development, would result in an increase in the number of available dwelling units in Pasadena. By amending the Development Agreement, the proposed project would be subject to the City’s Inclusionary Housing Ordinance and be developed consistent with the underlying CD-3 zoning district and the General Plan. As such, the proposed Development Agreement amendment would be in the best interest of the City.

2. *Is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan, and this Zoning Code.*

The proposed Development Agreement Amendment would unencumber 282 N. Los Robles Avenue from the Fuller Development Agreement, thereby allowing the project site to be developed as allowed by the existing Medium Mixed Use land use designation from the General Plan Land Use Element and the Zoning Code. The proposed development would be a high-density, multi-family, residential project, as allowed by the CD-3 zoning district, and in compliance with the applicable development standards. The CD-3 zoning district, designated as "Walnut Housing" in Chapter 17.30 (Central District Specific Plan) of the City's Zoning Code, is, "...intended to promote the development of a high-density residential area north of Colorado Boulevard and in close proximity to the Lake Avenue Light Rail Station, as well as to balance the institutional growth and historic preservation activities of Fuller Seminary, prominently located within the subdistrict." A high-density, multi-family, project is consistent with the purpose of the CD-3 zoning district. The properties that would remain in the Fuller Master Plan were determined to comply with the special purposes of the Zoning Code and Specific Plan when the master plan was adopted. The properties within the Master Plan would continue to comply as they would be used for institutional uses as originally envisioned

3. *Would not be detrimental to the health, safety, and general welfare of persons residing in the immediate area, nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City.*

The removal of 282 N. Los Robles Avenue from the Fuller Development Agreement would allow for its consolidation with 270 N. Los Robles Avenue, which would in turn facilitate the development of a 105-unit Urban Housing project, consistent with both the CD-3 zoning district and Medium Mixed-Use land use designation. The operation of a multi-family building will not be

detrimental to health, safety or general welfare of people residing in the vicinity of the building. The proposed project will be designed in accordance with the applicable Building Code, Fire Code, and other relevant regulations to ensure the construction and occupation of a safe and habitable place structure. The Class 32 Categorical Exemption Evaluation Report prepared by GPA Consulting found the project would not have the potential to result in significant project-related or cumulative impacts relating to traffic, noise, air quality, or water quality. These conclusions are based on a CEQA-focused traffic impact analysis, noise analysis, and an air quality analysis.

4. *Is consistent with the provisions of State law (Government Code Sections 65864 through 65869.5).*

The request for the amendment of the Development Agreement was prepared consistent with the State law and in accordance with the provisions of the Zoning Code.

SECTION 3. The City Council hereby approves the Amendment to the DA, attached hereto and incorporated herein, and authorizes the City Manager to execute it on behalf of the City. This Ordinance and Ordinance No. 7095, and the documents adopted thereby, shall constitute the full and complete Development Agreement.

SECTION 4. No later than ten (10) days after the effective date of this Ordinance, the City Clerk shall record with the County Recorder a copy of the Amendment to the DA.

SECTION 5. The City Clerk is hereby directed to cause a summary of this Ordinance to be published at least once in a newspaper of general circulation within fifteen (15) days after its passage, in accordance with Government Code Section 36933, and shall certify to the adoption of this Ordinance.

SECTION 6. This ordinance shall take effect upon publication.

Signed and approved this _____ day of _____,
2023.

Victor M. Gordo
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of
the City of Pasadena at its meeting held this _____ day of
_____, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Published:

Mark Jomsky
City Clerk

APPROVED AS TO FORM:



Theresa E. Fuentes
Assistant City Attorney
TZQHUVU3P0D1P6K

Attachment: FIRST AMENDMENT TO DEVELOPMENT AGREEMENT NO. 19378

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF PASADENA
Attention: City Clerk
100 North Garfield Avenue
Pasadena, CA 91101

EXEMPT FROM RECORDER'S FEES

Pursuant to Government Code §6103 and §27383

(Space Above for Recorder's Use)

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT NO. 19378

By And Between

THE CITY OF PASADENA,

a California municipal corporation,

and

FULLER THEOLOGICAL SEMINARY,

a California nonprofit corporation

**(Pursuant to California Government Code Sections 65864 – 65869.5 and Pasadena
Municipal Code Chapter 17.66)**

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT NO. 19378

This First Amendment to Development Agreement No. 19378 (this “Amendment”), shall be effective thirty days after the adoption of the Ordinance enacting it (the, “Effective Date”), and is entered into by and between (1) the CITY OF PASADENA, a California municipal corporation and charter law city (“City”), (2) FULLER THEOLOGICAL SEMINARY, a California nonprofit corporation (“Fuller”), and CDB INVESTMENTS, LP, a California limited partnership (“Developer”), with regard to the following:

RECITALS

A. On April 30, 2007, the City Council for the City adopted Ordinance No. 7095 approving Development Agreement No. 19378 by and between the City and Fuller (the “Agreement). At that time, Fuller was the owner of 39 parcels of land in the City, which is the real property described in Exhibit “A” attached hereto and incorporated herein by this reference (the “Property”). The purpose of the Agreement was to eliminate uncertainty in the planning process and to provide for the orderly development of the Property based upon Fuller’s Master Development Plan (Fuller’s “Master Plan”), which was approved by the City in November 2006.

B. Specifically, when the Agreement was executed, Fuller intended to implement a 20-year plan to expand its campus to accommodate projected growth of up to 2,014 students. The Agreement, therefore, was approved to allow Fuller to vest their development rights against any changes that may arise out of future General Plan and Zoning Code changes. The Agreement also provided public benefits to City, including the designation of Ford Place as a landmark district and the preservation of three historic structures on-site, as well as the relocation of three other historic structures that were sold to limited income households. In addition, the Hubbard Library was expanded, traffic signals were installed at the Union/Oakland and Walnut/Oakland intersections, and an open space mid-block pedestrian campus gateway with a plaza was installed in front of the Hubbard Library.

C. Since the approval of its Master Plan and the Agreement, however, Fuller’s vision for its campus has changed significantly because of the growth of its online programs and resulting declining student enrollment. As a result, Fuller no longer intends to expand its campus.

D. Therefore, on or about July 11, 2013, Fuller sold 11 of its parcels of real property to CP IV Corson Street, LLC. A true and correct copy of the Grant Deed for that sale recorded as Instrument No. 20131017449, is attached hereto as Exhibit “B” and incorporated herein by this reference. The 11 parcels encompassed 3.8 acres of land that were developed with eight multi-family apartment buildings originally envisioned for development under Fuller’s Master Plan, including the surface parking lot at 282 N. Los Robles Avenue. Subsequent thereto, Fuller sold some of its other parcels to the other signatories listed below.

E. On or about September 6, 2019, Developer purchased APN 5723-005-029 and APN 5723-005-044 from CP IV Corson Street, LLC, which are listed as Parcel 12 on Exhibit “A” and Parcels 10 and 11 on Exhibit “B” attached hereto. The address for the parcels purchased by Developer are 270 North Los Robles Avenue and 282 North Los Robles Avenue; however, only the 282 North Los Robles Avenue parcel is in the Fuller Master Plan area and

subject to the Agreement. A true and correct copy of the Grant Deed for this sale recorded as Instrument No. 20190915223, is attached hereto as Exhibit “C” and incorporated herein by this reference.

F. Pursuant to Sections 7.8 and 7.20 of the Agreement, therefore, Developer is the successor to Fuller as to the rights and obligations, burdens and benefits, of the Agreement as to APN 5723-005-044, while the other signatories listed below are the successors to Fuller as to the rights and obligations, burdens and benefits of the Agreement as to the parcels they purchased.

G. Accordingly, on or about March 4, 2021, pursuant to Section 7.7 of the Agreement, Developer submitted an application to amend the Fuller Master Plan and the Agreement to exclude the property located at 282 N. Los Robles Avenue from both the Master Plan and Agreement, in order to facilitate its construction of a six-story multi-family residential development under the zoning set-forth in the City’s General Plan. No other changes to the Master Plan or Agreement were proposed.

H. Specifically, at present, 282 N. Los Robles Avenue is developed with a surface parking lot and 270 N. Los Robles Avenue is a vacant residential lot. Under Fuller’s Master Plan, 282 N. Los Robles Avenue was to be developed in conjunction with the two properties to the east of it for student housing. However, because Fuller no longer needs such housing and no longer owns the 282 N. Los Robles Avenue property, it cannot construct any housing on that property, nor has it indicated any desire for a third-party to construct housing for Fuller use. As such, the continued inclusion of 282 N. Los Robles Avenue in the Master Plan and Agreement would result in no changes to the existing surface parking lot. Conversely, the removal of 282 N. Los Robles Avenue from the Master Plan and Agreement would facilitate the Developer’s proposed housing development, and thus result in an increase in the number of available dwelling units in City.

I. On June 8, 2022, after a duly noticed public hearing, the Planning Commission for the City recommended to the City Council that the City Council find that the project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Section 15305 (Class 5: Minor Alterations in Land Use Limitations) and 15332 (Class 32: In-fill Development Projects). The Planning Commission further recommended that the City Council adopt the findings and conditions of approval for the proposed amendments to Fuller’s Master Plan and the Agreement; and that the City Council amend the Master Plan and Agreement to remove 282 N. Los Robles Avenue from them.

J. On _____, 2023, after a duly noticed public hearing, the City Council for the City found that the project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Section 15305 (Class 5: Minor Alterations in Land Use Limitations) and 15332 (Class 32: In-fill Development Projects). The City Council also adopted the findings and conditions of approval for the proposed amendments to Fuller’s Master Plan and the Agreement; and, approved the amendment of Fuller’s Master Plan and the Agreement to remove 282 N. Los Robles Avenue from them.

K. The City Council thus has given the required notice of its intention to adopt this Amendment and conducted public hearings thereon pursuant to the Development Agreement

Statute and PMC. As required by applicable law, the City Council found the provisions of this Amendment and its purposes are consistent with the goals, policies, standards, and land use designations specified in City's General Plan and with the objectives set-forth in the General Plan and the PMC.

L. On _____, 2023, the City Council adopted Ordinance No. ____ approving this Amendment and authorizing its execution, which became effective on _____, 2023. Before approving this Agreement, the City Council made certain findings, as set forth in the Ordinance.

In consideration of the foregoing Recitals, City, Fuller, and Developer agree as follows:

1. Fuller's Master Plan and the Agreement are hereby amended to remove the real property located at 282 N. Los Robles Avenue from them, and to otherwise terminate the Parties respective rights, obligations, benefits and burdens under them as to the real property located at 282 N. Los Robles Avenue.

2. Parcel 12 on Exhibit "A" and Parcels 10 and 11 on Exhibit "B" attached hereto are amended to reflect this Amendment.

3. The provisions of Section 6.5 requiring the prior written consent of all Mortgagees holding Mortgages on the real property located at 282 N. Los Robles Avenue shall not be required.

4. This Amendment may be modified, amended, and/or revised only by mutual written consent of the Parties and must be approved in the same manner as adoption of this Amendment, by ordinance as set forth in the Development Agreement Statute.

5. This Agreement has been reviewed and revised by legal counsel for each of the Parties, and no presumption or rule that ambiguities may be construed against the drafting party apply to the interpretation or enforcement of this Amendment.

6. City has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity and meaning of this Agreement will be that accorded legislative acts of City.

7. Each Party will: (a) deal fairly and in good-faith with the other Parties; (b) not impede the other Parties' right to receive the benefits of this Amendment; (c) cooperate with and provide reasonable assistance to the other Parties in the performance of this Amendment; and, (d) execute such documents or take such further actions as may be reasonably necessary to consummate the performance or to carry out the purpose and intent of this Amendment.

8. This Amendment, and any documents implementing it, may be executed in multiple counterpart originals, each of which is deemed to be an original and all of which when taken together shall constitute one and the same instrument;

9. The Recitals set-forth above in this Amendment and the Exhibits attached hereto are incorporated by references into this Amendment as an integrated portion hereof. This Amendment, including all such Recitals and Exhibits, constitutes the entire agreement of the parties regarding the subject matter hereof, and all prior or contemporaneous agreements and understandings, whether written or oral, are superseded.

10. All notices, demands, correspondence and communications (“Notice”) shall be in writing and shall be either personally delivered or sent by certified mail, postage prepaid, return receipt requested, or delivered by a nationally recognized overnight courier service (which provides a delivery receipt), at the addresses set forth below. Any such Notice will be deemed received on the date of personal delivery or on the date of receipt (or refusal to accept delivery) set forth in the certified mail receipt if sent by U.S. mail or in the receipt provided by the overnight courier service if sent by such service.

City: City of Pasadena
Attention: Director of Planning & Development
175 North Garfield Avenue
Pasadena, California 91109

With copies to:

City Attorney
City of Pasadena
100 North Garfield Avenue
Pasadena, CA 91109

Fuller: Fuller Theological Seminary
Attention: Chief Financial Officer
135 North Oakland Avenue
Pasadena, CA 91182

With copies to:

Developer: CDB Investments, LP
Attention: Brian Blain
5251 California Avenue, Suite 250
Irvine, CA 92617

With a copy to:

Richard A. McDonald, Esq.
Law Office of Richard A. McDonald
Of Counsel, Carlson & Nicholas, LLP
301 E. Colorado Blvd., Suite 320
Pasadena, CA 91101

11. City will use its best efforts to record this Amendment with the Los Angeles County Recorder within 10 days after the Effective Date, pursuant to Development Agreement Statute.

12. If any provision or term of this Amendment, or the application of any provision or term of it to any particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, then the remainder of this Amendment shall be unaffected and otherwise remain in full force and effect unless enforcement of it with such invalidation would be unreasonable or inequitable under the circumstances or would frustrate the purposes of it or the rights and obligations of the Parties hereunder.

13. The rights and obligations of each Party under this Amendment shall be binding upon and inure to the benefit of their successors and assigns, and shall be covenants running with the land. This Amendment is made and entered into for the sole protection and benefit of the Parties and their successors and assigns.

14. Each person executing this Amendment represents and warrants that he or she is authorized and has the legal capacity to execute and deliver it on behalf of the Party for which execution has been made.

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective as of the Effective Date set-forth above.

THE CITY OF PASADENA,
a municipal corporation & charter law city

Dated: _____, 2023

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

FULLER THEOLOGICAL SEMINARY
A California nonprofit corporation

Dated: _____, 2023

By: _____

CDB INVESTMENTS, LP
a California Limited Partnership

Dated: _____, 2023

By: _____
_____, General Manager

CWA INVESTMENTS, LLC
a California Limited Liability Company

Dated: _____, 2023

By: _____
_____, General Manager

CEDAR REGENCY, LLC
a California Limited Liability Company

Dated: _____, 2023

By: _____
_____, General Manager

265 N. OAKLAND AVENUE, LLC
a California Limited Liability Company

Dated: _____, 2023

By: _____
_____, General Manager

262 N. Los Robles, LLC
a California Limited Liability Company

Dated: _____, 2023

By: _____
_____, General Manager

LUCKY H &L, LLC
a California Limited Liability Company

Dated: _____, 2023

By: _____
_____, General Manager

WSNH, LLC
a California Limited Liability Company

Dated: _____, 2023

By: _____
_____, General Manager

ARKONA, INC.
a California corporation

Dated: _____, 2023

By: _____
_____, General Manager