Recording Requested by

CITY OF ROSEVILLE

When Recorded Mail to: City Clerk City of Roseville 311 Vernon Street Roseville, CA 95747

Exempt from recording fees Pursuant to Govt. Code 27383



Thursday, JUL 11, 2002 08:02:00 NOC \$0.00

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Title: First Amendment of Development Agreement by and between the City of Roseville and Mourier Land Investment Corporation Relative to the North Roseville Specific Plan Phase III

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BY OF ROSEVILLE

RECORDING REQUESTED BY AND WHEN RECORDED, MAIL TO:
City Clerk
CITY OF ROSEVILLE
311 Vernon Street
Roseville, CA 95678

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

FIRST AMENDMENT OF DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF ROSEVILLE AND MOURIER LAND INVESTMENT CORPORATION RELATIVE TO THE NORTH ROSEVILLE SPECIFIC PLAN PHASE III

THIS FIRST AMENDMENT is entered into this $\underline{5}\underline{th}$ day of \underline{July} , 2002 by and between the CITY OF ROSEVILLE, a municipal corporation ("City"), and MOURIER LAND INVESTMENT CORPORATION, a California corporation ("Landowner"), pursuant to the authority of Section 65864 through 65869.5 of the Government Code of California.

WITNESSETH:

- A. On October 11, 2000, the City of Roseville and Landowner entered into that certain agreement entitled "Development Agreement By and Between The City of Roseville and Mourier Land Investment Corporation Relative to the North Roseville Specific Plan Phase III" (hereinafter the "Development Agreement"). The Development Agreement was recorded in the Official Records of Placer County on August 10, 2001, as Document No. 2001-0082051. Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Development Agreement.
- B. This Amendment amends the Development Agreement. It affects the real property described in Exhibit "A-1" and depicted in Exhibit "A-2" attached to the Development Agreement and shall run with the land.
- C. The City Council has found and determined that this amendment (the "Amendment") of the Development Agreement is consistent with the General Plan and the North Roseville Specific Plan.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

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- 1. <u>Amendment of Development Agreement.</u> The following sections of the Development Agreement are hereby amended as follows:
 - a. Recital 5 is revised to read:
 - "5. <u>Entitlements.</u> The City Council has approved the following land use entitlements for the Property, which entitlements are the subject of this Agreement:
 - 5.1 The Roseville General Plan, as amended by Resolution No. 00-431;
 - 5.2 The North Roseville Specific Plan and Design Guidelines, as amended and adopted by Resolution No. 02-184, (the "Specific Plan");
 - 5.3 The Rezoning of the Property pursuant to Ordinance No. 3654, dated April 4, 2001 and pursuant to Ordinance No. 3841, dated June 5, 2002;
 - 5.4 This Development Agreement, as adopted by Ordinance No. 3843 (the "Adopting Ordinance") and as amended hereby.

The approvals described in paragraphs 5.1 through 5.3, inclusive, are referred to herein as the "Entitlements."

b. <u>Revised Section 2.2 (Vested Entitlements)</u>. All references in the Agreement to **Exhibit "B"** shall refer to **Revised Exhibits "B-1"** and **"B-2"** attached hereto and the approximate land use acreages set forth in Section 2.2 of the Development Agreement are revised to read as follows:

Single Family, Low Density Residential: 715 Units on 143.2 acres
Park: 9.0 acres
Other Public (ROW): 7.8 acres

- c. <u>Revised Section 2.6 (Affordable Housing).</u> Section 2.6 of the Development Agreement is hereby revised in its entirety to read as follows:
 - "2.6 Affordable Housing. Consistent with the goals and policies contained in City's General Plan and the Specific Plan, and subject to the provision by Landowner of affordable housing elsewhere within the Plan Area as described below and the other terms of this Agreement, Landowner shall develop or cause ten percent (10%) of the total residential units which are actually constructed within its Property to be developed as affordable housing. In accordance with the terms of this Section and subject to adjustment based on actual development, the goal is to provide 51 units

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affordable for purchase to low-income households, and 17 units affordable for purchase to middle-income households. Any adjustment based on actual development shall be subject to the approval of the Housing Director.

Notwithstanding the foregoing affordable housing goals, City acknowledges that Landowner has agreed to provide additional affordable housing within its development of Parcel M-1 of Phase I of the Specific Plan, in excess of its original obligations therefor, pursuant to its Phase I Development Agreement with the City, as amended by that certain Second Amendment thereto dated April 17, 2000 and recorded May 2, 2000, Instrument No. DOC-2000-0029511 (collectively, the "Phase I Development Agreement"). City acknowledges and agrees that, in consideration of Landowner's affordable housing covenants under the Phase I Development Agreement, so long as Landowner is not in default of its obligations thereunder, Landowner shall be deemed to have satisfied thereby the above requirements for the Property to provide the 51 units affordable for purchase to lowincome households. City also acknowledges and agrees that Landowner has transferred its obligation to construct, on Parcel W-2 in Phase II of the Specific Plan, eleven (11) units affordable for purchase to middle-income households, as said obligation is set forth in the second amendment to the Development Agreement between City and Landowner relative to the Mourier 160 property in Phase II of the Specific Plan. Accordingly, so long as Landowner is not in breach of its affordable housing obligations under the Phase I Development Agreement or the second amendment to the Phase II Development Agreement, the terms of Section 2.6.1 below shall be deemed to refer to Landowner's remaining obligation to provide seventeen (17) units as required hereunder and the eleven (11) units transferred from W-2 as affordable to middle income households.

The terms "low income" means households earning fifty-one percent (51%) to eighty percent (80%) of median income, and "middle income" means households earning eighty-one percent (81%) to one hundred percent (100%) of median income. Median income and allowable assets shall be determined in accordance with the General Plan Housing Element, the Specific Plan, and City policy.

- 2.6.1 <u>Affordable Purchase Residential Units</u>. Landowner agrees that, in consideration of the credit of 51 units against its low-income purchase obligations, Landowner shall satisfy its original affordable housing obligations on Parcels W-2 and DR-1 by providing 28 affordable units on Parcel DR-4 as detached and/or attached single-family residential units affordable to middle-income purchasers. Such units shall be distributed throughout such Parcel.
- 2.6.1.1 <u>Agreement Required</u>. Prior to the approval of each final residential lot subdivision map within Parcel DR-4, the parties shall enter into City's then current form Affordable Purchase Housing Development Agreement (or other form as required by the City) for the residential purchase units affordable to middle-income households.

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2.6.1.2 <u>Content</u>. The Affordable Purchase Housing Development Agreement shall, for each such residential lot subdivision, set forth, among other things, the distribution of the 28 affordable housing units within the subdivision, Landowner's obligations for marketing the affordable units, and sharing of appreciation (if any) of the affordable unit's value. No City subsidies will be required to be made available to provide residential purchase units affordable to middle-income households.

Notwithstanding any provisions of the City's then current Affordable Purchase Housing Development Agreement to the contrary, the Affordable Purchase Housing Development Agreements shall provide that:

(a) Middle-income affordable purchase units shall be marketed to middle-income households for a minimum of ten (10) days from the date Landowner commences marketing of the subdivision in which such affordable units are located. If not sold to middle-income households within that period, the units may be sold as market price units.

Any affordable purchase units remaining unsold after the required marketing period as middle-income units which are later sold as market units shall nonetheless be credited against Landowner's affordable purchase housing obligation.

- (b) The Landowner may develop the affordable purchase units with fewer amenities than the market rate units, however, the affordable purchase units shall utilize the same or similar materials as the market rate units on the exterior.
- (c) Landowner's obligation to provide affordable purchase units may be moved and may be satisfied by the provision of affordable purchase units elsewhere within the applicable subdivision, or within other residential Parcels within the Neighborhood, or within residential Parcels within other Neighborhoods of the Specific Plan (including, but not limited to, Phases I and II of the Specific Plan), subject to the Housing Director's approval.
- (d) For purposes of making housing opportunities affordable, Landowner agrees that it shall use its best efforts to sell such affordable purchase units to qualifying middle-income households as required by this Agreement. Such best efforts shall include, without limitation, special advertising prior to the release of the affordable purchase units for sale indicating the availability thereof to middle-income households, and maintenance of a waiting list of middle-income households seeking housing opportunities in Landowner's development(s), notification of such persons (and any such households provided by the Housing and Redevelopment Manager for the City) prior to any release of affordable purchase units, and the pre-release, by at least one day, of such affordable purchase units to such notified households.

Within three (3) working days of execution of a contract of sale of an affordable purchase unit to a qualifying middle-income household, Landowner shall notify the Housing and Redevelopment Manager in writing of such sale and provide information verifying such qualification as middle-income.

- 2.6.1.3 <u>No City Subsidies</u>. Landowner agrees to provide all of the middle-income affordable purchase units without any subsidy from the City.
- 2.6.1.4 <u>Transfer of Obligation</u>. At the request of Landowner, the affordable purchase housing obligation (or any portion thereof) for Parcel DR-4may be transferred, with the consent of City, to another parcel (the Transferee Parcel) within said Parcel's Neighborhood of the Specific Plan or within another Neighborhood of the Specific Plan. No such transfer shall require an amendment to this Agreement, but City and Landowner shall execute an instrument memorializing such transfer of obligation which shall be recorded against the affected Parcels, with reference to this Agreement."
- d. <u>Revised Section 3.2.2.2 (Neighborhood Park Fee)</u>. Section 3.2.2.2 of the Development Agreement shall be deleted in revised as follows:
 - "3.2.2.2 Neighborhood Park Fee. In accordance with the park financing plan for the Property, in addition to the funds to be provided and accumulated by the collection of the Park Levy pursuant to Section 3.2.2.1 above, Landowner shall pay a neighborhood park fee, upon the issuance of each residential building permit within the Property, to fund the anticipated balance of the Budgeted Park Amount. Such neighborhood park fee shall be **Five Hundred Forty Dollars (\$540)** per single-family residential unit within the Property, subject to annual adjustment based on the percentage change in the CCI. All such neighborhood park fees shall be deposited into the Park Improvement Account.

This initial park fee amount (\$540) is based upon a park financing plan assumption that project absorption will occur at a rate resulting in the Park Levy being deposited for a Park Assessment Banking Period of five (5) years. Should actual absorption occur at a faster pace, the Park Assessment Banking Period would be shorter, resulting in a shortfall in collections and the need for an increased park fee to cover the balance of the budgeted park amount. Likewise, if actual absorption occurs at a slower pace, the Park Assessment Banking Period would be longer, resulting in greater-than-anticipated collections and the need to decrease the park fee to avoid collecting more than the budgeted park amount.

Upon the issuance of the 500th residential permit within the Property, the City shall review and make an adjustment, if needed, to such neighborhood park fee, based on the actual absorption rate experienced for development of the Project, to increase (if absorption is faster than anticipated) or decrease (if absorption is slower than anticipated) the park fee so that the total amount of the Park Levy to be deposited into the Park Improvement Account as provided above, plus with the total

amount of the neighborhood park fees to be paid upon full buildout of the Project, together with all interest earned thereon, will be anticipated to equal the then Budgeted Park Amount."

- e. <u>New and Revised Exhibits.</u> Revised **Exhibits "B-1"** and **"B-2"** are attached hereto and hereby incorporated into and made a part of the Development Agreement.
- 2. <u>Consistency with General Plan.</u> The City hereby finds and determines that execution of this Amendment is in the best interest of the public health, safety and general welfare and is consistent with the General Plan.
- 3. <u>Amendment.</u> This Amendment amends, but does not replace or supersede, the Development Agreement except as specified herein.
- 4. <u>Form of Amendment.</u> This Amendment is executed in two duplicated originals, each of which is deemed to be an original.

IN WITNESS WHEREOF, the City of Roseville, a municipal corporation, has authorized the execution of this Amendment in duplicate by its City Manager and the attestation to this Amendment by its City Clerk under the authority of Ordinance No. 3843 ____, adopted by the Council of the City of Roseville on the ______, day of _______, 2002, and Landowner has caused this Amendment to be executed.

CITY OF ROSEVILLE, a municipal corporation

Allen E\ Johnson City Manager CORPORATION, a California corporation

MOURIER LAND INVESTMENT

John L. Mourier, III

President

attest

By:

Carolyn Parkinson

City Clerk

APPROVED AS TO FORM

Mark J. Doam City Attorney

ALL-PURPOSE ACKNOWLEDGMENT

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STATE OF CALL FORMIA COUNTY OF PLACE	——- }
COUNTY OF PIACE	
	John L. Mourier III
	asis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed in the
	that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrume instrument.	nt the person(s), or the entity upon behalf of which the person(s) acted, executed the
WITNESS my hand and official seal,	KAREN HEADLEY Commission # 1194947 Notary Public - California Placer County My Comm. Expires Aug 30, 2002
CAPACITY CLAIMED BY SIGNER NAME OF PERSON(S) OR ENTITY(IES) INDIVIDUAL(S) CORPORATE	SIGNER IS REPRESENTING NAME OF PERSON(S) OR ENTITY(IES)
OFFICER(S)	
PARTNER(S)	
ATTORNEY-IN-FACT	
— ☐ TRUSTEE(S)	
SUBSCRIBING WITNESS	
GUARDIAN/CONSERVATOR	
OTHER	
VIII.	
ATTENTION NOTARY: Although the informa	ation requested below is optional, it could prevent fraudulent attachment of this
certificate to unauthorized document.	
	Title or Type of Document
• •	Number of Pages
THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT THE RIGHT:	Date of Document
	Signer(s) Other Than Named Above

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STATE OF CALIFORNIA) : ss. COUNTY OF PLACER)
On this <u>3rd</u> day of <u>July</u> in the year of 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared <u>Allen E. Johnson</u> , personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.
WITNESS my hand and official seal.
Notary Public in and for said State Commission # 1296954 Notary Public - California Placer County My Comm. Expires Mar 12, 2005 Notary Public - California Placer County Notary Public - California Notary Public - California
THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AS FOLLOWS:
Title or Type of Document: First Amendment of Development Agreement with Mourier Land Investment Corporation Relative to the North Roseville Specific Plan Phase III
Date of Document: July 5, 2002

Acknowledgment – All Purpose

ORDINANCE NO. 3843

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE
ADOPTING A FIRST AMENDMENT TO DEVELOPMENT AGREEMENT REGARDING
NORTH ROSEVILLE SPECIFIC PLAN PHASE III (MOURIER LAND INVESTMENT
CORPORATION), AND AUTHORIZING THE CITY MANAGER TO
EXECUTE IT ON BEHALF OF THE CITY OF ROSEVILLE

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1. In accordance with Chapter 19.84 of Title 19 of the Roseville Municipal Code (the Zoning Ordinance) of the City of Roseville, the City Council has received the recommendation of the Planning Commission that the City of Roseville enter into a First Amendment to Development Agreement with Mourier Land Investment Corporation.

SECTION 2. The Council of the City of Roseville has reviewed the findings of the Planning Commission recommending approval of the First Amendment to Development Agreement, and makes the following findings:

- 1. The First Amendment to Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the City of Roseville General Plan and the North Roseville Specific Plan;
- 2. The First Amendment to Development Agreement is consistent with the City of Roseville Zoning Ordinance and Zoning Map;
- 3. The First Amendment to Development Agreement is in conformance with the public healthy, safety and welfare;
- 4. The First Amendment to Development Agreement will not adversely affect the orderly development of the property or the preservation of property values; and
- 5. The First Amendment to Development Agreement will provide sufficient benefit to the City to justify entering into said Agreement;
- SECTION 3. The First Amendment to Development Agreement by and between Mourier Land Investment Corporation and the City of Roseville, a copy of which is on file in the City Clerk's Department and incorporated herein by reference, is hereby approved and the City Manager is authorized to execute it on behalf of the City of Roseville.
- SECTION 4. The City Clerk is directed to record the executed First Amendment to Development Agreement within ten (10) days of the execution of the agreement by the City Manager with the County Recorder's office of the County of Placer.

SECTION 5. This ordinance shall be effective at the expiration of thirty (30) days from the date of its adoption.

SECTION 6. The City Clerk is hereby directed to cause this ordinance to be published in full at least once within fourteen (14) days after it is adopted in a newspaper of general circulation in the City, or shall within fourteen (14) days after its adoption cause this ordinance to be posted in full in at least three public places in the City and enter in the Ordinance Book a certificate stating the time and place of said publication by posting.

PASSED AND ADOPTED by the Council of the City of Roseville this _5th day of , 2002, by the following vote on roll call:

AYES

COUNCILMEMBERS:

Earl Rush, Richard Roccucci, Gina Garbolino, Rocky Rockholm,

Claudia Gamar

NOES

COUNCILMEMBERS:

None

ABSENT

COUNCILMEMBERS:

None

ATTEST:

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