

PLACER County Recorder
JIM MCCAULEY Co Recorder Office
DOC- 1999-0099395

Wednesday, NOV 17, 1999 08:32:48

NOC \$0.00
Ttl Pd \$0.00

Nbr-0000253688
rec/R2/1-10

RECORDING REQUESTED BY
AND WHEN RECORDED
RETURN TO:

City Clerk
City of Roseville
311 Vernon Street, #208
Roseville, CA 95678

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**SECOND AMENDMENT OF
DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF ROSEVILLE AND PLEASANT VALLEY INVESTMENTS
RELATIVE TO THE NORTH ROSEVILLE SPECIFIC PLAN
(Parcel DC-1A)**

THIS SECOND AMENDMENT is entered into this 22nd day of October, 1999, by and between the **CITY OF ROSEVILLE**, a municipal corporation ("**City**"), **PLEASANT VALLEY INVESTMENTS, L.C.**, a Nevada limited liability company ("**Landowner**"), and **DIAMOND CREEK PARTNERS, LTD.**, a California Limited Partnership ("**Diamond Creek**"), pursuant to the authority of Sections 65864 through 65869.5 of the Government Code of California.

WITNESSETH:

A. On September 19, 1997, the City of Roseville and Landowner's predecessor-in-interest, Diamond Creek, entered into that certain agreement entitled "Development Agreement By and Between The City of Roseville and Diamond Creek Partners Relative to the North Roseville Specific Plan" (hereinafter the "**Original Development Agreement**"). On August 31, 1998, the City of Roseville and Diamond Creek entered into that certain amendment to the Original Development Agreement entitled "Amendment of Development Agreement By and Between The City of Roseville and Diamond Creek Partners Relative to the North Roseville Specific Plan" (hereinafter the "**First Amendment**"). The Original Development Agreement, as amended by the First Amendment, shall be referred to collectively herein as the "**Development Agreement**." The Original Development Agreement was recorded in the Official Records of Placer County on September 29, 1997, as **Instrument No. 97-0059806-00**, and the First Amendment was recorded in the Official Records of Placer County on September 15, 1998, as **Instrument No. 98-0073814**. 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 portion of the Property, commonly referred to as Parcel DC-1A, as more particularly described in Exhibit "A-1" attached hereto (the "**Affected Parcel**") and shall run with the land. Diamond Creek subsequently conveyed the Affected Parcel to Landowner and, in connection with such conveyance, Diamond Creek assigned its rights under the Development Agreement to Landowner, but reserved certain rights with respect to the allocation of fee credits thereunder. Accordingly, Landowner, as the owner of the

Affected Parcel, with the consent of Diamond Creek, is authorized to amend the Development Agreement with respect to the Affected Parcel as provided herein.

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:

1. Amendment of Development Agreement. The following sections of the Development Agreement are hereby amended with respect to the Affected Parcel as follows:

a. Revised Section 3.10.5. The second sentence of Section 3.10.5 of the Development Agreement, regarding the credits for Landowner's contribution to Mahany Park Community Center, is hereby revised to read as follows with respect to the Affected Parcel:

"The City agrees that such contribution by the CFD shall be credited against the City-wide Park Fee for the Affected Parcel, that Landowner's share thereof allocable to the Affected Parcel is **\$130,256**, and that such credits shall be allocated to such Parcel and applied against such fee in accordance with the provisions of Section 4.2.1 below."

b. Revised Section 4.2.1. Section 4.2.1 of the Development Agreement is hereby revised in its entirety to read as follows with respect to the Affected Parcel:

"4.2.1 Credits Against Fees.

"(a) Landowner shall be entitled to a credit against the JPA Fee described in and subject to the conditions of Section 3.9.9 above. Landowner's share of the JPA credits allocable to the Affected Parcel shall initially be equal to **\$61,028**. Based on the approved number of 146 units for the Affected Parcel, the per-unit JPA credit for the Affected Parcel will be **\$418**.

"In consideration of Landowner's advance funding for Mahany Park pursuant to Section 3.10.5 above, Landowner shall be entitled to **\$130,256** of credits against the City-wide Park Fee allocable to the Affected Parcel. Based on the approved number of 146 units for the Affected Parcel, the per-unit City-wide Park Fee credit for the Affected Parcel will be **\$892.16**.

"(b) The outstanding amount of such JPA Fee credits shall be increased in proportion to any increases made by the JPA in such fee for the Plan Area during the term of this Agreement. The outstanding amount of such City-wide Park Fee credits shall be increased in proportion to any increases made by the City in such fee for the Plan Area during the term of this Agreement."

"(c) Such credits shall be personal to Landowner and may be assigned to any other landowner or builder within the Plan Area by a written assignment,

with a copy thereof delivered to City. Such credits shall be applied, at the time of issuance of each building permit within each Parcel, against the applicable Fee at the per-unit credit amount allocated above for such Parcel; provided, however, if the amount of the credits allocable to such Parcel or the number of units within such Parcel is subsequently changed from the amounts set forth above prior to the issuance of the first building permit therefor, then when Landowner applies for its first building permit within such Parcel, Landowner and City shall acknowledge, in writing, the applicable adjustment(s) to the total credit and per-unit credit amounts for such Parcel, which acknowledgement shall not require an amendment to this Agreement. Landowner acknowledges that City shall have no obligation to reimburse Landowner, or any assignee thereof, for any outstanding fee credits that are not exhausted by the development of Landowner's, or any such assignee's, property."

2. Consistency with General Plan. 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. Amendment. This Amendment amends, but does not replace or supersede, the Development Agreement except as specified herein.

4. Form of Amendment. 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. 3406, adopted by the Council of the City of Roseville on the 15th day of September, 1999, and Landowner has caused this Amendment to be executed and Diamond Creek has consented to this Amendment.

**CITY OF ROSEVILLE,
a municipal corporation**

By: 

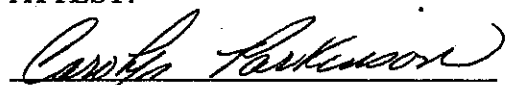
Allen E. Johnson
City Manager

**PLEASANT VALLEY INVESTMENTS,
L.C., a Nevada limited liability company**

By: 

Name: Scott A. Haisivick
Title: V.P.

ATTEST:



Carolyn Parkinson
City Clerk

[Signatures Continued on Following Page]

APPROVED AS TO FORM:



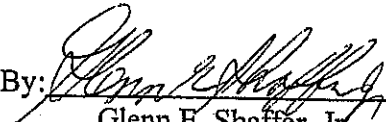
Mark J. Doane
City Attorney


APPROVED AND CONSENTED TO BY:

**DIAMOND CREEK PARTNERS, LTD., a
California limited partnership**

By: Diamond Equities 360,
a California limited partnership
Its: General Partner

By: Diamond Equities, Inc.,
a California corporation
Its: General Partner

By: 
Glenn E. Shaffer, Jr.
President

By: 
Stephen L. Des Jardins
Chief Financial
Officer

STATE OF CALIFORNIA)
)
) ss.
COUNTY OF PLACER)

On this 22 day of October in the year of 1999, before me, the undersigned, a Notary Public in and for said State, personally appeared Allen E. Johnson personally known to me (or proved on the basis of satisfactory evidence) to be the person(s) whose names 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.

WITNESS my hand and official seal.

Carolyn Parkinson
Notary Public in and for said State



THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AS FOLLOWS:

Title or Type of Document Second Amend. Devel. Agrmt. - Pleasant Valley
Date of Document 10.18.99 Investments

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

On July 13, 1999 before me, Gregory Munoz-Plaza, Notary Public.

personally appeared Scott A. HOISINGTON

personally known to me - OR 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.

WITNESS my hand and official seal.



Handwritten signature of Gregory Munoz-Plaza over a horizontal line.

Signature of Notary Public

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: Second Amendment of Development

Document Date: N/A Number of Pages: 4

Signer(s) Other Than Named Above:

Capacity(s) Claimed by Signer(s)

Signer's Name:

- Individual
Corporate Officer
Title(s):
Partner - Limited General
Attorney - in - Fact
Trustee
Guardian or Conservator
Other:

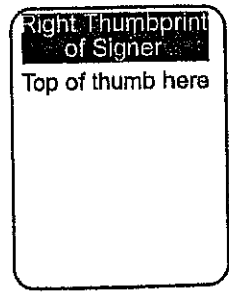
Signer's Name:

- Individual
Corporate Officer
Title(s):
Partner - Limited General
Attorney - in - Fact
Trustee
Guardian or Conservator
Other:

Signer is representing:



Signer is representing:



STATE OF CALIFORNIA
County of Placer

ACKNOWLEDGMENT

On October 8, 1999 before me, Jeananne Bricker, Notary Public, personally appeared Glenn E. Shaffer, Jr. and Stephen L. Des Jardins personally known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



Signature Jeananne Bricker

EXHIBIT "A-1"

**LEGAL DESCRIPTION
FOR
DIAMOND CREEK PARTNERS, LTD.**

That portion of Section 17, Township 11 North, Range 6 East, M.D.B.&M., included within the land shown and designated as Parcel 2 of Parcel Map filed for record in the Office of the Recorder of Placer County, California on October 21, 1996 in Book 28 of Parcel Maps, at page 136, Placer County Records.

ORDINANCE NO. 3406

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE
ADOPTING A SECOND AMENDMENT TO DEVELOPMENT AGREEMENT WITH THE
PLEASANT VALLEY INVESTMENTS AND DIAMOND CREEK PARTNERS, LTD.,
AND AUTHORIZING THE CITY MANAGER TO
EXECUTE IT ON BEHALF OF THE CITY OF ROSEVILLE
(Parcel DC-1A)

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 Second Amendment to Development Agreement with the Pleasant Valley Investments and Diamond Creek Partners, Ltd., to alter and clarify provisions in the existing Development Agreement relating to the fee credits.

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

1. The Second 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 Second Amendment to Development Agreement is consistent with the City of Roseville Zoning Ordinance and Zoning Map;
3. The Second Amendment to Development Agreement is in conformance with public health, safety and welfare;
4. The Second Amendment to Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and
5. The Second Amendment to Development Agreement will provide sufficient benefit to the City of Roseville to justify entering into the Second Amendment to Development Agreement.

SECTION 3. The Second Amendment to Development Agreement by and between the Pleasant Valley Investments and Diamond Creek Partners, Ltd. and the City of Roseville, 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 Second Amendment 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.

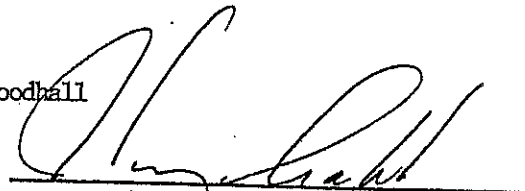
SECTION 6. The City Clerk is hereby directed to cause this ordinance to be published in full at least once within fourteen (14) days after it is adopted in a newspaper of general circulation in the City, or shall within fourteen (14) days after its adoption cause this ordinance to be posted in full in 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 15th day of September, 1999, by the following vote on roll call:

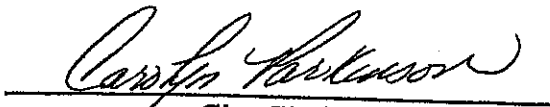
AYES COUNCILMEMBERS: Earl Rush, Claudia Gamar, Randolph Graham, Harry Crabb

NOES COUNCILMEMBERS: None

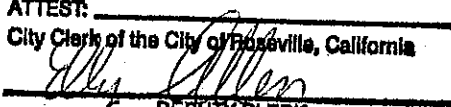
ABSENT COUNCILMEMBERS: Dan Goodhall


MAYOR

ATTEST:


City Clerk

The foregoing instrument is a correct copy of the original on file in the City Clerks Department.

ATTEST: _____
City Clerk of the City of Roseville, California

DEPUTY CLERK