Recording Requested by

CITY OF ROSEVILLE

When Recorded Mail to: City Clerk City of Roseville 311 Vernon Street Roseville, CA 95678

Exempt from recording fees Pursuant to Govt. Code 27383 PLACER, County Recorder
JIM MCCAULEY Co Recorder Office
DOC-2003-0019224
Thursday, FEB 06, 2003 08:01:00
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(THIS SPACE RESERVED FOR RECORDER'S USE)

Title: Fourth Amendment to Development Agreement by and between the City of Roseville and Sammis Roseville Associates Relative to the Northern Roseville Specific Plan Phase II

RECORDING REQUESTED BY AND WHEN RECORDED, MAIL TO:

City Clerk
City of Roseville
311 Vernon Street
Roseville, CA 95678
Attn: Carolyn Parkinson

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

# FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF ROSEVILLE AND SAMMIS ROSEVILLE ASSOCIATES RELATIVE TO THE NORTH ROSEVILLE SPECIFIC PLAN PHASE II

THIS FOURTH AMENDMENT is entered into this 29th day of January, 2003 by and between the CITY OF ROSEVILLE, a municipal corporation ("City"), and JOHN MOURIER CONSTRUCTION, INC., a California corporation ("Landowner"), pursuant to the authority of Section 65864 through 65869.5 of the Government Code of California.

#### WITNESSETH:

- A. On August 25, 1999, the City of Roseville and Sammis Roseville Associates, a California general partnership (hereinafter "Sammis") entered into that certain agreement entitled "Development Agreement By and Between The City of Roseville and Sammis Roseville Associates Relative to the North Roseville Specific Plan Phase II" (hereinafter the "Development Agreement"). The Development Agreement was recorded in the Official Records of Placer County on September 13, 1999, as instrument number 99-0081306 (the Original Development Agreement"). Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Original Development Agreement.
- B. On July 31, 2001, Landowner purchased Parcel WW-16 from Sammis. Pursuant to paragraph "2. Assignment" of the Development Agreement (p. 41) on July 31, 2001 Sammis has assigned its interest in the Development Agreement with respect to Parcel WW-16 to Landowner. Said assignment was recorded on July 31, 2001 in the Official Records of Placer County as instrument number 2001-0078149.
- C. Landowner as a successor in interest intends to develop Parcel WW-16 with a single-family, medium density residential development.
- D. A first amendment to the Original Development Agreement was approved on [E:\agree\dev\nrsp\sammis ph 2 ame 4.doc: 01/08/2003]

February 6, 2002, by Ordinance No. 3795, and recorded on March 27, 2002, as instrument 2002-0033966, Placer County Records (the "First Amendment"). The First Amendment related to Parcels WW-2 and WW-5 of Phase II of the North Roseville Specific Plan.

- E. A second amendment to the Development Agreement was approved on February 20, 2002, by Ordinance No. 3807, and recorded on May 17, 2002, as instrument 2002-0057170, Placer County Records (the "Second Amendment"). The Second Amendment related to Parcel WW-16 of Phase II of the North Roseville Specific Plan. The Second Amendment reduced the density of Parcel WW-16 from 224 multi-family dwelling units to 92 single-family units, and provided for 45 dwelling units affordable to low income households.
- F. A Third Amendment was approved on July 10, 2002, by Ordinance No. 3860 and recorded on october 9, 2002 as instrument number 2002-0122268, Placer County Records (the "Third Amendment"). The Third Amendment related to Parcel WW-17 of Phase II of the North Roseville Specific Plan.
- G. The Original Development Agreement, First Amendment, Second Amendment and Third Amendment are incorporated herein by this reference and are hereinafter collectively referred to as the "Development Agreement."
- H. This Fourth Amendment amends the Development Agreement (hereinafter the "Fourth Amendment") and it shall run with the land. It affects a portion of the real property subject to the Development Agreement. The real property affected by this Fourth Amendment is identified in Exhibit "B-1" of the Development Agreement as "WW-16" and is more particularly described in Exhibit "A-1" and depicted in Exhibit "A-2" attached to this Fourth Amendment (herein "Parcel WW-16").
- I. The City Council has found and determined that the Fourth Amendment is consistent with the General Plan and the North Roseville Specific Plan.

#### NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. <u>Amendment of Development Agreement.</u> The following sections of the Development Agreement are hereby amended as follows:
- a. Amended Section 3.2.7 (Park Fee Shortfall). Section 1.d. of the Second Amendment added section 3.2.7 to the Development Agreement, which requires the DEVELOPER to pay a Park Fee Shortfall with respect to development of Parcel WW-16 consisting of a Neighborhood Park Fee shortfall of Ninety-Four Thousand Seven Hundred Fifty-Two and 00/100 Dollars (\$94,752.00) (the "Neighborhood Park Fee Shortfall") and a City-Wide Park Fee shortfall of Fifty-Three Thousand One Hundred Ninety-Six and 00/100 Dollars (\$53,196.00) (the "City-Wide Park Fee Shortfall"). City and Landowner agree that Landowner shall not be obligated to pay the City-Wide Park Fee Shortfall as set forth in the Second Amendment and Parcel WW-16 is hereby released from said obligation to pay the City-Wide Park Fee Shortfall as set forth in the Second Amendment. Accordingly, Section 3.2.7 of the Development Agreement is hereby amended in its entirety to delete references to the City-Wide Park Fee Shortfall and to read as follows:

- "3.2.7 Park Fee Shortfall. As a result of land use designation changes provided in the Second Amendment, the total number of multi-family dwelling units to be constructed within Parcel WW-16 will be reduced by 224 and the total number of single-family dwelling units will be increased by 92. These changes will result in a net reduction of the total amount of park fees collected within the Plan Area. Specifically, there will be a Neighborhood Park Fee Shortfall of Ninety-Four Thousand, Seven Hundred Fifty-Two and 00/100 dollars (\$94,752.00). Landowner shall be obligated to pay to City the Neighborhood Park Fee Shortfall as follows: prior to, or concurrent with, issuance of the fifth (5th) building permit within Parcel WW-16. Landowner shall pay twenty-five percent (25%) of the Neighborhood Park Fee Shortfail \$23,688.00 (Twenty-Three Thousand Six Hundred Eighty-Eight and 00/100 Dollars); prior to, or concurrent with, issuance of the forty-sixth (46th) building permit within Parcel WW-16. Landowner shall pay another twenty-five percent (25%) of the Neighborhood Park Fee Shortfall, \$23,688.00 (Twenty-Three Thousand Six Hundred Eighty-Eight and 00/100ths Dollars); and prior to, or concurrent with, issuance of the ninety-second (92nd) building permit within Parcel WW-16, Landowner shall pay the remaining fifty percent (50%) of the Neighborhood Park Fee Shortfall. \$47,376.00 (Forty-Seven Thousand Three Hundred Seventy-Six and 00/100 Dollars). The foregoing Neighborhood Park Fee Shortfall payments shall be subject to annual adjustment every January 1 based on any change in the Engineering News Record. Construction Cost Index for the United States, 20-city average (or comparable replacement index). Any outstanding Neighborhood Park Fee Shortfall installments shall be paid to City no later than five (5) years from the date the first building permit is issued for the first single family dwelling on Parcel WW-16."
- 2. <u>Consistency with General Plan</u>. The City hereby finds and determines that execution of this Amendment is in the best interests 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. Form of Amendment. This Amendment is executed in two duplicate originals, each of which is deemed to be an original, and both of which shall constitute a single agreement.

[SIGNATURES CONTINUED ON NEXT PAGE]

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. 3896, adopted by the Council of the City of Roseville on the 4th day of December, 2002, and Landowner has caused this Amendment to be executed.

CITY OF ROSEVILLE,

JOHN MOURIER CONSTRUCTION, INC., a

tion

California corporation

m. .. /

Allen E. Johnson City Manager зу:<u> </u>

John L. Mourler, III

President

ATTEST:

Carolyn Parkinson

City Clerk

APPROVED AS TO FORM:

Mark J. Doane City Attorney

[ALL SIGNATURES MUST BE NOTARIZED]

#### EXHIBIT "A-1"

"Property Description"

Parcel 16, as shown on the map of "Woodcreek West Large Lot Subdivision", filed for record November 23, 1999, in Book V of Maps at Page 98, records of Placer County.

STATE OF CALIFORNIA )
: ss. COUNTY OF PLACER )
On this28 <sup>TH</sup> day ofJanuary in the year of 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared Allen E. Johnson, 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 afficial seal.  WITNESS my hand and afficial seal.  ELLY ALLEN COMM. #1296954 NOTARY PUBLIC CALIFORNIA OF PLACER COUNTY My Comm. Expires Mar. 12, 2005 My Comm. Expires My Comm. Expires My Comm. Expires Mar. 12, 2005 My Comm. Expires My Comm.
THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AS FOLLOWS:
Title or Type of Document: Fourth Amendment to Development Agreement with
Sammis Roseville Associates Relative to the North Roseville Specific Plan Phase II
Date of Document:January 29, 2003

Acknowledgment - All Purpose

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# ALL-PURPOSE ACKNOWLEDGMENT

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country of Placer	}	Commission # 1371148 Notary Public - California
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PARTNER(S)		
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## ORDINANCE NO. 3896

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE
ADOPTING A FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT WITH
JOHN MOURIER CONSTRUCTION, INC., AND AUTHORIZING THE CITY MANAGER

EXECUTE IT ON BEHALF OF THE CITY OF ROSEVILLE

### THE CITY OF ROSEVILLE ORDAINS:

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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 Fourth Amendment to Development Agreement with John Mourier Construction, Inc., to alter and clarify provisions in the existing Development Agreement relating to the fee credits and environmental endowment fee.

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

- 1. The Fourth 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 Fourth Amendment to Development Agreement is consistent with the City of Roseville Zoning Ordinance and Zoning Map;
- 3. The Fourth Amendment to Development Agreement is in conformance with public health, safety and welfare;
- 4. The Fourth Amendment to Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and
- 5. The Fourth 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 Fourth Amendment to Development Agreement by and between John Mourier Construction, Inc., 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 Fourth 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 either 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 within fourteen (14) days after its adoption to 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 4th day of December, 2002, by the following vote on roll call:

AYES

COUNCILMEMBERS: Earl Rush, Richard Roccucci, Gina Garbolino, Jim Gray, Rocky Rockholm

**NOES** 

COUNCILMEMBERS:

**ABSENT** 

COUNCILMEMBERS:

ATTEST:

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

Lul. 3896