Recording Requested by

CITY OF ROSEVILLE

When Recorded Mail to: City Clerk City of Roseville 2000 Hilltop Circle Roseville, CA 95747

Exempt from recording fees Pursuant to Govt. Code 27383



PLACER, County Recorder
JIM MCCAULEY Co Recorder Office
DOC- 2002-0042801
Tuesday, APR 16, 2002 08:01:00

Tuesday, APR 16, 2002 08:01:00 NOC \$0.00

Ttl Pd \$0.00

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(THIS SPACE RESERVED FOR RECORDER'S USE)

Title: Sixth Amendment of Development Agreement By and Between the City of Roseville Len-Highland Park, LLC and Lennar Renaissance, Inc. Relative to the Development Known as Highland Reserve North

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Parcel 51

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FILED

MAY 21 2002

BY CITY OF ROSEVILLE

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RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

City Clerk
City of Roseville
2000 Hilltop Circle
Roseville, CA 95747
Attn: Carolyn Parkinson

SPACE ABOVE LINE FOR RECORDER'S USE

SIXTH AMENDMENT OF DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF ROSEVILLE LEN-HIGHLAND PARK, LLC AND LENNAR RENAISSANCE, INC. RELATIVE TO THE DEVELOPMENT KNOWN AS HIGHLAND RESERVE NORTH

This SIXTH AMENDMENT is entered into this 22nd day of March , 2002, by and between the CITY OF ROSEVILLE, a municipal corporation ("City"), and LEN-HIGHLAND PARK, LLC, a Delaware limited liability company, and LENNAR RENAISSANCE, INC., a California corporation ("Landowner"), pursuant to the authority of Section 65864 through 65869.5 of the Government Code of California.

WITNESSETH:

- A. On September 19, 1997, the City and Highland Reserve North L.P., a Delaware limited partnership (hereinafter "HRNLP") entered into that certain agreement entitled "Development Agreement By and Between The City of Roseville and Highland Reserve North L.P. Relative to Development Known as Highland Reserve North." The Development Agreement was recorded in the Official Records of Placer County on October 30, 1997 as Document 97-0067515 (as amended the "Development Agreement").
- B. On July 21, 1999, HRNLP and City, by Ordinance No. 3375, entered into the First Amendment to the Development Agreement (the "First Amendment"). The First Amendment was recorded on September 27, 1999, in the Official Records of Placer County as Instrument 1999-085315.
- C. On September 1, 1999, HRNLP and City, by Ordinance No. 3391, entered into the Second Amendment to the Development Agreement (the "Second Amendment"). The Second Amendment was recorded on November 24, 1999, in the Official Records of Placer County as Instrument 1999-101531.

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- D. On June 21, 2000, HRNLP and City, by Ordinance No. 3529, entered into the Third Amendment to the Development Agreement (the "Third Amendment"). The Third Amendment was recorded in the Official Records of Placer County on August 2, 2000 as Instrument 2000-0056069.
- E. On July 13, 2001, HRNLP and City, by Ordinance No. 3678, entered into the Fourth Amendment to the Development Agreement (the "Fourth Amendment"). The Fourth Amendment was recorded in the Official Records of Placer County on July 13, 2001 as Instrument 2001-0070545.
- F. On October 10, 2001, HRNLP and City, by Ordinance No. 3745. entered into the Fifth Amendment to the Development Agreement (the "Fifth Amendment"). The Fifth Amendment was recorded on December 18, 2001 as Instrument 2001-0136401.
- G. Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Development Agreement.
- H. On September 5, 2000, Len-Highland purchased Parcels 5, 6A, 6B, 7, 8 and 51 of Highland Reserve North from HRNLP and HRNLP has assigned its interest in the Development Agreement with respect to Parcels 5, 6A, 6B, 7, 8 and 51 of Highland Reserve to Len-Highland.
- I. On October 20, 2000, Lennar Renaissance, Inc., a California corporation, entered into an agreement to purchase, over time, Parcels 5, 6A, 6B, 7, 8 and 51 of Highland Reserve North from Len-Highland. Landowner is in the process of developing Parcels 5, 6A, 6B, 7, and 8 of Highland Reserve North as single-family residences ("Residential Area"). The Landowner wishes to develop Parcel 51 as a neighborhood park on a turnkey basis.
- J. This Sixth Amendment amends the Development Agreement (hereinafter the "Sixth Amendment") and shall run with the land. It affects a portion of the real property subject to the Development Agreement. The real property affected by this Sixth Amendment is described in Exhibit "A-1 Highland Reserve North Parcel 51" and identified in Exhibit "A-2 Highland Reserve North Parcel 51" of the Development Agreement as Parcel 51 (herein "Parcel 51"). Parcel 51 is more particularly described as:

Lot 51 of "Amended Final Map for Highland Reserve North Phase No. B through F Large Lot Subdivision," filed on July 26, 2000 in Book W of Maps at Page 43 of Official Records of Placer County, California.

K. The City Council has found and determined that this Sixth Amendment is consistent with the General Plan and the Highland Reserve North 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:

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1.1 Section 3.E.1.a, <u>Neighborhood Park</u>, shall be amended by adding the following language:

<u>"Parcel 51 Turnkey Park."</u> The Landowner shall design and install the park improvements to Parcel 51 subject to and in accordance with the following provisions:

- "A. The park facilities for Parcel 51 shall be constructed and improved according to the plan for each site prepared by Landowner and approved by the City. This park facility shall be designed in accordance with the preliminary designs therefor described in the Specific Plan and the design standards for such facilities and improvements described in the City's Park Master Plan. The improvement plan for the park shall include detailed construction plans, specifications and drawings for the site approved by the City. Landowner shall be responsible for all costs associated with the approval of the plan, including the costs of preparing the required construction plans and drawings.
- "B. Development of Parcel 51 Turnkey Park shall begin at, or prior to, the issuance of the 150th building permit (cumulative total for Parcels 5, 6A, 6B, 7 and 8) and shall be improved as specified herein.
- "C. The estimated cost for the design and installation of the park improvements for Parcel 51 Turnkey Park are set forth in the park financing plan for the Plan Area and have been used to establish the neighborhood park fee for the Property. The improvements to be required by the City for this park site shall consider and accommodate such cost estimates. The cost estimates shall be adjusted by the City, from the Effective Date of the Development Agreement to the date of the commencement of the construction of the improvements, based on the percentage change in the Engineering News Record, Construction Cost Index for the Untied States, 20 city average (or comparable replacement index, hereafter, the "ENR Construction Cost Index").
- "D. When the Landowner bids the work for Parcel 51 Turnkey Park, if the bid amount for the work, together with all design and other park improvement costs then incurred by Landowner, exceeds the then adjusted cost estimate by more than eight percent (8%), then the City shall either (I) agree to defer the installation of certain improvements within the park site to reduce the cost of the work to be installed by the Landowner to 108% of such adjusted cost estimate, or (ii) agree to pay its share of the cost of the improvements in excess of 108% of such adjusted cost estimate, as such costs are incurred by the Landowner.
- "E. Landowner shall diligently proceed with such construction and use its commercially reasonable efforts to complete the construction of its improvements to the park site within one hundred and twenty days (120) of the date of commencement of such improvement.
- "F. Park improvements constructed by Landowner for Parcel 51 Turnkey Park shall include all utilities and all landscaping and irrigation necessary to serve the parks. Landowner shall construct frontage improvements (excluding landscaping and sidewalks, unless the park is developed at the same time as such frontage improvements are being installed) and stub utilities for the park site subject to direction from the City on the location of such utility stubs.

- "G. The City reserves the right to modify the Parcel 51 Turnkey Park plan prior to the commencement of construction by either redesigning park improvements or eliminating park facilities resulting from the net loss of park fees due to the reduction of residential units proposed for parcels within the Residential Area.
- "H. Upon satisfactory completion of such park improvements by Landowner (as evidenced by a Certificate of Completion approved by the City Council), City shall accept the dedication of the park site and assume the ownership and maintenance thereof."
- 1.2 Section 3.E.2.a, of the Development Agreement, page 44 of 58, is superseded and is amended by substitution herewith, and Section 3.E.2.a., as set forth below, is substituted therefore:
- "3.E.2.a. <u>Neighborhood Park Fees</u>. The estimated cost of developing the neighborhood park component of the HRN parks program is \$2,400,190 (year 2000). The per-unit Neighborhood Park Fee required to produce that amount of funding is:
 - i. Single Family (Low/Medium Density) Residential \$1,595.
 - ii. Multi-Family (High Density) Residential \$1,064."
- 1.3 Section 3.E.2.b, of the Development Agreement, pages 44 and 45 of 58, is superseded and is amended by substitution herewith, and Section 3.E.2.c., as set forth below, is substituted therefore:
- "3.E.2.b. Neighborhood Park Fee Credits. In consideration of the advance funding of the Neighborhood Park on Parcel 51 and the provision of parksite roadway frontage improvements as set forth in Sections 3.E.1.a and 3.B.11 hereof, the City shall apply the following credit on a per-unit basis against the Neighborhood Park Fee set forth above:
 - i. Single Family (Low/Medium Density) Residential \$458.
 - ii. Multi-Family (High Density) Residential \$306.
- "3.E.2.c. <u>Neighborhood Park Fee Net of Credit</u>. Upon issuance of a residential building permit, Landowner agrees to pay and City shall collect, pursuant to Roseville Municipal Code, Chapter 4.37, an HRN Neighborhood Park Fee net of credit (i.e., after application of the credit described in 3.E.2.b) in the amounts set forth below:
 - i. Single Family (Low/Medium Density) Residential \$1,137.
 - ii. Multi-Family (High Density) Residential \$758.

The Neighborhood Park Fee Net of Credit for which provision is made in this Section 3.E.2.c shall be increased annually on January 1st of each calendar year by a percentage equal to the inflation rate for the prior year for construction costs as determined

by the Director of the Department of Parks and Recreation on December 1st of each calendar year. The Director's Cost Index for the calendar year as of December 1st.

2. Prevailing Wage. With respect to work involving payment, if any, by City or fee credits, Landowner shall comply with Labor Code Sections 1770 et seq. In accordance with said Section 1775 the Landowner shall forfeit as a penalty to the City Fifty Dollars (\$50) for each calendar day or portion thereof, for each worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed for any work done under this Agreement by the Landowner or by any subcontractor under the Landowner in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 to 1780, inclusive. In addition to said penalty and pursuant to said Section 1775, the difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage shall be paid to each worker by the Landowner.

Prior to commencing work involving payment, if any, by City or fee credits, Landowner shall provide to City schedules of the general prevailing rate of wages applicable to the work to be done, for straight time, overtime, Saturday, Sunday and holiday Work. The holiday wage rate listed shall be applicable to all holidays recognized in the collective bargaining agreement of the particular craft, classification or type of worker concerned.

Pursuant to Labor Code Section 1773.2, general prevailing wage rates set forth by the Department of Industrial Relations, shall be posted by the Landowner at a prominent place at the site of any work.

The City will not recognize any claim for additional compensation because of the payment by the Landowner of any wage rate in excess of the prevailing wage rate set forth in the Contract. The possibility of wage increases is one of the elements to be considered by the Landowner in determining his or her Bid, and will not under any circumstances be considered as the basis of a claim against the City or Contract.

- 3. <u>Consistency with General Plan</u>. The City hereby finds and determines that execution of this Sixth Amendment is in the best interest of the public health, safety and general welfare and is consistent with the General Plan.
- 4. <u>Amendment</u>. This Sixth Amendment amends but does not replace or supersede the Development Agreement except as specified herein.
- 5. <u>Form of Amendment.</u> This Sixth 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 of this Amendment by its City Clerk under the authority of Ordinance No. 3796, adopted by the Council of the City of Roseville on the 6th day of February, 2002 and Landowner has caused this Amendment to be executed.

CITY OF ROSEVILLE, a municipal corporation

By:

Allen E. Johnson City Manager

ATTEST:

Carolyn Parkinson

City Clerk

-

APPROVED AS TO FORM:

Mark J. Doane

City Attorney

LEN-HIGHLAND PARK, LLC, a Delaware limited liability company

By: Lennar Homes of California, Inc. A California corporation

Its managing member

By:

Jeffrey Spitzer Vice President

LENNAR RENAISSANCE, INC.

a California corporation

By:

Jeffrey Spitzer Vice President

[ALL SIGNATURES MUST BE NOTARIZED]

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NAME, TITLE OF OFFICER - E.O., JAME BOELSTOTATION POLICE		
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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 ac-		
knowledged 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.		
7.		
Vina M. Courca		
SIGNATURE OF NOTARY		
Ø ——— OPTIONAL		
Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent		
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STATE OF CALIFORNIA)	
: ss. COUNTY OF PLACER)	
On this 14 th day of March in the year of 2002, before a Notary Public in and for said State, personally appeared Allen Eknown to me to be the person whose name is subscribed to the acknowledged to me that he executed the same in his authorized his signature on the instrument the person, or the entity upor person acted, executed the instrument.	E. Johnson, personally within instrument and discapacity, and that by
WITNESS my hand and official seal.	
Notany Public to and for said State	ELLY ALLEN Commission # 1296954 stary Public - California \$ Placer County Comm. Spires Mar 12, 2005
THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENTOLLOWS:	Γ DESCRIBED AS
Title or Type of Document: Development Agreement Amen	dment
Date of Document: March 20, 2002	

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Acknowledgment – All Purpose

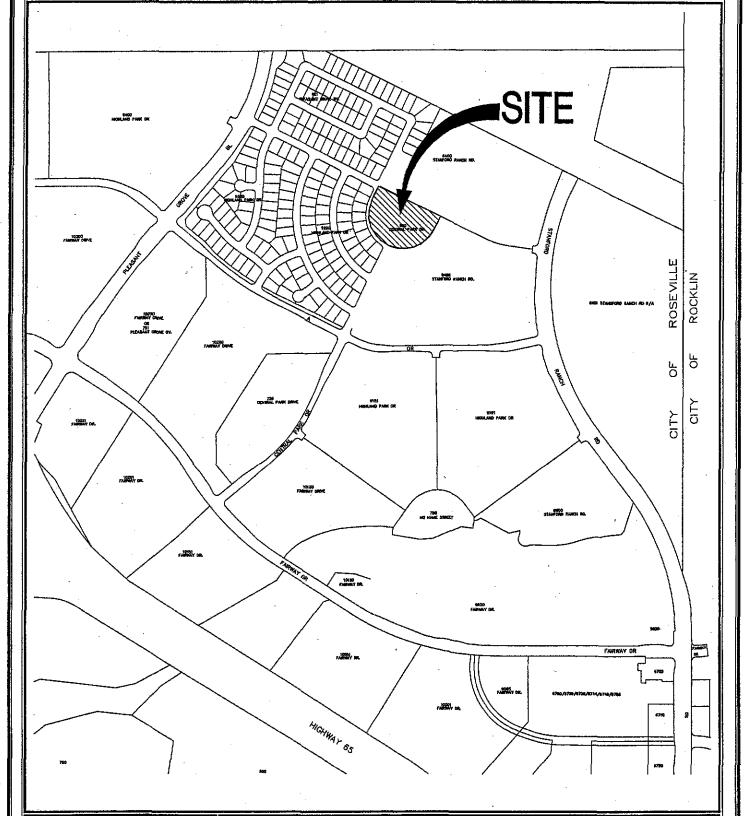
EXHIBIT "A-1"

HIGHLAND RESERVE NORTH PARCEL 51 Legal Description

Lot 51 of "Amended Final Map for Highland Reserve North Phase No. B through F large Lot Subdivision," filed on July 26, 2000 in Book W of Maps at Page 43 of Official Records of Placer County, California.

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SCALE: 1" = 500"

Map Prepared By: JChapman City of Roseville Planning Department Fieldow vicinepal/cat/History/mon 0098 Project Name:

Project File Number(s): DAA 01-14

Project Location:

HRNSP Parcel 51

6665 Maple Creek Dr.

ORDINANCE NO.3796

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE
ADOPTING A SIXTH AMENDMENT TO DEVELOPMENT AGREEMENT WITH LENHIGHLAND PARK, LLC, AND LENNAR RENAISSANCE, INC. 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 Sixth Amendment to Development Agreement with the Len-Highland Park, LLC and Lennar Renaissance, Inc. to alter and clarify provisions in the existing Development Agreement relating to 6665 Maple Creek Drive.

- SECTION 2. The Council of the City of Roseville has reviewed the findings of the Planning Commission recommending approval of the Sixth Amendment to Development Agreement for the Highland Reserve North Specific Plan, and makes the following findings:
- 1. The Sixth 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 Highland Reserve North Specific Plan;
- 2. The Sixth Amendment to Development Agreement is consistent with the City of Roseville Zoning Ordinance and Zoning Map;
- 3. The Sixth Amendment to Development Agreement is in conformance with public health, safety and welfare;
- 4. The Sixth Amendment to Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and
- 5. The Sixth Amendment to Development Agreement will provide sufficient benefit to the City of Roseville to justify entering into the Sixth Amendment to Development Agreement.
- SECTION 3. The Sixth Amendment to Development Agreement by and between the Len-Highland Park and Lennar Renaissance 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 Sixth 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.

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