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

DOC- 2006-0037336

Thursday, APR 06, 2006 08:19:21

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(THIS SPACE RESERVED FOR RECORDER'S USE)

FOURTH AMENDMENT OF DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF ROSEVILLE AND ELLIOTT HOMES RELATIVE TO THE STONERIDGE SPECIFIC PLAN

RECORDING REQUESTED BY AND WHEN RECORDED, MAIL TO:

City Clerk City of Roseville 311 Vernon Street Roseville, CA 95678 Attn: Sonia Orozco

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

# FOURTH AMENDMENT OF DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF ROSEVILLE AND ELLIOTT HOMES RELATIVE TO THE STONERIDGE SPECIFIC PLAN

THIS FOURTH AMENDMENT is entered into this <u>31st</u> day of <u>March</u>, 2006, by and between the CITY OF ROSEVILLE, a municipal corporation ("City"), and ELLIOTT HOMES, INC., an Arizona corporation ("Landowner"), pursuant to the authority of Sections 65864 through 65869.5 of the Government Code of California.

#### WITNESSETH:

- A. On April 1, 1998, the City and Landowner entered into that certain agreement entitled "Development Agreement By and Between The City of Roseville and Elliott Homes Relative to the Stoneridge Specific Plan" (hereinafter the "Original Development Agreement"). On June 10, 1999, February 5, 2001, and July 10, 2001, the City and Landowner entered into those certain First, Second and Third Amendments to the Original Development Agreement. The Original Development Agreement, as amended by said Amendments, shall be referred to collectively herein as the "Development Agreement." The Original Development Agreement was recorded in the Official Records of Placer County on May 11, 1998, as Document No. 98-0034382, the First Amendment was recorded in the Official Records of Placer County on April 11, 2001, as Document No. 2001-0032870, and the Third Amendment was recorded in the Official Records of Placer County on July 17, 2001, as Document No. 2001-0071657. 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 with respect to the real property described in Exhibits "A-1" and "A-2" attached to the Original Development Agreement, as amended by the Second Amendment thereto (the "**Property**"), primarily with respect to the property identified in the Stoneridge Specific Plan as Parcels 51 through 57 and commonly referred to as Phase 4A. This Amendment shall run with the land with respect to the Property.

- C. On <u>December 8</u>, 2005, the City Planning Commission, designated by Roseville Ordinance No. 3014 as the planning agency for purposes of development agreement review pursuant to Government Code Section 65867, in a duly noticed and conducted public hearing, considered this Amendment and recommended that the City Council approve this Amendment. In connection with such recommendation, the Planning Commission also approved a Tentative Large-Lot Subdivision Map for Parcels 51 though 57 (the "Tentative Large-Lot Map") and a Tentative Small-Lot Residential Subdivision Map for Parcels 51, 52, 55 and 57 (the "Tentative Small-Lot Map"), subject to approval of the Phase 4A Amendments described below.
- D. The City Council has approved the following land use entitlements related to the development of Parcels 51 through 57 of the Property:
  - (i) The Roseville General Plan, as amended by Resolution No. 06 43;
  - (ii) The Stoneridge Specific Plan and Design Guidelines, as amended by Resolution No. 06 44 ;
  - (iii) The Rezoning of portions of Parcels 51 through 57 of the Property pursuant to Ordinance No. 4340 , dated <u>February 1</u>, 2006; and
  - (iv). This Development Agreement Amendment, as adopted by Ordinance No. 4341 (the "Adopting Ordinance").

The approvals described in paragraphs D(i) through D(iii), inclusive, together with the Tentative Large-Lot Map and the Tentative Small-Lot Map approved by the Planning Commission, are referred to herein as the "Phase 4A Entitlements."

- E. The City Council has determined that the adoption of this Amendment involves no new impacts not considered in the Plan EIR; therefore, no further environmental documents relating to the adoption of this Amendment are required.
- F. The City Council has found and determined that this 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. <u>Incorporation of Phase 4A Entitlements</u>. The Phase 4A Entitlements described in Recital D above are hereby incorporated into and made a part of the "Entitlements" described in Recital 5 of the Agreement.
- 2. <u>Amendment of Development Agreement.</u> The following sections of the Development Agreement for the Property are hereby amended as follows:
- a. <u>Revised Section 2.2 (Vested Entitlements).</u> The approximate land use acreages set forth in Section 2.2 of the Development Agreement are hereby revised to read as follows:

Small Lot, Low Density Residential:

Single Family, Medium Density Residential:

Multi-Family, High Density Residential:

Public/Quasi Public (School/Water Tank)

Park:

Open Space:

1,071 units on 297.7 acres

149 Units on 14.6 acres:

230 Units on 12.7 acres;

9.75 acres;

23.9 acres; and

90.9 acres.

Revised Exhibit "B" attached to the Second Amendment, as amended for Parcels 51 through 57 by Exhibit "B-1" attached to this Amendment (as amended, the "Land Use Map"), shows the location of these land uses and replaces the prior Exhibit "B" for the Agreement. Furthermore, due to the name change for the road within the Plan Area as shown on Exhibit "B-1" hereto, all references in the Agreement to "Collector B" are hereby amended to mean and refer to "Miner's Ravine Drive."

<u>b.</u> Revised Section 3.2.1 (Dedications). The following is hereby added to the first paragraph of Section 3.2.1, after the third sentence thereof:

"With respect to Lot H of Parcel 53 designated as Public Open Space on Exhibit "B" ("Lot H"), Landowner shall dedicate Lot H to the City upon recordation of the final large lot map for Parcels 51 through 57. In consideration of Landowner's environmental mitigation pursuant to the 404 Permit that involved the planting of elderberry bushes within a portion of Lot H, Lot H shall be deemed included within and part of the Environmental Preserves described in Section 2.7 of this Agreement and the City shall accept Lot H as part of the Environmental Preserves pursuant to Section 2.7.1. Landowner acknowledges that City's acceptance of Lot H is subject to the provisions of Section 2.7, including without limitation, Landowner's obligations under Section 2.7.2 to satisfy all monitoring, reporting and, at the Service District's expense, maintenance requirements under the 404 Permit for the Environmental Preserves during the remaining and any extended monitoring period associated therewith."

bc. Revised Section 3.9.5.E (Phase 4 Bike Trails). Subparagraph (ii) of Section 3.9.5.E regarding the extension of the Miner's Ravine bike trail through the balance of Parcel 50, 60 and 61, as amended by the Second Amendment, is hereby revised to add the following at the end thereof:

"Notwithstanding anything to the contrary above, City and Landowner acknowledge that Parcels 60 and 61 have been acquired by the Placer County Flood Control District (the "District") and that the District has indicated a willingness to construct the extension of the Miner's Ravine Bike Trail described in this subparagraph and identified as Section K of the Stoneridge Specific Plan Bike Trail Master Plan. The City and Landowner shall cooperate with the District to facilitate the construction of this bike trail extension by the District and/or to facilitate the construction of such extension after the District's completion of its drainage improvements planned to be installed within Parcels 60 and 61. Provided, however, such cooperation shall not relieve Landowner of its obligation to construct this extension of the bike trail in accordance with the terms of this subparagraph if the District fails to construct it. If the bike trail extension is not constructed by the District (or the District has not entered into a binding agreement with the City to construct such extension, with improvement bonds or other financial assurances acceptable to the City posted to assure the completion thereof)

prior to recordation of the first final small-lot subdivision map within Phase 4, Landowner and City may enter into a Subdivision Agreement (and subsequently a deferred improvement agreement) for construction of this bike trail extension. If Landowner requests a Subdivision Agreement or Deferred Improvement Agreement, Landowner shall be responsible for preparing improvement plans and a cost estimate for the extension and for posting security to City in an amount equal to 150% of the estimated cost of the extension. Landowner may thereafter proceed with recordation of its final small-lot maps and development of Phase 4 and the bike trail extension shall be constructed by Landowner at the time requested by the City under such Agreement, subject to the parties' acquisition of the easements through Parcels 60 and 61 required for such bike trail in accordance with the provisions described above. The construction of such bike trail extension may also be deferred pending the District's completion of its drainage improvements within Parcels 60 and 61, as such deferral is deemed appropriate by the City, in the City's sole discretion.

If the District constructs this bike trail extension, Landowner acknowledges that the District shall be entitled to the reimbursement for the costs of such extension from neighborhood park fees. As provided in Section 3.2.5 hereof, such reimbursement shall be equal to the lesser of (i) the actual costs incurred for the design and construction of Section K of the Stoneridge Specific Plan Bike Trail Master Plan or (ii) 115% (or lesser percentage, if reduced as described above) of the budgeted amount for such costs, which budgeted costs are adjusted by the ENR Construction Cost Index from the date of the Second Amendment to the date of reimbursement. Based on the ENR Construction Cost Index adjustment from the Second Amendment to November 1, 2005, and assuming the 115% factor is not reduced pursuant to the above, the current maximum reimbursement for the cost of the Section K bike trail extension is \$142,295. If Landowner designs or constructs any portion of the Section K bike trail extension before the District participates in the construction of the bike trail extension, Landowner shall first be entitled to reimbursement for these costs."

d. Revised Section 3.17.3.C (Services District Obligations). The following is hereby added at the end of Section 3.17.3.C:

"In particular, and without limitation thereof, City and Landowner acknowledge that Lot H of Parcel 53 designated as Public Open Space will be maintained by the Services District as part of the public open space areas within the Plan Area and that Lot C of Parcel 53 designated as Private Open Space will be maintained by Landowner or Landowner's successor to Parcel 54, including any Homeowner's Association that may be formed by Landowner with respect to Parcel 54."

ee. <u>Amended Section 10 (Notices)</u>. Section 10 of the Development Agreement is hereby amended to revise the notice addresses for Landowner as follows:

Notice required to be given to Landowner shall be addressed as follows:

Elliott Homes, Inc. 80 Iron Point Circle, Suite 110 Folsom, CA 95630 Attention: Price Walker

- depicted by Exhibit "B" to the Original Development Agreement and revised by Revised Exhibit "B" to the Second Amendment, is hereby amended for Parcels 51 through 57 by Exhibit "B-1" attached hereto, which is hereby incorporated into and made a part of the Development Agreement. Accordingly, all references in the Development Agreement to Exhibit "B" or Revised Exhibit "B" shall mean and refer to the Land Use Map depicted by Revised Exhibit "B" to the Second Amendment, as amended for Parcels 51 through 57 by Exhibit "B-1" attached hereto.
- eg. Amended Exhibit "K". Item 70(b)(i) of Exhibit "K" regarding reimbursement for the Phase 4 extension for the Miner's Ravine Bike Trail is hereby amended to add the following at the end thereof: "which reimbursement may be paid to Placer County Flood Control District, if and to the extent said District designs and constructs such bike trail improvements or any portion thereof."
- 3. <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.
- 4. <u>Amendment.</u> This Amendment amends, but does not replace or supersede, the Development Agreement except as specified herein.
- 5. <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. 4341 , adopted by the Council of the City of Roseville on the <u>1st</u> day of <u>February</u>, 2006, and Landowner has caused this Amendment to be executed.

CITY:

CITY OF ROSEVILLE,

a municipal corporation

W. Craig Robinson

City Manager

ATTEST:

Sonia Orozco City Clerk

APPROVED AS TO FORM:

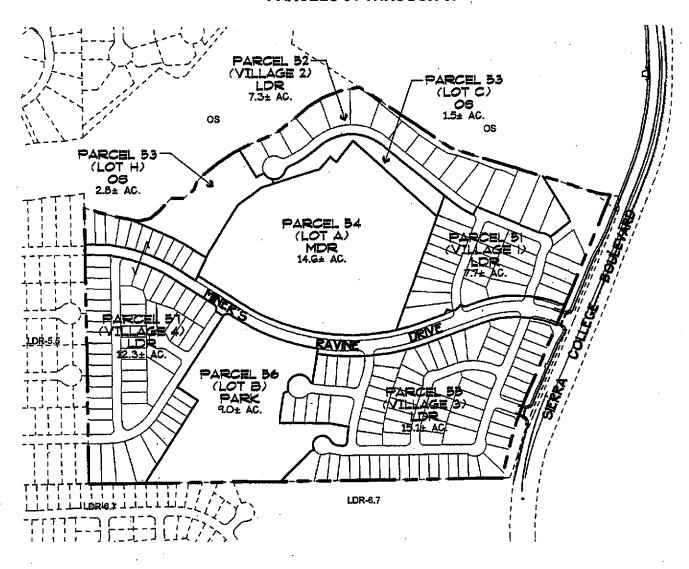
Mark J. Doane City Attorney

LANDOWNER:

ELLIOTT HOMES, INC., an Arizona of poration

**EXHIBIT B-1** 

## AMENDMENT TO LAND USE MAP FOR STONERIDGE SPECIFIC PLAN PARCELS 51 THROUGH 57



### **CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California	<b>)</b>
County of SACRAMENTO	} ss.
	re me, SHERI HASSELL, NOTARY PUBLIC
personally appearedHARRY	Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared	Name(s) of Signer(s)
	☑ personally known to me
	<ul> <li>proved to me on the basis of satisfactor evidence</li> </ul>
SHERI HASSELL	to be the person(s) whose name(e) is/an subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/thetr authorized capacity(ies), and that by his/her/thet signature(e) on the instrument the person(s), of the entity upon behalf of which the person(e) acted, executed the instrument.
COMM. #1436607	WITNESS my hand and official seal.
Notary Public-California SACRAMENTO COUNTY	Mand and official seal.
My Comm. Exp. Sept 24, 2007	
	Signature of Notary <del>Public</del>
Though the information below is not required by law	Signature of Notary Pablic  OPTIONAL  it may prove valuable to persons relying on the document and could preven realtachment of this form to another document.
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Though the information below is not required by law fraudulent removal and production of Attached Document FOURTH ATTITUTE OF TYPE OF DOCUMENT DOCUMENT DATE: MARCY 17, 2006  Signer(s) Other Than Named Above: Capacity(ies) Claimed by Signer Signer's Name: HARRY C.  Individual	THE CITY OF ROSEVILLE AND ELLIOTT HOMES TO THE STONERIDGE SPECIFIC PLAN Number of Pages: 9 INCL.  RIGHT THUMBPRIN OF SIGNER TOP OF THE STONE THE CITY OF ROSEVILLE AND THE CIT
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STATE OF CALIFORNIA	)	
COUNTY OF PLACER	: ss. )	
On this 31 <sup>st</sup> day of March in the Public in and for said State, person to me to be the person whose acknowledged to me that he exert his signature on the instrument person acted, executed the instru	onally appeared W. Craig and name is subscribed to cuted the same in his auther the person, or the entity ment.	Robinson, personally known the within instrument and horized capacity, and that by
WITNESS my hand and official se	əal.	
Notary Public in and for said Sta	ite	HELEN DREYER Comm. # 1544178 NOTARY PUBLIC-CALIFORNIA Placer County My Comm. Expires Jan. 14, 2009
THIS CERTIFICATE MUST BE A FOLLOWS:	TTACHED TO THE DOC	JMENT DESCRIBED AS
Title or Type of Document: Fourt	th Amendment to Develop	ment Agreement
Date of Document: March	21 2006	

Acknowledgment - All Purpose

## ORDINANCE NO. 4341

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE
ADOPTING A FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT WITH
ELLIOTT HOMES, 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 Fourth Amendment to Development Agreement with Elliott Homes, Inc., to alter and clarify provisions in the existing Development Agreement relating to Parcels 51 57.
- 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 Stoneridge 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 Stoneridge 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 Fourth Amendment to Development Agreement.
- SECTION 3. The Fourth Amendment to Development Agreement, by and between Elliott Homes, 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 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 <u>1st</u> day of February , 2006, by the following vote on roll call:

**AYES** 

COUNCILMEMBERS:

Allard, Roccucci, Rockholm, Garbolino

NOES

COUNCILMEMBERS:

None

ABSENT

COUNCILMEMBERS:

Gray

ATTEST:

City Clerk

The foregoing instrument is a correct copy of the original on file in this office.

DEPUTY CLER

(W 4341