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Sacramento County
Clerk/Recorder

City of Rancho Cordova
2729 Prospect Park Drive
Rancho Cordova, CA 95670
Attn: City Clerk

(SPACE ABOVE)

201801120719

(NUMBER'S USE)

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
RELATIVE TO SUNDANCE
BY AND BETWEEN THE CITY OF RANCHO CORDOVA AND
RHNC SUNDANCE - SACRAMENTO GP**

This First Amendment to Development Agreement ("**First Amendment**") is entered into this 6th day of December, 2017, by and between the **CITY OF RANCHO CORDOVA**, a municipal corporation ("**City**"), and **RHNC SUNDANCE - SACRAMENTO GP**, a California general partnership ("**Landowner**"). City and Landowner are hereinafter collectively referred to as the "**Parties**."

RECITALS

A. City and Landowner entered into that certain Development Agreement dated May 15, 2006 ("**Agreement**") recorded on July 18, 2006, in the Office of the Sacramento County Recorder in Book 20060718, Page 0964, Official Records, which established certain development rights in certain real property located in the City of Rancho Cordova, California, as more particularly described in **Exhibit A-1** and **Exhibit A-2** of the Agreement (the "**Property**").

B. Pursuant to Government Code section 65868, City and Landowner now desire to modify and amend the Agreement to reflect a reduced unit count, amend certain Landowner obligations to pay certain fees for park renovations at existing City parks and improvements at new City parks, to revise Landowner's park obligations, to update obligations relating to the funding of police services, road improvements, maintenance services, and to make other revisions, all as more fully set forth below in this First Amendment.

C. This First Amendment amends certain provisions of the Agreement applicable to the entire Property and affects the rights and obligations of the Parties as of the effective date of this First Amendment and has no effect on the rights or obligations of the Parties as to any development of the Property occurring prior to the effective date of this First Amendment. This First Amendment was adopted by City Ordinance No. 11-2017 on November 6, 2017, which Ordinance became effective on December 6, 2017.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the Parties hereby agree to amend the Agreement as follows:

AGREEMENT

1. **Incorporation of Recitals.** Recitals A through C are hereby incorporated herein, including the documents referenced in the Recitals.

2. **Amendment of Section 6.6 of the Recitals Concerning "Project Approvals."** City and Landowner agree that Section 6.6 of the Recitals of the Agreement is hereby amended to read as follows:

"6.6 The Tentative Subdivision Map for the Project (attached hereto as Exhibit B) approved by the City on October 16, 2017, by City Resolution No. 128-2017 (this Exhibit B replaces the original Exhibit B approved by Planning Commission Resolution No. 20-2004 approved on January 27, 2005); "

3. **Amendment of Section 6.7 of the Recitals Concerning "Project Approvals."** City and Landowner agree that Section 6.7 of the Recitals of the Agreement is hereby amended to read as follows:

"6.7 This Development Agreement, as adopted on May 15, 2006 by City Ordinance No. 22-2006 (the "Adopting Ordinance") as amended on December 6, 2017 by City Ordinance No. 11-2017 adopting the First Amendment to the Development Agreement."

4. **Amendment of Section 5.2 concerning the "Term."** City and Landowner agree that Section 5.2 of the Agreement is hereby amended to read as follows:

"5.2 **Term.** Upon execution, the term of this First Amendment shall commence on the Effective Date and extend until December 6, 2027, which date is a period of ten (10) years from the date that City Ordinance No. 11-2017 approving this First Amendment takes effect, unless said term is terminated, modified or extended by circumstances set forth in this Agreement. Following expiration of the term, this Agreement shall be deemed terminated and of no further force and effect. Said termination of the Agreement shall not affect any right or duty created by City approvals for the Property adopted prior to, concurrently with, or subsequent to the approval of this Agreement."

5. **Amendment of Section 6.2 concerning "Permitted Uses."** City and Landowner agree that Section 6.2 of the Agreement is hereby amended to read as follows:

"6.2. **Permitted Uses.** The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, location and maintenance of on-site and off-site improvements, location of public utilities and other terms and conditions of development applicable to the Property, shall be those set forth in this Agreement, the Project Approvals and any amendments to this Agreement or the Project Approvals. City acknowledges that the Project Approvals provide for the following land uses and approximate acreages for the Property: 114 single-family, residential units in an area designated for Commercial Mixed Use with a Limited Commercial (LC) Zoning designation of 11.9 acres. The project density is 10.0 dwelling units per acre.

Exhibit C "Land Use Map for the Property" is omitted from the Development Agreement.

6. **Restatement of Section 6.4.1 Concerning the "New Park Development Obligation."** City and Landowner agree that Section 6.4.1 of the Agreement is hereby deleted and replaced with the following:

"6.4.1. New Park Development Obligation.

(i) Dedication of Park Land and In Lieu Fee:

Landowner's obligation to dedicate park land to the Cordova Recreation and Park District (the "Park District") pursuant to California Government Code Section 66477 (the "Quimby Act") shall be satisfied by payment of in lieu fees for the 1.68 acres of park land dedication requirement, calculated by 114 DUE x 0.01475 (factor). The amount of the in lieu fee shall be determined in accordance with Rancho Cordova Municipal Code Sections 22.40.040 and 22.40.045 in effect on the date of this Agreement.

(ii) Dedication of Open Space Land and In Lieu Fee:

Landowner's obligation to dedicate open space land to the City shall be satisfied by the payment of in lieu fees for the 0.34 acres calculated by 114 DUE x .00295 (factor) (amount of land dedication required as determined by Rancho Cordova General Plan and Open Space Guidelines). The amount of the in lieu fee shall be determined in accordance with Rancho Cordova Municipal Code Sections 22.40.040 and 22.40.045 in effect on the date of this Agreement.

(iii) Park Development Impact Fee:

Landowner shall pay a park development fee for each single family residential parcel on the Property to mitigate the costs for the Park District and the City to design, construct and install park and open space improvements (the "Park Development Impact Fee"). The Park Development Impact Fee will be paid prior to issuance of each single family residential unit building permit within the Project. The Park Development Impact Fee will be Ten Thousand Seven Hundred Thirty Dollars and Seventy-Five Cents (\$10,730.75) for each single family residential unit. Of the \$10,730.75 Park Development Impact Fee, \$9,387.40 is for parks and \$1,343.35 to the City is for neighborhood greens, trails, landscaping, community gathering places, and other type of open space improvements as determined appropriate by the City.

The Park Development Impact Fee shall be adjusted on January 1, 2018 and annually thereafter, no later than January 15th by the method provided in City Ordinance No. 05-2014 as follows:

- (a) A "mean" index will be computed by averaging the index for 20 U.S. cities with the index for San Francisco by resort to the most recent October issue of the Engineering News Record magazine Construction Cost Index.

- (b) An adjustment factor shall be computed by dividing the "mean" index as calculated in subsection (a) of this Section by the "mean" index for the previous October.
- (c) The adjusted Park Development Impact Fee shall be calculated by multiplying the adjustment factor, as calculated in subsection (b) of this Section, by the Park Development Impact Fee in place prior to the annual adjustment.

If and when the City adopts a Citywide Park Improvement Fee, or an Area-Wide Park Improvement Fee applicable to the Project, the Landowner and City agree to explore adjustments to the Park Development Impact Fee. Under no circumstances shall the Landowner be required to pay any new Citywide/Area-Wide Park Improvement Fee in addition to the Park Development Impact Fee as set forth in this First Amendment."

7. **Restatement of Section 6.4.3 Concerning the "In-fill Park and Open Space Renovation and Acquisition Fee."** City and Landowner agree that Section 6.4.3 of the Agreement is hereby deleted and replaced with the following:

"6.4.3. In-fill Park and Open Space Renovation and Acquisition Fee. The Landowner agrees that it shall pay the City the total sum of **one thousand one hundred ten dollars and sixty-four cents (\$1,110.64)** for each residential parcel shown on the final maps for the Property. Beginning on January 1, 2018, the fee shall be adjusted annually on each January 1 based upon the percentage change in the United States Department of Labor Consumer Price Index for all Urban Consumers for the San Francisco-Oakland-San Jose area between August and August of each year. This fee shall be paid to the City no later than prior to issuance of the building permit for each residential parcel for the Property. It shall be used by the City, at its sole discretion, to acquire, renovate, repair, improve or maintain parks or open space in that portion of the City as described in Exhibit D. This payment is made voluntarily by the Landowner. It is in addition to all other existing park fees, and construction and dedication obligations, including without limitation any fees paid pursuant to California Government Code Section 66477 (the "Quimby Act"). Landowner agrees that it shall not claim any credit or right to reimbursement of any other existing park fees, and construction and dedication obligations, including Quimby Act fees, as a result of paying the existing park renovation fees required under this Section."

8. **Restatement of Section 6.4.4 Concerning the "Police Tax."** City and Landowner agree that Section 6.4.4 of the Agreement is hereby deleted and replaced with the following:

"6.4.4 Police Tax. Landowner and City agree that, until the Property is annexed into the Police Services CFD as described below, the Property shall be subject to the Police Tax enacted by City Ordinance No 37-2006 pertaining to Police Tax Zone 2A. Following City Council's approval of this First Amendment, the Landowner shall support the annexation of the Project into Community Facilities District 2013-2 (Police Services) (the "Police Services CFD"), and cover Landowner's fair share costs of the CFD annexation not to exceed \$7,000.

Within 60 days of the annexation of the Project into the Police Services CFD, the City Council will rescind City Ordinance No. 37-2006 pertaining to Police Tax

Zone 2A as applied to the Property. The Landowner acknowledges that no final small lot subdivision maps shall be approved by the City prior to the annexation of the Project into the Police Services CFD.

Landowner agrees that it will not vote to repeal or amend the Police Special Tax being imposed in the amounts set forth above, and that any such vote by Landowner would constitute an event of default under this Agreement. In the event of such a default by Landowner, then in addition to all other remedies available to City, Landowner shall be obligated to pay under this Agreement the difference between the amount of the Police Special Tax before the Landowner's vote to repeal or amend the tax, and the amount of the proposed Police Special Tax set forth above."

9. **Restatement of Section 6.4.5 Concerning the "Supplemental Development Fee."** City and Landowner agree that Section 6.4.5 of the Agreement is hereby deleted and replaced with the following:

"6.4.5. Supplemental Development Fee. Landowner shall pay a development fee in the amount of **Five Thousand Seven Hundred Twenty-Five dollars and Seventy-Nine cents (\$5,725.79)** for each of the 114 lots shown on the final maps for the Property (the "Fee"). Landowner shall pay the Development Fee in the following increments: (i) Eight Hundred Sixty-Five dollars (\$865) for each residential lot at the time of the final map approval, and (ii) Four Thousand Eight Hundred and Sixty-Eight dollars and Thirty-Seven cents (\$4,868.37) at the time of the issuance of a building permit for each lot.

i. **Use of New Development Fee.** The New Development Fee shall be used by the City to fund certain roadway improvements and by the Cordova Recreation and Park District to fund the shortfall for park improvements for the Anatolia I, II, III, and IV, Sunridge Park and North Douglas projects located within the City. The City shall enter into a separate agreement with the Cordova Recreation and Park District to provide for the allocation of the New Development Fee for the above described uses. A minimum of Forty-Four Thousand Five Hundred Five dollars (\$44,505) of the New Development Fee for the entire Property shall be utilized by the Cordova Recreation and Park District to fund the shortfall for park improvements. The portion of the New Development Fee to be utilized by the Cordova Recreation and Park District shall be treated as being in addition to and separate from the Park Development Impact Fee required under Section 6.4.1 of the Agreement."

10. **Addition of New Section 6.4.6 Concerning the "Road Maintenance Conditions."** City and Landowner agree to add a new Section 6.4.6 to the Agreement to read as follows:

"6.4.6 Streets, Street Lighting and Landscaping Maintenance. Landowner and City agree that the Landowner will participate in or provide a funding mechanism for maintenance services for the fair share of existing and all new public improvements associated with the project including, but not limited to, streets, bridges/culverts, traffic signals, traffic signs, striping and legends, intelligent transportation systems (ITS)

operations, street lights and safety lights, and public frontage and median landscape improvements. This may be accomplished through annexation to the City's Communities Facilities District No. 2014-2 (Street, Lighting and Landscaping Maintenance), or other financial mechanism as may be proposed and provided by the Landowner for the same purpose of providing a financial mechanism to fund the operation and maintenance of the Project's public improvements. If the Landowner does not provide another financial mechanism, the Landowner will support the annexation of the Project into Community Facilities District 2014-2, and cover Landowner's fair share costs of the CFD annexation not to exceed Five Thousand dollars (\$5,000)."

11. **Addition of New Section 6.4.7 "Stormwater Utility Fee."** City and Landowner agree to add a new Section 6.4.7 to the Agreement to read as follows:

6.4.7 Stormwater Utility Fee. Landowner and City agree that the Landowner will participate in or provide a funding mechanism for maintenance services for the Project's stormwater drainage and flood protection system. This may be accomplished through annexation to the City's Stormwater Utility Fee District, or other financial mechanism as may be proposed and provided by the Property Owner for the same purpose of providing a financial mechanism to fund the operation and maintenance of the Project's stormwater drainage and flood protection system. If the Landowner does not provide another financial mechanism, the Landowner will support the annexation of the Project into the City's Stormwater Utility Fee District, and cover Landowner's fair share costs of the annexation not to exceed Seven Thousand dollars (\$7,000)."

12. **Addition of New Section 6.4.8 Concerning the "Park Maintenance Conditions."** City and Landowner agree to add a new Section 6.4.8 to the Agreement to read as follows:

6.4.8 Park Maintenance. Landowner and City agree that the Landowner will participate in providing a funding mechanism for the ongoing maintenance of park facilities and improvements through annexation to existing Cordova Recreation and Park District Community Facilities District No. 04-01 (Sunridge). The Landowner shall work with the Park District to complete the annexation and cover all associated costs."

13. **Addition of New Section 6.4.9 "Phasing Plan."** City and Landowner agree to add a new Section 6.4.9 to the Agreement to read as follows:

6.4.9 Phasing Plan. Prior to approval of any final map, Developer shall provide a large lot phasing plan addressing sequencing and full build-out of major public infrastructure throughout the Project limits. The large lot phasing plan shall show all public facilities including, but not limited to, major roadways, bike trails, sewer, water, drainage, facilities, parks and other utilities, and shall be prepared to the satisfaction of the City's Public Works Department. The large lot phasing plan may be revised as needed during the development of the Project.

Prior to approval of any small lot final map for an individual phase, the Landowners shall prepare and submit to City a "small lot phasing plan" that addresses full build-out of all secondary streets and utility infrastructure. The small lot phasing plan will show the blocks of the small lot tentative map to be constructed and all roads, bike trails and other infrastructure required to serve the use of the proposed units within each block to the satisfaction of the City's Public Works Department. The small lot phasing plan will also be defined by the City's Guiding Principles for Phasing as adopted in the Sunridge Specific Plan.

Prior to issuance of building permits (except permits for model homes) within an individual map phase, all streets and improvements shown on the small lot phasing plan, all streets necessary for access to the proposed homes, associated improvements included in the approved improvement plans, landscaping and other infrastructure as necessary for adequate public access and use shall be fully constructed and accepted to the satisfaction of the City's Public Works Department.

Developer shall have no further responsibility for improvements after meeting the improvement requirements of the applicable phase (or sub-phase). The Phasing Plan may be amended from time-to-time upon written approval by the Public Works Director."

14. Deletion. City and Landowner agree that Section 10 of the Agreement "Service District for Maintenance" is hereby deleted.

15. Consistency with General Plan. The City finds and declares that the Agreement, as amended by this First Amendment, is consistent with the City's General Plan.

16. Form of Agreement; Exhibits. The last sentence of Section 29 of the Agreement which described the Agreement and its exhibits as constituting the entire understanding and agreement of the Parties is hereby deleted.

17. Definition of Terms. All capitalized terms used in this First Amendment shall have the same definition as provided in the Agreement, except where a different definition has been supplied in this First Amendment.

18. All Other Terms in Force. Except as amended by this First Amendment, all terms and conditions of the Agreement remain in full force and effect.

19. Recording. Within ten (10) days after the Effective Date, City shall record this First Amendment with the Sacramento County Recorder's Office.

20. Counterparts. The Parties may execute this First Amendment in counterparts, each of which will be considered an original, but all of which will constitute the same instrument.

21. Entire Agreement. The Agreement and this First Amendment set forth the Parties' entire understanding regarding the matters set forth above. It supersedes all prior or contemporaneous agreements, representations, and negotiations regarding those matters (whether written, oral, express, or implied) and may be modified only by another written agreement signed by all Parties. This First Amendment will control if any conflict arises between it and the Agreement.

IN WITNESS WHEREOF, the City of Rancho Cordova, a municipal corporation, has authorized the execution of this Amendment in duplicate by its City Manager and attested to by its City Clerk under the authority of Ordinance No. 11-2017, adopted by the Council of the City on 6th day of November, 2017, and Landowner has caused this Amendment to be executed.


"CITY"

"LANDOWNER"

CITY OF RANCHO CORDOVA,
a municipal corporation

RHNC Sundance – Sacramento GP,
a California general partnership
By: Regis Homes of No. Cal. Inc.,
its Managing General Partner

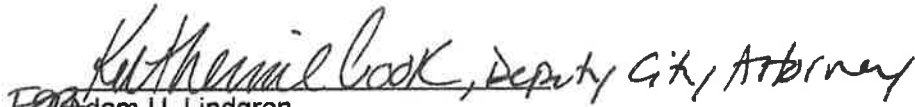

Cyrus Abhar, City Manager

By: 
Name: WILLIAM F. HEARTY
Title: SENIOR VICE PRESIDENT

ATTEST:


City Clerk, Stacy Leitner

APPROVED AS TO FORM:


Adam U. Lindgren
City Attorney

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Sacramento }

On 1/9/18 before me, Marie Weber, Notary
(Here insert name and title of the officer)

personally appeared Cyrus Abhar
 who 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.

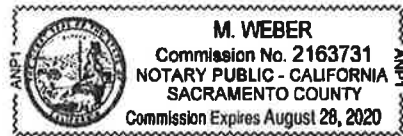
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

M. Weber

Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer
- _____ (Title)
- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Sacramento

On 1/2/2018 before me, Rick Mujica, Notary Public
(insert name and title of the officer) ✓

personally appeared William F. Heartman
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rick Mujica (Seal)

