

RECORDING REQUESTED BY:

City of Davis



Yolo Recorder's Office

Tony Bernhard, County Recorder

DOC- 1999-0028888-00

Acct 116-Davis - NC

Wednesday, SEP 15, 1999 15:16:20

Ttl Pd \$0.00

Nbr-0000175033

VRB/R5/1-9

WHEN RECORDED RETURN TO:

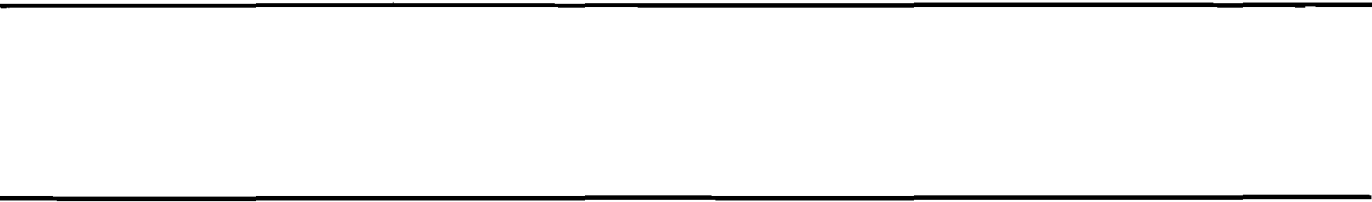
City of Davis

City Clerk's Office

23 Russell Blvd

Davis, CA 95616

*FROM THIS POINT AND ABOVE IS FOR RECORDERS



**FIRST SUPPLEMENT AND
AMENDMENT TO DEVELOPMENT AGREEMENT**

THIS FIRST SUPPLEMENT AND AMENDMENT TO DEVELOPMENT AGREEMENT by and between the CITY OF DAVIS and WILLIAM R. DUFFEL, JOSEPH A. DUFFEL AND DUFFEL FINANCIAL AND CONSTRUCTION COMPANY (collectively, "Duffel") ("Amendment 1999/1") is entered into as of August 3, 1999, by and between the CITY OF DAVIS, a municipal corporation ("City") and WILDHORSE GROUP, LLC, a California limited liability company ("Developer"), on the basis of the following facts, understandings and intentions of the parties:

RECITALS

A. The City and Duffel entered into a Development Agreement dated as of September 28, 1994 ("Development Agreement"), pursuant to the authority conferred upon the City by pertinent provisions of California law and City Resolution No. 5996, adopted June 29, 1988, establishing rules, regulations and procedures for the consideration of development agreements. The Development Agreement concerns the real property located in the City of Davis commonly known as "Wildhorse" ("Project"). Developer is the successor to Duffel in the Project and the Development Agreement. This is the first amendment to the Development Agreement. The Development Agreement, shall be referred to "the Agreement."

- A. Capitalized terms used but not defined in this Amendment 1999/1 shall have the meanings set forth in the Agreement.
- A. Pursuant to the Agreement, the Project has been partially subdivided and developed by Developer and its successors and assigns. In implementing the development of the Project, the parties have determined that it is now appropriate and mutually beneficial to supplement and amend certain provisions of the Agreement as set forth in this Amendment 1999/1, as applied to the portion of the Project currently owned by Developer ("Phase III"), as is more particularly described in "A" attached hereto and made a part hereof.

NOW, THEREFORE, for and in consideration of the mutual promises and agreements contained in this Amendment 1999/1, the parties agree as follows:

**Section 1. School Site
Donation Of Developer's Interest In School Site To School District.**

Developer, in consideration of the City's covenants set forth in this Amendment 1999/1, agrees to donate to the Davis Joint Unified School District ("District") the approximately 9.0 net acre school site located within Phase I of the Project ("School Site"). City hereby acknowledges that Developer currently holds fee simple title to the School Site; provided, however, the Davis Unified School District ("District") has been granted an option to purchase

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the School Site pursuant to an option agreement executed by the District and Developer (or its predecessor in interest) and dated November 1, 1996 ("School Site Option Agreement"), a copy of which is attached to the Development Agreement. Developer's donation of fee simple title to the District shall be subject to all liens and encumbrances (but specifically excluding any deeds of trust, mortgages or other monetary liens other than property taxes not yet due and payable) currently recorded against the School Site. District shall not be required to exercise its option under the School Site Option Agreement to vest fee simple title to the School Site in the District. This Amendment 1999/1 and Developer's obligation to donate the School Site shall supercede the School Site Option Agreement.

District agrees that the site will be used for public uses or for school uses through December 31, 2006. Thereafter, the use of the School Site shall be as determined by the District, subject to any applicable laws and regulations.

1.2 Escrow.

Developer and the City shall establish an escrow with First American Title Insurance Company, West Sacramento, CA ("Escrow Holder"), for the purpose of effectuating the transfer of fee title to the School Site to the District and the completion of the Developer's donations described below.

A. Execution Of Further Documents.

Developer agrees to execute such further transfer documents as reasonably may be required to effectuate the donation of the School Site to the District, including all documents that reasonably may be required by the escrow holder to transfer fee title to the District. The parties anticipate that close of escrow on the School Site ("Closing") will occur concurrently with the recordation of the Final Map for Phase III.

Section 2. Donation By Developer

Developer, in consideration of the City's covenants set forth in this Amendment 1999/1, shall make a one-time donation of Three Hundred Thousand Dollars (\$300,000) in cash to the City. Developer acknowledges that the City may use the donation for any and all public purpose(s) as it may determine, including without limitation, deposit into its Open Space Fund. Developer shall deposit the full amount of the donation with the Escrow Holder, and such donation shall be released to the City upon Closing.

Section 3. Initial Date For Issuance Of Building Permits In Phase III Of Project

The City has confirmed that the California Department of Transportation ("Caltrans") has awarded a contract to a general contractor for the construction of improvements to the Mace Boulevard/Interstate 80 interchange located southeast of the City of Davis ("Mace Boulevard Improvements") and that construction of the Mace Boulevard Improvements commenced in May, 1999. City, in consideration of the foregoing facts and the covenants of Developer set forth in this Amendment 1999/1, agrees that the first two (2) sentences of the final full

subparagraph of Section 2.7 of the Agreement, appearing at the bottom of page 15 of the original Agreement (“[I]n addition, building permits for units within Phase III shall not be issued . . . after construction work on the interchange is commenced.”), shall be and hereby are deleted in their entirety; and the following language shall be inserted in their place:

“In addition, building permits for housing units within Phase III shall not be issued to Developer, its successors or assigns, until on or after April 1, 2000; provided, however, Developer, its successors and assigns shall have the right to apply for and to obtain permits for the construction of “model” housing units within Phase III on or after January 3, 2000. . . .”

Section 4. Other Terms Unchanged.

Except as expressly set forth herein, all terms and conditions of the Agreement shall remain unchanged and in full force and effect.

Section 5. Recordation of Amendment 1999/1.

This Amendment 1999/1, including the Exhibit attached hereto, shall be recorded within ten (10) days after the full execution of this Amendment 1999/1 and the ordinance approving this Amendment 1999/1 becoming effective; and the City hereby directs and designates the City Clerk to record this Amendment 1999/1 with the County Recorder of Yolo County within such time.

Dated: 9/14/99

CITY OF DAVIS,
a municipal corporation
By: [Signature]
Its: _____

Dated: 9/10/99

WILDHORSE GROUP, LLC
a California limited liability company
By: Dearborn Inc., its managing member
[Signature]
Scott Rodde, President

Dated: 9/10/99

DAVIS JOINT UNIFIED SCHOOL,
DISTRICT, a political subdivision of the
State of California
By: [Signature]
Its: _____

SIGNED AND CERTIFIED THAT A COPY OF

WILDBLA
9/9/99

THIS DOCUMENT HAS BEEN DELIVERED TO THE
CITY COUNCIL

By: Bette E. Racki
Bette Racki
Clerk of the City Council

APPROVED AS TO FORM:

By: Harriet Steiner
Harriet Steiner
City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

All that certain real property situate in the City of Davis, County of Yolo, State of California, being a portion of Parcel 2 and Parcel 3, as shown on that certain Parcel Map No. 4334, filed in the Office of the County Recorder of Yolo County in Book 12 of Parcel Maps at Pages 76 and 77, said real property being described as follows:

All of said Parcel 3

EXCEPTING THEREFROM all that portion of said Parcel 3 included within the Irrevocable Offer of Dedication for Park Purposes described in and recorded as Instrument No. 98-07950, records of said County.

ALSO EXCEPTING THEREFROM all that portion of said Parcel 3 included within the Irrevocable Offer of Dedication for Greenstreet Purposes described in and recorded as Instrument No. 98-07951, records of said County.

ALSO EXCEPTING THEREFROM all that portion of Parcel 3 included within the 200 foot wide Irrevocable Offer of Dedication for open space, bicycle, and pedestrian purposes and the 135 foot wide Irrevocable Offer of Dedication for open space, bicycle, and pedestrian purposes as shown on said parcel map.

ALSO EXCEPTING THEREFROM all that portion of said Parcel 3 lying northerly of the following described line:

BEGINNING at a point on the southerly line of said Parcel 2 from which the southeasterly corner of said Parcel 2 bears North 63°19'47" East 176.40 feet and North 89°15'30" West 122.96 feet; thence from said POINT OF BEGINNING South 59°50'18" West 362.34 feet; thence South 60°31'45" West 66.02 feet; thence South 59°02'21" West 288.86 feet; thence South 84°07'08" West 228.05 feet; thence South 88°08'00" West 165.05

feet; thence South $77^{\circ}52'55''$ West 201.17 feet to the POINT OF TERMINUS, said point also being the easterly end of the course in said southerly line of Parcel 2 shown as "North $65^{\circ}50'04''$ East 173.95 feet" on said parcel map.

TOGETHER WITH that portion of said Parcel 2 lying southerly of the above described line.

Containing 70.929 acres more or less.

End of Description

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

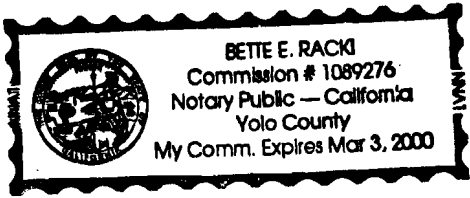
State of CALIFORNIA

County of YOLO

On AUGUST 10, 1999 before me, BETTE E. RACKI
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared SCOTT RODDE
Name(s) of Signer(s)

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.

Bette E. Racki
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: FIRST SUPPLEMENT AND AMENDMENT TO DEVELOPMENT AGREEMENT
WILDHORSE GROUP

Document Date: AUGUST 3, 1999 Number of Pages: 6 PAGES

Signer(s) Other Than Named Above: DAVID MURPHY, DAVIS UNIFIED SCHOOL DISTRICT
JULIE PARTANSKY, MAYOR OF DAVIS

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

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

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

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

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

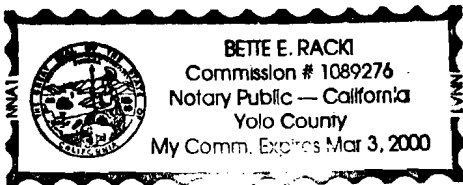
State of CALIFORNIA

County of YOLO

On SEPTEMBER 10, 1999 before me, BETTE E. RACKI
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared DAVID J. MURPHY
Name(s) of Signer(s)

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.

Bette E. Racki
Signature of Notary Public

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Title or Type of Document: FIRST SUPPLEMENT AND AMENDMENT TO DEVELOPMENT AGREEMENT WILDHORSE GROUP

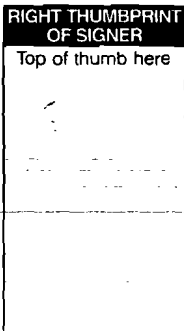
Document Date: AUGUST 3, 1999 Number of Pages: 6 PAGES

Signer(s) Other Than Named Above: SCOTT RODDE, PRESIDENT WILDHORSE GROUP
JULIE PARTANSKY, MAYOR OF DAVIS

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

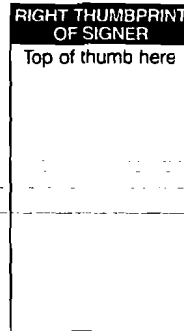
- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: EDUCATION



Signer Is Representing:
DAVIS UNIFIED SCHOOL
DISTRICT

Signer's Name: _____

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



Signer Is Representing:

