



City of Rohnert Park PLANNING COMMISSION STAFF REPORT

Meeting Date: September 29, 2016

Agenda Item No: 8.1

Subject: File No. PL2012-048DA – University District Specific Plan.
Consideration of an Amendment to the Development Agreement.

Location: Approximately 300 acres located south of Keiser Avenue, west of
Petaluma Hill Road, north of Sonoma State University (“SSU”) and
Copeland Creek

Applicant: University District LLC

SUBJECT: Modifications to the Development Agreement related to the completion of Twin Creeks Park and the construction of the potable water tank serving the University District Specific Plan (“UDSP”) Project (“the Project”): a proposed mixed-use community on approximately 300 acres with a maximum of 1,645 residential units (excluding second residential units); 100,000 square feet of mixed use/commercial uses; parks; and open space.

1. Resolution No. 2016-27 recommending City Council adoption of an ordinance approving an amendment to the Development Agreement between the City of Rohnert Park and University District LLC and Vast Oak Properties L.P. for development of the property located south of Keiser Avenue, west of Petaluma Hill Road, and north of Rohnert Park Expressway and the property located south of Rohnert Park Expressway, east of J Section, and north of Copeland Creek.

BACKGROUND: The UDSP, one of five specific plan areas designated in the City’s General Plan, includes approximately 300 acres of lands owned by five property owners (University District LLC, Vast Oak Properties, Cotati-Rohnert Park Unified School District, Gee, and Creath) in the City of Rohnert Park. In 2006, the UDSP document (“Specific Plan”) was approved and associated General Plan amendments were adopted and implemented.

In April 2014, the City Council approved revisions to the adopted Specific Plan, including the Development Standards and Design Guidelines. As part of the approval process, the City Council also approved an Addendum to the UDSP EIR and approved the following entitlements:

Rescission of Tentative Maps and Development Area Plans approved in 2006; General Plan Amendments; Revised Specific Plan, Development Standards and Design Guidelines; Tentative Map; Tentative Parcel Map; and Development Agreement (DA).

The DA executed between the City, Vast Oak Properties, and University District LLC for development of the Vast Oak and UD LLC properties establishes the benefits and commitments connected with the entitlement to and build out of the UDSP Project. The original DA was entered into on July 11, 2006 and the amended and restated DA was entered into on April 22, 2014. The amended and restated DA provides for the requirements of the law and includes special conditions providing for the timely funding of infrastructure as well as on-going maintenance and operation of public facilities in the Project area. The DA has been amended once to modify requirements around the construction of affordable housing.

The DA includes specific commitments related to the timing for commencing and completing Twin Creeks Park, the dedication of a site for a water tank, and the timing for commencing and completing construction of the water tank. Exhibit C to the DA is a tabular listing of the timing requirements for all infrastructure including the water tank and Twin Creeks Park.

The Developer has commenced construction of the Project and late in 2015 sold portions of the project to three home builders. Together the Developer and the home builders are working to construct the first phase of the Project, which includes 399 market rate single family homes. City staff and Developer have reviewed progress on the Project and are proposing changes to the requirements for completing Twin Creeks Park, dedicating a site for the water tank and commencing and constructing the water tank. These changes are intended to allow for ongoing, efficient development of the Project and to enhance the long-term benefits provided by the Project.

PROPOSAL AND ANALYSIS: As currently written, the DA includes the following commitments with respect to Twin Creeks Park and the Water Tank.

1. Construction of Twin Creeks Park shall be commenced prior to the 100th Market Rate Building Permit and completed 12 months after the start of construction or prior to the 300th Market Rate Building Permit.
2. The Developer will sell to the City a 53 acre water tank site (for \$10.00) and dedicate to the City a 20-foot wide easement from the water tank site to Crane Creek Regional Park.
3. The Developer will begin construction of the potable water tank prior to the 200th Market Rate Building Permit and will completed construction prior to the 400th Market Rate Building Permit. The Development Agreement also allows the City to assume responsibility for constructing the potable water tank under certain conditions.

City staff and the Developer are proposing the following changes to the Development Agreement. The rationale for each proposed change is discussed in detail below.

1. Twin Creeks Park shall be completed 12 months from the start of construction and the restriction on the 300th Market Rate Building Permit will be removed.
2. The Developer will sell to the City a 128 acre site that includes the 53 acres proposed for the water tank (the price remains \$10.00). The requirement for the 20-foot easement from

the water tank site to Crane Creek Regional Park will be removed as it is no longer necessary given that the City will have fee title of the property.

3. Subject to the receipt of a \$5,000,000 deposit in two installments (half due at time of execution of the DA amendment and the other half due by January 17, 2017) from the Developer, the City will assume responsibility for construction of the potable water tank and the restrictions on the 200th and 400th Market Rate Building Permits will be removed.

Twin Creeks Park: The Developer commenced construction of Twin Creeks Park in May 2016 and is on schedule to complete construction before the end of 2016, which is within a year of commencement. The construction is secured by Performance and Labor and Material bonds in favor of the City. The DA amendment proposes to remove the restriction on the 300th Market Rate Building Permit because it no longer provides meaningful leverage to secure completion of Twin Creeks Park and is creating a constraint on the construction of new homes. The removal of the building permit restriction is a benefit to the Developer from the second amendment.

Water Tank Site: The 53- acre water tank site described in the Development Agreement is part of a larger 128-acre site that connects Petaluma Hill Road to Crane Creek Regional Park (see Attachment A). The proposed amendment would result in the Developer selling all of the site, rather than just a portion to City.

The 128 acre site is within a priority community separator area. In 2001, shortly after the adoption of its General Plan, the City entered into an agreement with the County of Sonoma to acquire land within the priority community separator area east of Rohnert Park, in order to mitigate the annexation of community separator lands west of Rohnert Park. By acquiring the full 128 acre site, the City is able to more fully complete its obligation to the County under the 2001 agreement.

In addition to helping satisfy obligations under the 2001 agreement with the County, the trail to Crane Creek Regional Park is the subject of an approximately \$700,000 grant commitment from Sonoma County Agricultural Preservation and Open Space District (Open Space District) to the City, County Regional Parks and Sonoma State University. The acquisition of the larger site allows for construction of a more useable trail between Petaluma Hill Road and Crane Creek Regional Park (see Attachment A). Staff is currently working with the Open Space District, Regional Parks, Sonoma State University and several other County agencies to secure the grant commitment and allow for construction of this new regional amenity.

The Developer's dedication of the larger water tank site is a benefit to the City resulting from the second amendment.

Water Tank Construction: As written, the DA allows the City to assume responsibility for construction of the water tank. The proposed second amendment formalizes the City's intent to assume this responsibility in exchange for the Developer completing the design and funding the actual cost of construction. Because the City will assume control of the construction activities, the restrictions on the 200th and 400th Market Rate Building Permits are proposed to be removed. Removing these restrictions will allow for completion of the first phase of the Project and commencement of the second phase of the Project, which is a benefit to the Developer. If the Developer does not perform and provide the design and the funding, the City has the ability to withhold future final maps and call the Performance and Labor and Material Bonds previously provided by the Developer for the water tank.

As part of negotiating the proposed second amendment, staff has confirmed that the City's existing water system can reasonably provide service to up to 800 new dwelling units in the University District, before the water tank is needed. This available water system capacity provides reasonable assurance for removing the restrictions on the 200th and 400th Market Rate Building Permits. The DA will retain an existing restriction on the 800th Market Rate Building Permit, which ensures that infrastructure will be available to serve new development.

Summary: The proposed DA amendment is intended to reflect the progress that has been made on the Project to date and provide benefit to both the City and the Developer. Staff believes that the proposed amendment reflects a revised, pragmatic strategy for securing the completion of improvements that benefit both the City and the larger community. The proposed amendment retains the City's ability to exercise its authority, including withholding of future final maps, if the Developer does not complete the revised obligations outlined in the amendment.

ENVIRONMENTAL ANALYSIS: Pursuant to the California Environmental Quality Act (CEQA), the City of Rohnert Park, as the lead agency, has previously conducted an environmental review of the Project. The City prepared an EIR to address the potentially significant adverse environmental impacts that may be associated with the planning, construction, or operation of the Project and to identify appropriate and feasible mitigation measures and alternatives that may be adopted to significantly reduce or avoid the impacts identified in the EIR. The City certified the Final EIR on May 23, 2006 and approved an Addendum to the Final EIR on April 8, 2014. The proposed Development Agreement amendment involves no substantial changes in the Project, no substantial changes with respect to the circumstances under which the Project will be undertaken and/or no new information of substantial importance of the kind that would require additional environmental review pursuant to Section 15162 of the CEQA Guidelines.

PUBLIC NOTIFICATION AND INFORMATION: Property owners within 300 feet of the Project site and interested parties requesting notification were mailed notices, and the notice was posted pursuant to State law.

RECOMMENDED ACTIONS: Staff recommends that the Planning Commission approve the following resolution:

1. Resolution No. 2016-27 recommending City Council adoption of an ordinance approving an amendment to the Development Agreement between the City of Rohnert Park and University District LLC and Vast Oak Properties L.P. for development of the property located south of Keiser Avenue, west of Petaluma Hill Road, and north of Rohnert Park Expressway and the property located south of Rohnert Park Expressway, east of J Section, and north of Copeland Creek.

ATTACHMENTS:

- A. Site Map and Proposed Crane Creek Trail Alignment
- B. Resolution No. 2016-27 (Development Agreement)
- C. Second Amendment to Development Agreement

APPROVALS:



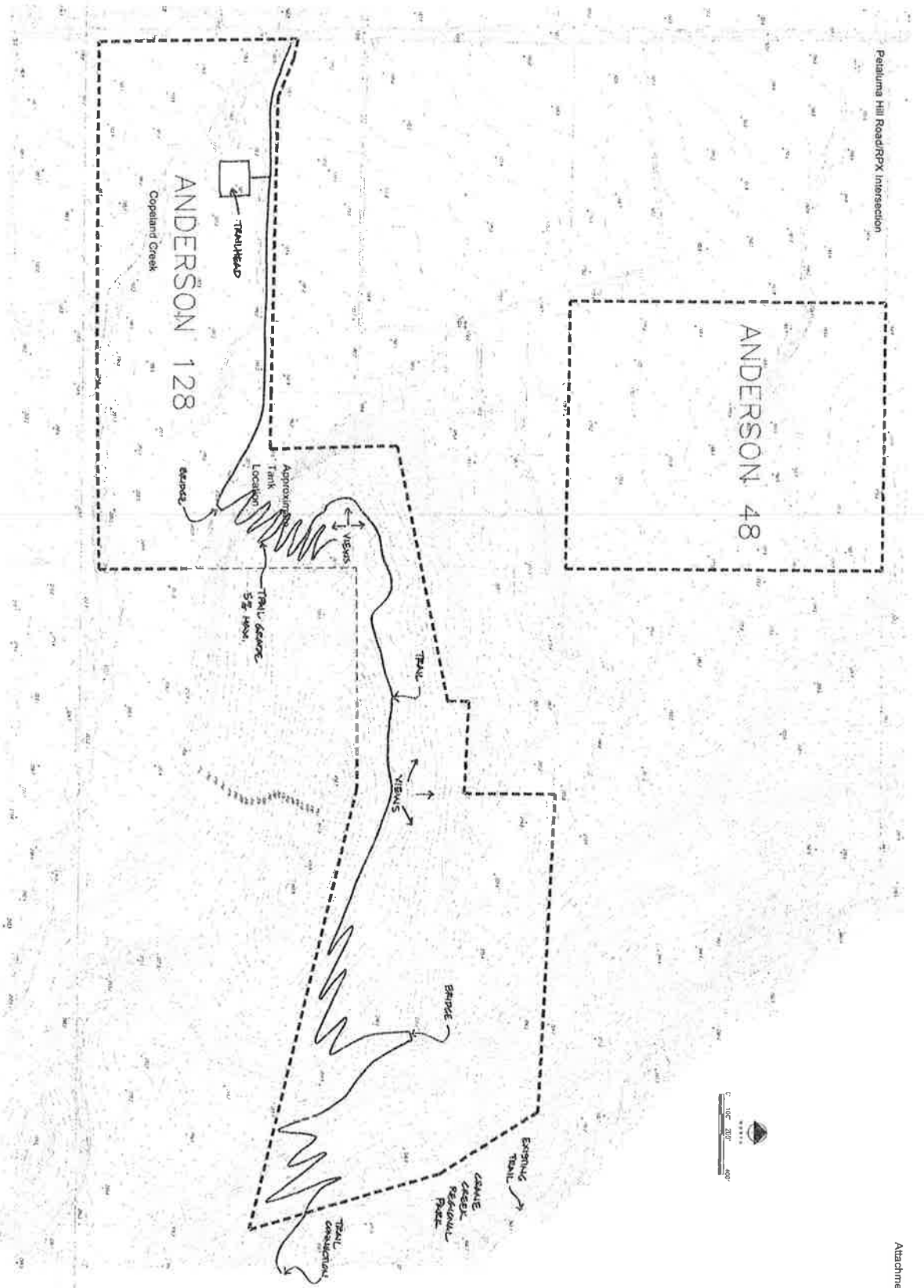
Mary Grace Pawson, Development Services Director

9/23/2014

Date

Attachment A

Site Map and Proposed Crane Creek Trail
Alignment



PLANNING COMMISSION RESOLUTION NO. 2016-27

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF ROHNERT PARK, CALIFORNIA, RECOMMENDING CITY COUNCIL
ADOPTION OF AN ORDINANCE APPROVING AN AMENDMENT TO THE
DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF ROHNERT
PARK AND VAST OAK PROPERTIES L.P. AND UNIVERSITY DISTRICT LLC FOR
DEVELOPMENT OF THE PROPERTY LOCATED SOUTH OF KEISER AVENUE,
WEST OF PETALUMA HILL ROAD, AND NORTH OF ROHNERT PARK
EXPRESSWAY AND THE PROPERTY LOCATED SOUTH OF ROHNERT PARK
EXPRESSWAY, EAST OF J SECTION, AND NORTH OF COPELAND CREEK**

WHEREAS, Government Code § 65864, *et seq.*, authorizes the City of Rohnert Park to enter into development agreements which will provide certainty, definition and commitment to developers as well as to provide for necessary public improvements required by development; and

WHEREAS, the applicant, University District LLC, filed Planning Applications proposing a General Plan Amendment (PL2012-043), Specific Plan revision (PL2012-044), Tentative Map (PL2013-009), Tentative Parcel Map (PL2012-047), Development Agreement (PL2012-048), and related applications and approval of an Addendum to the Final Environmental Impact Report ("EIR") (PL2012-045) in connection with the proposed University District Specific Plan ("UDSP") Project located south of Keiser Avenue, west of Petaluma Hill Road, and north of Copeland Creek ("Project"), in accordance with the City of Rohnert Park Municipal Code ("RPMC"); and

WHEREAS, on April 8, 2014, the City Council approved those applications allowing development of the Property, which includes a maximum of 1,645 residential units (excluding second residential units); 100,000 square feet of mixed use/commercial uses; parks; and open space; and .

WHEREAS, in connection with the Project, Developer and City staff negotiated an amended and restated development agreement ("Development Agreement") for the Project in accordance with the requirements of Government Code § 65864, *et seq.*, and Chapter 17.21, "Development Agreement Procedure," of the Rohnert Park Municipal Code ("RPMC"); and

WHEREAS, on April 8, 2014, the City Council considered and adopted Ordinance No. 878 approving the Development Agreement; and

WHEREAS, on April 8, 2014, the City Council approved and addendum to the Final Environmental Impact report for the Project; and the City has otherwise carried out all requirements for the Project pursuant to the California Environmental Quality Act ("CEQA"); and

WHEREAS, on January 12, 2016, the City Council considered and adopted Ordinance No. 894 approving the First Amendment to the Development Agreement; and

WHEREAS, the Developer has filed Planning Application No. PL2012-048DA proposing to amend the Development Agreement with new language shown in the attached Exhibit A (“Development Agreement Amendment”); and

WHEREAS, pursuant to California State Law and the RPMC, public hearing notices were mailed to all property owners within an area exceeding a three hundred foot radius of the subject property; and

WHEREAS, on September 29, 2016 the Planning Commission held a public hearing at which time interested persons had an opportunity to testify either in support or opposition to the proposed Development Agreement Amendment; and

WHEREAS, the Planning Commission has reviewed and considered the information contained in the proposed Development Agreement Amendment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Rohnert Park makes the following findings, determinations and recommendations with respect to the proposed Development Agreement Amendment:

Section 1. Incorporation of Recitals. The above recitations are true and correct, and are incorporated herein by this reference.

Section 2. CEQA. The City Council has certified the Final EIR for the Project (including the Development Agreement), and adopted the associated CEQA Findings, Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program, and, as amended by the proposed Development Agreement Amendment, there are no substantial changes proposed in the Project, substantial changes with respect to the circumstances under which the Project will be undertaken or new information of substantial importance of the kind that would require additional environmental review pursuant to Section 15162 of the CEQA Guidelines.

Section 3. Findings for Amendment of Development Agreement. The Planning Commission in recommending approval to the City Council of Planning Application No. PL2012-048DA Amend, Amendment to the Development Agreement for University District hereby makes the following findings:

A. A duly noticed public hearing regarding the proposed Development Agreement Amendment was held by the Planning Commission on September 29, 2016, in conformance with the notice provisions of Government Code §§ 65090 and 65091 and the requirements of the RPMC.

B. The proposed amendment to the Development Agreement (Exhibit A) is consistent with the General Plan, and would direct the Project's development in an orderly manner that benefits the City.

NOW, THEREFORE, BE IT FURTHER RESOLVED that, based on the findings set forth in this Resolution and the evidence in the staff report considered by the Planning Commission concurrently with the proposed amendment to the Development Agreement, the Planning Commission hereby recommends that the City Council approve the **Development Agreement Amendment**, substantially in the form set forth at **Exhibit A** hereto.

DULY AND REGULARLY ADOPTED on this 29th day of September, 2016 by the City of Rohnert Park Planning Commission by the following vote:

AYES:____ NOES:____ ABSENT:____ ABSTAIN:____

ADAMS____ BLANQUIE____ BORBA____ GIUDICE____ HAYDON____

John Borba, Chairperson, Rohnert Park Planning Commission

Attest:_____
Susan Azevedo, Recording Secretary

EXHIBIT A

Development Agreement Amendment

[Follows]

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Rohnert Park
130 Avram Avenue
Rohnert Park, CA 94928-2486
Attention: City Clerk

Space Above This Line Reserved for Recorder's Use
Exempt from Recording Fee Per Government Code Section 27383

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT ("**Second Amendment**") is entered into as of the ____ day of _____, 2016, by and among UNIVERSITY DISTRICT LLC, a Delaware limited liability company ("**UD**"), VAST OAK PROPERTIES L.P., a California limited partnership ("**VO**") and the CITY OF ROHNERT PARK, a California municipal corporation ("**City**"). UD and VO are sometimes collectively referred to herein as "**Developer**," and City and Developer are sometimes herein referred to as a "**Party**" and collectively as "**Parties**."

RECITALS

A. The Parties have previously entered into that certain Reimbursement Agreement by and among UD, VO and the City as of January 10, 2006 ("**Reimbursement Agreement**")

B. The Parties have previously entered into that certain Amended and Restated Development Agreement by and among UD, VO and the City as of April 22, 2014 and recorded on July 28, 2014, as Instrument No. 2014051817 in the Official Records of Sonoma County ("**Original Development Agreement**").

C. The Parties entered into a First Amendment to Development Agreement dated as of February 11, 2016 and recorded on _____ as Instrument No. 2016003747 in the Official Records of Sonoma County, in order to amend Exhibit D regarding the timing of affordable housing obligations (the "**First Amendment**"). The Original Development Agreement, as amended by the First Amendment, is referred to herein as the "**Development Agreement**."

D. Developer has entered into a number of Assignment and Assumption Agreements to assign certain rights and obligations under the Development Agreement. Developer has retained, however, all obligations with respect to City dedications and acquisitions, as set forth in Section 4.10 of the Development Agreement and the construction of Twin Creeks Park, as set forth in Section 4.12(A) of the Development Agreement.

E. Concurrent with the approval of Vast Oaks Phase 1-A through 1-D Final Maps,

the Developer has posted Performance and Labor and Materials bonds in the amount of Two Million Four Hundred Sixty Four Thousand Ninety Five Dollars and No Cents (\$2,464,095.00) for the construction of Twin Creeks Park and Three Million Five Hundred Twenty Six Thousand Dollars and No Cents (\$3,526,000) for the construction of a potable water tank.

F. The Parties now desire to amend the Development Agreement a second time to, among other things: (1) modify the terms regarding the construction of the water tank to provide that the Developer will fund and the City will construct the water tank; (2) provide for the transfer of the 128-acre Water Tank Property to the City; (3) remove Developer's obligations with respect to the Crane Creek Regional Park Easement; and (4) remove building permit restrictions associated with the completion of Twin Creeks Park, which is under construction.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Defined Terms. All capitalized terms used and not otherwise defined in the Second Amendment shall have the same meaning in this Second Amendment as in the Development Agreement.

2. Amendment of Section 4.10. Section 4.10 of the Development Agreement is hereby deleted in its entirety and replaced with the following:

“Section 4.10 City Dedication and Acquisition Parcels.

A. Water Tank. Developer shall bear all costs and expenses, including staff, consultant, and attorney time, directly or indirectly incurred or payable by City in connection with the permitting, design, construction and installation of an approximately eight hundred thirty three thousand (833,000) gallon water tank (the “**Water Tank**”) and supporting pipeline infrastructure to serve those uses delineated in Specific Plan (collectively, the “**Water Tank Costs**”). City may select and retain third-party professionals, consultants and attorneys of its choosing to perform the Water Tank Costs work. The City's estimated Water Tank Costs as of the Effective Date are \$_____.

(1) Concurrently with Developer's execution of the Second Amendment, Developer shall deposit with City the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in cash or other immediately available funds (the “**First Installment**”). Developer shall deposit with the City the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000) no later than January 17, 2017 (the “**Second Installment**”). Collectively the First Installment and Second Installments are the “**Deposit**”. City may maintain the Deposit in an interest-bearing account, with interest to accrue toward the Water Tank Costs. The Deposit plus any accrued interest shall be referred to as the “**Original Deposit Amount**.”

(2) Until the City opens bids for the Water Tank project, the Developer shall continue to fund all design, permitting, environmental review, technical review and City administrative costs in accordance with the terms of the Reimbursement Agreement.

(3) After the City opens bids for the Water Tank project, provided City intends to or has awarded a construction contract for the Water Tank in its sole discretion, City or Developer shall adjust the Original Deposit Amount to equal the dollar amount of the awarded construction contract together with any costs not covered under the Reimbursement Agreement and anticipated future costs including, permitting and mitigation conditions, construction phase engineering and management and City administrative costs and a 25 percent contingency (the “**Adjusted Deposit Amount**”). If the Adjusted Deposit Amount is greater than the Original Deposit Amount, Developer shall deposit the difference with City in cash or other immediately available funds within ten calendar days of City’s written request. If the Original Deposit Amount is greater than the Adjusted Deposit Amount, the City shall retain the Original Deposit Amount, and draw down upon the Original Deposit Amount to fund construction related costs as further described in Section 4.10.A(5) below. The amount held by the City after any adjustments made pursuant to this Section 4.10.A(3) shall be referred to as the “**Deposit Amount**.”

(4) In the event that the City determines, in its reasonable discretion, that the actual Water Tank Costs will exceed the Deposit Amount, Developer shall fund the estimated amount of difference by depositing such amount with City in cash or other immediately available funds within 30 calendar days of City's written request therefor and such additional deposit shall accrue to the Deposit Amount.

(5) The City is authorized to pay or deduct from the Deposit Amount all bills, invoices or demands for payment of Water Tank Costs. City shall provide Developer with an accounting of funds paid from the Deposit Amount. Within 90 days after the City’s recordation of a Notice of Completion for the final construction contract and/or any contract for mitigation or monitoring work related to the Water Tank, City shall reimburse Developer any remaining amount of the Deposit Amount.

(6) Developer acknowledges that its timely funding of the Water Tank Costs is necessary to ensure that the Water Tank can be installed by such time as the City’s Director of Public Safety or his or her designee, determines the tank is necessary to provide adequate fire flow to the Project, or portion thereof under construction. Developer acknowledges and agrees that no Final Map, beyond the Final Maps approved for Vast Oaks Phases 1A through 1D, will be approved by the City until such time as the Parties have closed escrow for City's acquisition or acceptance of the Water Tank Property from Developer as provided in Section 4.10.B, below and received funding for the Water Tank as described in Section 4.10.A (1) above. Developer also acknowledges and agrees

that if it does not comply with the funding requirements described in Section 4.10.A (1) above, such failure shall be deemed a breach of the Agreement and, among other remedies available to City, City may hold the financial institution(s) that provided the Developer's Labor and Materials and Performance bonds liable to complete construction of the Water Tank. Concurrently with execution of the Second Amendment, Developer shall provide City updated bonds or other evidence satisfactory to City that Developer's bonds cover the requirements set forth in this Section 4.10.A. Provided Developer meets its funding obligations under this Section 4.10.A, and subject to enforced delays as provided in Section 9.06, City shall diligently pursue permitting, design, construction and installation of the Water Tank.

B. Transfer of Property for Water Tank

(1) In consideration for City's payment of the Water Tank Property acquisition price referenced below, City's agreements hereunder and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer shall transfer, and City shall acquire, a fee interest in and to the approximately one hundred and twenty eight (128.0) acre Water Tank Site (the "**Water Tank Property**"). The Parties agree that the acquisition price for the Water Tank Property shall be Ten Dollars (\$10) and that such acquisition price, together with the benefits to Developer provided under this Amended and Restated Agreement, represents the fair market value of the Water Tank Property.

(2) The Parties acknowledge that the acquisition of the Water Tank Property by City pursuant to this Section 4.10 is anticipated to be made in lieu of condemnation by City. The Parties intend by this Amended and Restated Agreement to provide for full and complete compensation to Developer for the Water Tank Property and all other costs, including but not limited to severance damages. The Parties acknowledge that because the City may exercise the power of eminent domain to acquire, Developer is compelled to sell; and because City requires the Water Tank Property for a public project, City is compelled to buy. As such the acquisition and acceptance of the Water Tank Property is an involuntary conversion of the Water Tank Property from private to public use. Both Developer and City recognize the expense, time, effort and risk to both Developer and City in resolving a dispute over compensation for the Water Tank Property by eminent domain litigation; and the compensation set forth herein is in compromise arrived at by negotiation and settlement, in lieu of and in avoidance of such litigation.

(3) The closing of the Water Tank Property transfer and acquisition will take place through an escrow established with a title company selected by City. The closing shall occur as soon as practicable on a date mutually acceptable to the Parties, but in any event no later than December 31, 2016. Developer shall cause the Water Tank Property to be conveyed to City free and clear of all recorded and unrecorded non-monetary liens, encumbrances,

easements, leases, covenants, conditions, restrictions, and other exceptions to or defects in title, excepting only the lien for current, non-delinquent property taxes and the Williamson Act Contract on the Water Tank Property. Developer shall pay all costs required to place title in the condition described herein and shall convey the Water Tank Property to City by a standard title company form grant deed or offer to dedicate, except that the deed or offer shall recite that the transfer is in lieu of acquisition by eminent domain. All escrow charges and recording fees shall be borne by Developer. City shall pay the cost of its owner's policy of title insurance.

(4) Escrow agent shall pay and charge Developer for that portion of current property taxes and assessments and any penalties and interest thereon allocable to the period prior to the close of escrow. The portion of current property taxes which would otherwise be allocable to the period after the close of escrow shall not be allocated, as City is exempt from payment of property taxes. Developer shall have the sole right, after close of escrow, to apply to the Sonoma County Tax Collector for refund of any excess property taxes which have been paid by Developer with respect to the Water Tank Property.

(5) The obligation of the City to complete the transfer of the Water Tank Property shall be subject to the satisfaction, or written waiver by City, of the following conditions: (i) Developer shall deliver through escrow an executed, acknowledged and recordable grant deed or offer to dedicate sufficient to convey fee title to the City as set forth in this subsection 4.10.B; (ii) Developer shall deliver through escrow a non-foreign transferor declaration duly executed and in a form reasonably acceptable to escrow agent; (iii) a title company reasonably acceptable to City shall be prepared to deliver to City an ALTA standard or, at City's election, an extended coverage owner's policy of title insurance showing fee title to the Water Tank Property vested in City in the condition described in this subsection 4.10.B with insurance coverage in the amount of the fair market value of the Water Tank Property as reasonably determined by City; and (iv) City shall have approved the soils and environmental condition of the Water Tank Property.

C. Intentionally omitted.

D. No Additional Purchase Price. Developer's funding of construction of the water tank and transfer of the Water Tank Property to City shall be in consideration of City's performance of its obligations set forth in this Agreement, and neither City nor City's designee shall be required to pay any additional fee or purchase price in connection therewith (other than City's payment of the Water Tank Property purchase price referenced in subsection 4.10.B above), nor shall Developer be entitled to any PFFP Fee credits."

3. Amendment to Exhibit C. Exhibit C of the Development Agreement is hereby deleted in its entirety and replaced with Exhibit C-1, attached hereto and incorporated herein by this reference.

4. Amendment to Exhibit E. Exhibit E of the Development Agreement is hereby deleted in its entirety and replaced with Exhibit E-1, attached hereto and incorporated herein by this reference.

5. Deletion of Exhibit F. Exhibit F of the Development Agreement, the Crane Creek Trail Easement Area Diagram and Legal Description, is hereby deleted in its entirety.

6. Effect of Second Amendment. Except to the extent the Development Agreement is modified by this Second Amendment, the remaining terms and provisions of the Development Agreement shall remain unmodified and in full force and effect. This Second Amendment is hereby deemed incorporated into the Development Agreement and the terms and provisions herein shall be read as if included in the Original Development Agreement as amended by the First Amendment. In the event of a conflict between the terms of the Original Development Agreement or First Amendment and the terms of this Second Amendment, the terms of this Second Amendment shall prevail.

7. Counterparts. This Second Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Second Amendment.

8. Recordation of Second Amendment to Development Agreement. The City Clerk shall record an executed copy of this Second Amendment in the Official Records of the County of Sonoma.

[SIGNATURES ARE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Second Amendment has been entered into by and between Developer and City as of the day and year first above written.

CITY:

City of Rohnert Park, a California municipal corporation

By: _____
Darrin Jenkins, City Manager

Approved as to Form:

Michelle Marchetta Kenyon, City Attorney

Attest:

JoAnne Buergler, City Clerk

DEVELOPER:

UNIVERSITY DISTRICT LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

VAST OAK PROPERTIES L.P., a California limited partnership

By: _____
Name: _____
Title: _____

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.

On _____, before me, _____,
(Name of Notary)

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

(Notary Signature)

State of California)
) ss
County of _____)

(Notary Signature)

State of California)
) ss
County of _____)

(Notary Signature)

Exhibit C-1

Dedications, Improvements and Facilities Schedule

Dedications, Improvements, and Facilities	Bonding/Construction/ Offer of Dedication	Construction Completed
Roadway Improvements (Section 4.09)		
Rohnert Park Expressway (Section 4.09A)		
Phase 1 – North Side (Snyder to PHR)	Bond with 1st Final Map; construction started prior to 25th Market Rate (MR) Building Permit	12 Months after start of construction, OR 18 months if started during rainy season. Connections provided to interior streets prior to occupancy of any unit
Phase 2 – South Side (Snyder to PHR)	Bond with Final Map that creates 800th Single- Family Lot; construction started prior to 800th MR Building Permit	12 Months after start of construction, OR 18 months if started after rainy season
Keiser Avenue (Section 4.09B)		
Phase 1 - Snyder to West Side of Oak Grove Park	Bond with 1st Final Map in Vast Oak North; construction started prior to 1st MR Building Permit in Vast Oak North	12 Months after start of construction, OR Occupancy of Any MR Unit in Vast Oak North
Phase 2 - West Side of Oak Grove Park to Petaluma Hill Road	Bond with Final Map that Creates 100th MR Single- Family Lot in Vast Oak North; construction started at completion of Keiser Phase 1 OR 100th MR Building Permit in Vast Oak North	12 Months after start of construction
Other Improvements		
Potable Water Tank (Section 4.10)		
Water Tank Property (128 Acres) Offered For Dedication	By September 30, 2016	N/A
Water Tank Property (128 Acres) Closes Escrow	Prior to December 31, 2016	N/A
Construction	Bond with Final Map that Creates 200th Single- Family Lot	N/A

Parks (Section 4.11)		
Twin Creek Park - Dedication	Dedication on First Final Map	N/A
Twin Creek Park - Sheet Graded and Stubbed Utilities	Bond with First Final Map; construction started prior to 50th MR Building Permit	Prior to 100th MR Building Permit
Twin Creek Park - Improvement	Bond with Final Map that Creates 100th Single-Family Lot; construction started prior to 100th MR Building Permit	12 Months After Start of Construction
Oak Grove Park - Dedication	Dedication on First Final Map in Vast Oak North	N/A
Oak Grove Park - Perimeter Road	Bond with First Final Map in Vast Oak North; construction started prior to 50th MR Building Permit in Vast Oak North	Prior to 100th MR Building Permit in Vast Oak North
Oak Grove Park - Improvements	Bond with Final Map that creates 100th Single-Family Lot in Vast Oak North; construction started prior to 100th MR Building Permit in Vast Oak North	12 Months after start of construction OR prior to 150th MR Building Permit in Vast Oak North
Pedestrian Bridges (Section 4.08 -C)		
Pedestrian Bridge at Hinebaugh Creek	Bond with Final Map that creates 100th MR Lot in Vast Oak North; construction started prior to 100th MR Building Permit in Vast Oak North	12 Months after start of construction OR prior to 150th MR Building Permit in Vast Oak North
Pedestrian Bridge at Copeland Creek (Connecting UDLLC to Rancho Cotate High School)	Bond with First Final Map in UDLLC; construction started prior to 100th UDLLC MR Building Permit	12 Months after start of construction
Vehicular and Roadway Bridge/ Public Roadway (Section 4.09C)		

Exhibit D-2

Kerry Road Vehicle Pedestrian Bridge at Hinebaugh Creek	Bond with First Final Map in Vast Oak North; construction started prior to 1st Building Permit in Vast Oak North	12 Months After Start of Construction OR Prior to Occupancy of Any Unit in Vast Oak North
Kerry Road Extension from Hinebaugh Creek to Keiser Avenue	Bond with First Final Map in Vast Oak North; Construction Started Prior to 1st MR Building Permit in Vast Oak North	12 Months After Start of Construction Or Prior to Occupancy of Any MR Unit in Vast Oak North

Notes:

- 1) Crosstown Water Transmission Main to be funded by PFFP Fund, built by City
- 2) Eastside Trunk Sewer North Reach/ Snyder Lane Widening (Southwest Boulevard to Medical Center Drive) to be funded by Brookfield Homes, built by City
- 3) Eastside Trunk Sewer Phases 1 and 2 to be funded by PFFP Fund, built by City
- 4) Potable Water Tank to be funded by Brookfield Homes, built by City
- 5) Brookfield Homes Pays 25% of PFFP Fees in Cash (75% PFFP Credit for Improvements Allowed)

Exhibit E-1

DESCRIPTION

REAL PROPERTY IN THE UNINCORPORATED AREA OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

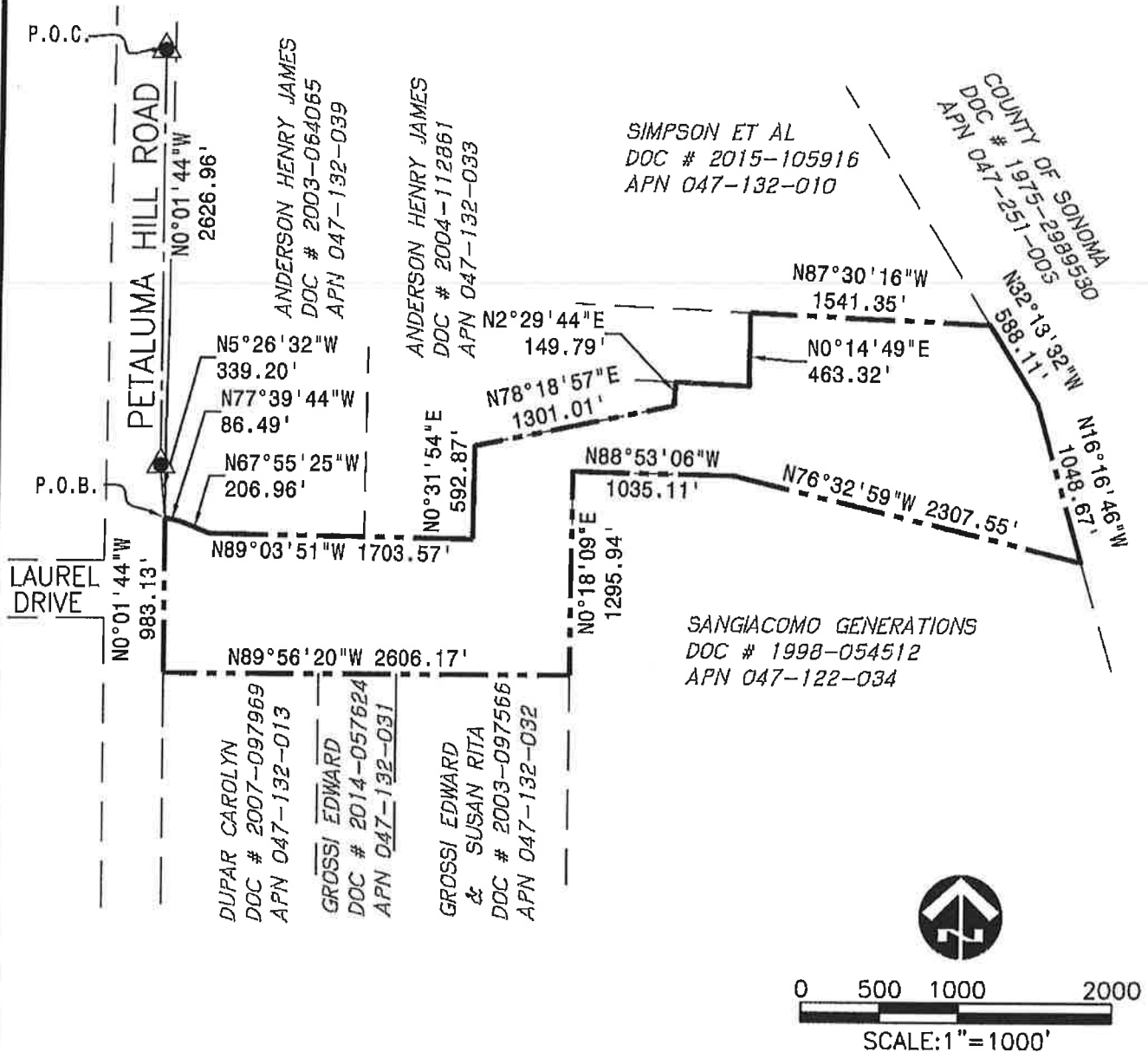
LYING WITHIN THE COTATI RANCHO, COUNTY OF SONOMA, STATE OF CALIFORNIA AND BEING A PORTION OF THE SAID LANDS OF ANDERSON, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 3" BRASS DISK STAMPED "CSSC", MARKING THE CENTERLINE OF PETALUMA HILL ROAD AT ENGINEER'S STATION 232+27.14 AND BEING A POINT ON TANGENT AS SHOWN ON THAT RECORD OF SURVEY FILED IN BOOK 582 OF MAPS, PAGES 10 AND 11, SONOMA COUNTY RECORDS, FROM WHICH A 3" BRASS DISK MARKING SAID CENTERLINE AND AS SHOWN ON SAID MAP BEARS SOUTH 00° 01' 44" EAST, 2626.96 FEET; THENCE SOUTH 05°26' 32" EAST, 339.20 FEET TO A POINT ON THE EASTERLY LINE OF PETALUMA HILL ROAD, ALSO BEING THE POINT OF BEGINNING; THENCE LEAVING SAID EASTERLY LINE, SOUTH 77°39' 44" EAST, 86.49 FEET; THENCE SOUTH 67° 55' 25" EAST, 206.96 FEET; THENCE SOUTH 89°03' 51" EAST, 1703.57 FEET; THENCE NORTH 00° 31' 54" EAST, 592.87 FEET; THENCE NORTH 78° 18' 57" EAST, 1301.01 FEET; THENCE NORTH 02° 29' 44" EAST, 149.79 FEET TO THE NORTHERLY LINE OF SAID LANDS; THENCE ALONG SAID NORTHERLY LINE THE FOLLOWING THREE COURSES: SOUTH 87° 30' 16" EAST, 477.97 FEET; NORTH 00° 14' 49" EAST, 463.32 FEET; SOUTH 87° 30' 16" EAST, 1541.35 FEET TO THE EASTERLY LINE OF SAID LANDS; THENCE ALONG SAID EASTERLY LINE THE FOLLOWING TWO COURSES: SOUTH 32° 13' 32" EAST, 588.11 FEET; SOUTH 16° 16' 46" EAST, 1048.67 FEET TO THE SOUTHERLY LINE OF SAID LANDS; THENCE ALONG SAID SOUTHERLY LINE THE FOLLOWING FOUR COURSES: NORTH 76°32' 59" WEST, 2307.55 FEET; NORTH 88° 53' 06" WEST, 1035.11 FEET; SOUTH 00° 18' 05" WEST, 1295.94 FEET; NORTH 89° 56' 20" WEST, 2606.17 FEET TO THE EASTERLY LINE OF PETALUMA HILL ROAD; THENCE ALONG SAID EASTERLY LINE OF PETALUMA HILL ROAD NORTH 00° 01' 44" WEST, 983.12 FEET TO THE POINT OF BEGINNING.

APN: 047-132-038-000

Exhibit E-1

PAGE 2 OF 2



LEGEND

--- BOUNDARY OF DESCRIPTION
 --- EXISTING PROPERTY LINE
 P.O.C. POINT OF COMMENCEMENT
 P.O.B. POINT OF BEGINNING
 FOUND 3" BRASS DISK
 DOC # DOCUMENT NUMBER

PLAT TO ACCOMPANY LEGAL DESCRIPTION FOR

UNIVERSITY DISTRICT LLC
 DOC # 2016-022705
 APN 047-132-038

CITY OF ROHNERT PARK

CALIFORNIA

MACKAY & SOMPS

ENGINEERS PLANNERS SURVEYORS
 5142B FRANKLIN DR, PLEASANTON, CA 94588 (925)225-0690

DRAWN	DATE	SCALE	JOB NO.
MB	SEPT, 2016	1"=1000'	19539.01