



PLACER, County Recorder

JIM MCCAULEY

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NOC \$0.00

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Nbr-0000833040

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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

(THIS SPACE RESERVED FOR RECORDER'S USE)

Title: Development Agreement by and Between the City of Roseville and Ronald M. Guntert, Jr., Etal. Relative to the Stoneridge Specific Plan

FILED

MAY 15 2003

CITY OF ROSEVILLE  
BY W

CF: 0401-03-14

Land use elements/ amendments

Stoneridge Specific Plan

1801 Secret Ravine Parkway (Vista Oaks) R

2003 0000 0000 0000



The approvals described in paragraphs A through D, inclusive, are referred to herein as the "Entitlements."

6. General and Specific Plans. Development of the Property in accordance with the Entitlements and this Agreement will provide orderly growth and development of the area in accordance with the policies set forth in the General and Specific Plans. For purposes of the vesting protection granted by this Agreement, except as otherwise provided herein, the applicable law shall be as set forth in the Entitlements as of the date hereof.

7. Substantial Costs to Landowner. Landowner has incurred and will incur substantial costs in order to comply with conditions of approval of the Entitlements and to assure development of the Property in accordance with the Entitlements and the terms of this Agreement.

8. Need for Services and Facilities. Development of the Property will result in a need for municipal services and facilities, which services and facilities will be provided by City to such development subject to the performance of Landowner's obligations hereunder.

9. Contribution to Costs of Facilities and Services. Landowner agrees to contribute to the costs of such public facilities and services as required herein to mitigate impacts on the community of the development of the Property, and City agrees to provide such public facilities and services to assure that Landowner may proceed with and complete development of the Property in accordance with the terms of this Agreement. City and Landowner recognize and agree that but for Landowner's contributions to mitigate the impacts arising as a result of development entitlements granted pursuant to this Agreement, City would not and could not approve the development of the Property as provided by this Agreement and that, but for City's covenant to provide the facilities and services necessary for development of the Property, Landowner would not and could not commit to provide the mitigation as provided by this Agreement. City's vesting of the right to develop the Property as provided herein is in reliance upon and in consideration of Landowner's agreement to make contributions toward the cost of public improvements as herein provided to mitigate the impacts of development of the Property as such development occurs.

10. Development Agreement Ordinance. City and Landowner have taken all actions mandated by and fulfilled all requirements set forth in the Development Agreement Ordinance of the City of Roseville, Article V, Chapter 19.84 of the Roseville Municipal Code.

11. Consistency with General Plan and Specific Plan. Having duly examined and considered this Agreement and having held properly noticed public hearings hereon, the City finds and declares that this Agreement is consistent with the General Plan of the City of Roseville and with the Specific Plan.

## **I. AGREEMENT**

### **SECTION 1: GENERAL PROVISIONS**

1.1 Incorporation of Recitals. The Preamble, the Recitals and all defined terms set forth in both are hereby incorporated into this Agreement as if set forth herein in full.

1.2 Property Description and Binding Covenants. The Property is that property described in Exhibits "A-1" and shown in "A-2". It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with the Property and the benefits and burdens hereof shall bind and inure to all successors in interest to and assigns of the parties hereto. Accordingly, all references herein to "Landowner" shall mean and refer to Guntert Family Real Estate Limited

Partnership and each and every subsequent purchaser or transferee of the Property or any portion thereof from Landowner.

### 1.3 Term.

1.3.1 Commencement; Expiration. The term of this Agreement shall commence upon the effective date of the Adopting Ordinance approving this Agreement. This Agreement shall extend for a period of twenty (20) years thereafter, unless said term is terminated, modified or extended by circumstances set forth in this Agreement or by mutual consent of the parties hereto. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect; provided, however, said termination of the Agreement shall not affect any right or duty emanating from City entitlements on the Property approved concurrently with or subsequent to the approval of this Agreement.

1.3.2 Automatic Termination Upon Completion and Sale of Residential Unit. This Agreement shall automatically be terminated, without any further action by either party or need to record any additional document, with respect to any single-family residential lot within a parcel designated by the Specific Plan for residential use, upon completion of construction and issuance by the City of a final inspection for a dwelling unit upon such residential lot and conveyance of such improved residential lot by Landowner to a bona-fide good-faith purchaser thereof. In connection with its issuance of a final inspection for such improved lot, City shall confirm that: (i) all improvements which are required to serve the lot, as determined by City, have been accepted by City; (ii) the lot is included within the Services District required by Section 3.14, or other financing mechanism acceptable to the City, to the extent required hereby; and (iii) if and to the extent applicable to such lot, an affordable purchase housing agreement has been recorded on the lot. This termination of this Agreement for any such residential lot as provided for in this Section 1.3.2 shall not in any way be construed to terminate or modify the Services District lien affecting such lot at the time of termination.

1.3.3 Termination upon Landowner Request. This Agreement may also be terminated, at the election of the then property owner, with respect to any legally subdivided parcel designated by the Specific Plan for residential or non-residential use (other than parcels designated for public use), when recording a final residential lot subdivision map for such parcel, or receiving a certificate of occupancy or final inspection, whichever is applicable, for a multi-family or non-residential building within such parcel, by giving written notice to City of its election to terminate the Agreement for such parcel, provided that: (i) all improvements which are required to serve the parcel, as determined by City, have been accepted by City; (ii) the parcel is included within the Services District required by Section 3.16, or other financing mechanism acceptable to the City, to the extent required hereby; and (iii) with respect to residential parcels, the affordable housing obligations, if any, have been satisfied. City shall cause any written notice of termination approved pursuant to this subsection to be recorded against the applicable parcel, at Landowner's expense, with the County Recorder.

1.4 Amendment of Agreement. This Agreement may be amended from time to time by mutual consent of City and Landowner (and/or any successor owner of any portion of the Property, to the extent subject to or affected by the proposed amendment), in accordance with the provisions of the Development Agreement Statute. If the proposed amendment affects less than the entire Property, then such amendment need only be approved by the owner(s) in fee of the portion(s) of the Property that is subject to or affected by such amendment. The parties acknowledge that under the City Zoning Code and applicable rules, regulations and policies of the City, the Planning Director has the discretion to approve minor modifications to approved land use entitlements without the requirement for a public hearing or approval by the City Council. Accordingly, the approval of any minor modifications to the Entitlements consistent with this Agreement shall not constitute nor require an amendment to this Agreement to be effective.

1.5 Recordation. Except when this Agreement is automatically terminated due to the expiration of the Term or the provisions of Section 1.3.2 above, the City shall cause this Agreement, any amendment hereto and any other termination thereof to be recorded, at Landowner's expense, with the County Recorder within ten (10) days of this Agreement, amendment or termination becoming effective. Any amendment or termination of the Agreement to be recorded that affects less than all the Property shall describe the portion thereof that is the subject of such amendment or termination.

## SECTION 2: DEVELOPMENT OF THE PROPERTY

2.1 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, and location of public improvements, and other terms and conditions of development applicable to the Property shall be those set forth in the Entitlements and this Agreement.

2.2 Vested Entitlements. Subject to the provisions and conditions of this Agreement, City agrees that City is granting, and grants herewith, a fully vested entitlement and right to develop the Property in accordance with the terms and conditions of this Agreement and the Entitlements. City acknowledges that the Entitlements include the following land uses for the Property:

Single Family, Low Density Residential:	<u>42</u> units on	<u>10.8</u> acres;
Open Space:	<u>1 parcel</u>	<u>8.3</u> acres.

all as set forth in **Exhibit "B."** Such uses shall be developed in accordance with the Entitlements, as such Entitlements provide on the effective date of this Agreement. Landowner's vested right to proceed with the development of the Property shall be subject to subsequent approvals, provided that any conditions, terms, restrictions and requirements for such subsequent approvals shall not prevent development of the Property for the uses, or reduce the density and intensity of development, or limit the rate or timing of development set forth in this Agreement, so long as Landowner is not in default under this Agreement.

### 2.3 Rules, Regulations and Official Policies.

2.3.1 Inconsistency. To the extent any future rules, ordinances, regulations or policies applicable to development of the Property are inconsistent with the permitted uses, density and intensity of use, rate or timing of construction, maximum building height and size, or provisions for reservation and dedication of land under the Entitlements as provided in this Agreement, the terms of the Entitlements and this Agreement shall prevail, unless the parties mutually agree to alter this Agreement. To the extent any future rules, ordinances, regulations or policies applicable to development of the Property are not inconsistent with the permitted uses, density and intensity of use, rate or timing of construction, maximum building height and size, or provisions for reservation or dedication of land under the Entitlements or under any other terms of this Agreement, such rules, ordinances, regulations or policies shall be applicable.

2.3.2 Application of Changes. This section shall not preclude the application to development of the Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations. To the extent that such changes in City laws, regulations, plans or policies prevent delay or preclude compliance with one or more provisions of this Agreement, City and Landowner shall take such action as may be required pursuant to Section 4.1 of this Agreement to comply therewith.

2.3.3 Authority of City. This section shall not be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit discretion of City or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use which require the exercise of discretion by City or any of its officers or officials, provided that subsequent discretionary actions shall not prevent or delay development of the Property for the uses and shall not affect the density and intensity of development as provided by the Entitlements and this Agreement, in effect as of the effective date of this Agreement.

2.4 City Fees, Taxes and Assessments.

2.4.1 Processing Fees and Charges. Landowner shall pay those processing, inspection, plan check fees and Fire Service Construction taxes and any other charges required by City under then current regulations for processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Landowner hereunder.

2.4.2 Public Financing Limited to Specific Funding Mechanisms and Fees. This Agreement includes specific construction, funding and reimbursement obligations of Landowner and specific obligations to advance funds to pay for the construction of certain facilities and to participate in a community facilities district(s) or a similar financing district to fund the maintenance of certain improvements. However, except as such obligations are expressly provided herein, Landowner's sole and only obligation with respect to the participation of the Property in any funding mechanisms to support the construction of any other public facilities and improvements or the provision of public services in relation to development of the Property shall be to pay City fees related to the construction and provision of such public facilities authorized by ordinance to be collected by City as of the effective date of this Agreement, as such fees may be adjusted from time to time in accordance with applicable law, or such other fees as may be duly adopted in the future by City from time to time in accordance with applicable law; provided, however, Landowner's obligation to pay future City fees is limited to those fees adopted on a city-wide basis or which apply uniformly to all properties within the City of Roseville which are zoned consistent with Landowner's zoning as set forth in the Entitlements, or which apply uniformly to all properties which are similarly situated, whether by geographic location, drainage sheds or other distinguishing circumstances.

2.5 Affordable Housing. Consistent with the goals and policies contained in City's General Plan and the Specific Plan, Landowner shall work in partnership with the City to develop or cause ten percent (10%) of the total residential units, which are actually constructed within its Property to be developed as affordable housing. The goal hereof is for Landowner to use its best efforts to provide up to four (4) units affordable for purchase to middle-income households. Any adjustment based on actual development shall be subject to the approval of the Housing and Redevelopment Manager.

The term "middle income" means households earning eighty-one percent (81%) to one hundred percent (100%) of median income. Median income and allowable assets shall be determined in accordance with the General Plan Housing Element, the Specific Plan, and City policy.

2.5.1.A Agreement Required. Prior to the approval of each final residential lot subdivision map within a Parcel designated to provide affordable purchase opportunities, the parties shall enter into City's then current form Affordable Purchase Housing Development Agreement (APHDA) for the residential purchase units affordable to low-income households and affordable to middle-income households.

2.5.1.B Content. The APHDA shall, for each such residential lot subdivision, set forth, among other things, the distribution of the relevant number of said affordable housing units within the subdivision and Landowner's obligations for marketing the affordable units.

2.5.1.C No City Subsidies. Landowner agrees to provide all of the middle-income affordable purchase units without any subsidy from the City.

## 2.6 Environmental Preserves.

2.6.1 Preserves. Landowner is in the process of obtaining from the U. S. Army Corps of Engineers (the "Army Corps") a permit (the "404 Permit") to fill wetlands in conjunction with development of the Property, a condition of which requires the preservation of certain environmental habitat. The area within the Property ultimately approved for preservation by the 404 Permit shall be referred to as the "Environmental Preserves", which are anticipated to be located within the Open Space Parcels. Landowner shall keep the City reasonably informed regarding its progress of obtaining approval of such 404 Permit. Prior to commencement of any construction within an area affected by any environmental constraints, Landowner shall obtain approval of the 404 Permit for such area, with conditions satisfactory to the City. Landowner shall comply with all conditions of the 404 Permit imposed by the applicable governmental agencies, provided City shall not impose any additional conditions with respect thereto.

Landowner shall use its best efforts in connection with such approval to allow the development of a bike and pedestrian trail, to be located within the Environmental Preserves as generally shown on **Exhibit "C"** attached hereto. If any significant modifications are proposed to the planned location and improvement of the bike and pedestrian trails as a result of approval of such Permit, the revised relocation and/or improvement of such trails shall be resubmitted to City for review. The City may approve or deny any request to relocate any of the trails within or out of the Environmental Preserves and the review of such modifications shall be made in accordance with the requirements of CEQA.

Upon (i) approval of the 404 Permit, (ii) annexation of the preserve area into a Services District with the authority to assume the costs of maintaining the Environmental Preserves in accordance with the 404 Permit, (iii) recordation of the first residential lot subdivision map within the Phase that includes the applicable Environmental Preserves, and (iv) construction of any of the bike trails within said Environmental Preserves or bonding therefore, Landowner shall convey to the City and City shall accept the Parcels within the Phase comprising the Environmental Preserves.

2.6.2 Maintenance by Landowner. Landowner agrees to be solely responsible for satisfying all monitoring, reporting and maintenance requirements under the 404 Permit during the remaining and any extended monitoring period, as determined by the Corps, for such Environmental Preserves. Furthermore, during said monitoring period, Landowner shall indemnify, defend and hold harmless City from any and all costs, liabilities or damages for which the City is held responsible or alleged to be responsible under the 404 Permit, which arise out of or relate to any failure of Landowner to satisfy such monitoring requirements, excluding any such failure caused by the City or any employees, agents or contractors thereof. City acknowledges and agrees that any proposed use or improvement of the Environmental Preserves will be subject to the provisions of the 404 Permit.

## SECTION 3: DEVELOPER OBLIGATIONS

3.1 Development, Connection and Mitigation Fees. Except as otherwise provided herein, any and all required payments of development, connection or mitigation fees by Landowner shall be made at the time and in the amount specified by applicable City ordinances in effect as of the Effective Date, subject to adjustment in accordance with existing applicable law. Wherever this Agreement obligates "Landowner" to design, construct or install any improvements, the cost thereof may be provided by Landowner or by any financing mechanism created thereby, subject to the approval and support thereof by the City.

3.2 Parks and Open Space. Consistent with City's General Plan requirement for the provision of nine (9) acres of parkland per 1,000 residents, Landowner shall dedicate to City certain open space lands and construct bike trail improvements, as set forth herein.

3.2.1 Dedications. Landowner shall dedicate and City shall accept 8.3 acres for open space. The dedications of open space acreage are shown on **Exhibit "B"** and shall occur at the same time as Landowner dedicates the Environmental Preserves pursuant to Section 2.6 above. The dedication of the 8.3 acres of open space satisfies the parkland dedication required for this project.

3.2.2 Payment of Park Fees. Except as otherwise provided herein regarding the construction of bike trail improvements. The construction of bike trail improvements will satisfy the Landowner's requirement to pay neighborhood park fees. Landowner is still required to pay City wide park fees. Landowner agrees to pay such fees, as, when and in the amounts required by the City.

3.2.3 Construction of Bike Trail Improvements. Landowner shall design and construct at their cost the bike trail improvements within the Property, subject to and in accordance with the following provisions:

3.2.3.A Landowner shall design and install the bike trail in the locations generally shown on **Exhibit "C."** The bike trail shall be designed in accordance with the City's design standards for such off-street bike trails, as shown in Construction Standard Details CST LS-20 and CST LS-24 of the City's Construction Standards as of the Effective Date.

3.2.3.B Landowner shall proceed with and complete the construction of the bike trail improvements at the same time as it installs and completes the subdivision improvements for the project. The construction costs of the bike trail are not reimbursable. Tree mitigation resulting from tree removal associated with the construction of the bike trail shall be paid directly to the City's In-lieu Tree Fund (50% into the native tree fund & 50% into the non-native tree fund). The in-lieu fees shall be made payable to the City prior to the approval of improvement plans and prior to tree removals.

3.2.3.C Upon completion of the bike trail improvements by Landowner, City shall accept the dedication of the bike trail and open space area where such bike trail is located and assume the ownership and maintenance thereof, provided the cost of such maintenance shall be funded by the Services District described in Section 3.14 below.

3.2.5 Entire Park Land Obligation. The City agrees that the provisions of the Specific Plan and the commitments contained herein satisfy the General Plan park obligations for the payment of fees and/or dedication of neighborhood and community parks and open space related to development of the Property.

3.3 School Fee Agreements. Landowner shall enter into separate written agreements with the Roseville City Elementary School District and the Roseville Joint Union High School District to fully mitigate the impacts of development of the Property on said school districts. From and after execution thereof, City agrees that so long as Landowner is not in default of said agreements, City shall not refrain from approving any subdivision maps or other such entitlements for the Property or from issuing any building permits for development thereof consistent with the Entitlements on the basis of adverse impacts of such development on school facilities. Landowner agrees that a default under any of these school agreements shall also constitute a default under this Agreement with the City. Any School District may request that the City join in its agreement with Landowner to evidence the City's support thereof and the City will cooperate therewith and join in such school agreement as an additional party thereto, subject to its approval of the terms and conditions thereof.

3.4 Electric. Landowner shall provide electric utility improvements as provided in this section.

3.4.1 Public Utilities With Rights Of Way. All public utilities shall be located within the rights of way to be granted by Landowner to City for the local streets, arterials, and collectors within the Property and within the 12.5 foot wide public utility easements adjacent to the local residential streets within the Property. Accordingly, upon approval of the final large lot subdivision map (or any phase of it), or demand of the City based upon service needs (which may include needs generated by other development within the Plan Area), whichever occurs first, Landowner agrees to grant and convey to City the rights of way for any local streets, arterials, or collectors that include the area within which such public utilities will be located. If such utilities need to be installed prior to the construction of the applicable street(s), Landowner shall grant a temporary public utility easement, which shall merge with the rights of way upon completion of the applicable street improvements.

The width of the rights of way, including the area for utilities, for the applicable roadways shall be as shown in Table 4-1 of the Specific Plan, provided however that in no case shall a less than 12.5 foot wide public utilities easements be provided.

Nothing in this Agreement shall be construed to limit or restrict the right of the City to require the dedication of an easement for utility purposes related to development of any parcel when such requirement would be otherwise consistent with the reasonable exercise of the police powers of the City and is reasonably related to a requirement to serve the parcel or parcels adjacent to the easement.

3.4.2 On-Site Electric Utility Improvements. Concurrently with the construction of the adjacent roadways, Landowner agrees to construct, or finance the construction of, on-site electric distribution facilities required to provide electric service to the Property as directed by the Electric Utility Director. The parties agree that Landowner will construct or finance construction of the electric distribution facilities in accordance with final on-site electric distribution designs for the Property as directed by the Electric Utility Director in accordance with applicable City of Roseville Utility Department Specifications for such construction. Final on-site electric facility improvements including street lights, will be designed upon receipt of approved and adopted improvement plans for the applicable Plan Area roadways.

3.4.3 Off-Site Electric Utility Improvements. Landowner agrees to construct, or finance construction of, as directed by the Electric Utility Director, off-site electric distribution facilities, including facilities identified for any prior Phase that have not then been installed. Construction by Landowner shall be per the final off-site electric design in accordance with the City of Roseville Electric

Department specification for residential and commercial construction. Final off-site improvements will be designed upon receipt of approved improvement plans.

3.4.4 Streetlights. Concurrently with the construction of the adjacent roadways, Landowner agrees to construct, or finance construction of streetlights within the Property, as directed by the Electric Utility Director. Except as may otherwise be permitted by the Electric Utility Director, no streets shall be opened to the public unless and until streetlights have been installed in accordance with the Specific Plan and applicable requirements of the Electric Department.

3.4.5 Electrical Efficiency. In order to balance conservation efforts with energy supplies, residential air conditioning units shall have a Seasonal Energy Efficiency Ratio (SEER) of 2 points above minimum as defined in Federal Regulations (10 Code of Federal Regulations Section 430.2 (1991)) adopted by the State of California in Title 24 of the Code of California Regulations. The SEER rating will be specified on building plans and Title 24 compliance certificates at the time building permits are requested. As of the date of this Agreement, the applicable standards would require an increase of SEER Rating from 10 to 12. This increase may be utilized in the overall energy compliance calculations required for the issuance of a building permit for a residential unit.

3.5 Drainage Improvements. Landowner shall provide drainage improvements as provided in this section.

3.5.1 Drainage Plan. With the approval of improvement plans for subdivision improvements for Landowner's Property, Landowner shall prepare a Drainage Plan for its on-site drainage facilities to the satisfaction of the City Engineer. The Drainage Plan shall identify the size, location and timing of all major drainage facilities proposed for the Property (or applicable Phase) relative to drainage impacts and shall be accompanied by all supporting technical information and calculations.

3.5.2 Other Agency Approval. Prior to the approval of the Drainage Plan or issuance of any building permit or grading permit, Landowner shall obtain, at its expense, all permits and agreements as required by other agencies having jurisdiction over drainage, water quality or wetlands issues including, but not limited to, the Regional Water Quality Control Board ("RWQCB"), the U.S. Army Corps of Engineers and the California Department of Fish and Game.

Landowner shall prepare and implement a Storm Water Pollution and Prevention Plan (SWPPP3), and shall construct and maintain Best Management Practices (BMPs) as required by law, the SWPP 3 and as approved by the RWQCB, concurrently with construction of any improvements. Landowner shall obtain a permit from the RWQCB for the General Construction Storm Water Permit Compliance Program, as required by law, prior to the start of any construction, including grading.

3.5.3 Storm Drains. Landowner shall construct storm drain mains in accordance with said Drainage Plan and with the City's then current improvement standards and shall serve all parcels on the Property. Landowner may use "cast in place" pipe for storm drains which are 24" in diameter or larger.

3.5.4 Drainage Easements. Where drainage improvements to be owned and maintained by City are to be constructed by Landowner and are not located within road rights-of-way, as and when Landowner installs such drainage improvements, Landowner shall grant and City shall accept a non-exclusive public utility easement for the ownership and maintenance of such lines, together with

access thereto for maintenance purposes only. Easement widths shall be granted in accordance with the City's then current Improvement Standards.

3.6 Water System Improvements. Landowner shall provide improvements to the potable water system as provided in this section. City acknowledges that such improvements include certain improvements to be connected with and served by the City of Roseville.

3.6.1 Financing of Water Supply. Except as may otherwise be provided in this Agreement, Landowner shall have no obligation to install or pay for the installation of any off-site water storage, treatment or transmission facilities, except through the payment of water connection fees levied and collected by the City at the time of development pursuant to then existing City ordinances.

3.6.2 On-site Water Lines. Concurrently with the construction of the subdivision improvements, Landowner shall provide on-site improvements to the water system as provided in this Section. All improvements to be constructed by Landowner shall be designed and constructed pursuant to the City's then current Improvement Standards. Said improvements shall be subject to City plan review, construction inspection and final approval. Landowner shall pay current plan check and inspection costs as is incurred by City for review and inspection of such improvements.

3.6.3 Public Utility Easements. Where the water improvements to be constructed by Landowner are not located within road rights-of-way, as and when Landowner installs such water improvements, Landowner shall grant and City shall accept a non-exclusive public utility easement for the ownership and maintenance of such lines, together with access thereto for maintenance purposes only. Easement widths shall be granted in accordance with the City's then current Improvement Standards.

3.6.4 Water Softeners No water softeners shall be used within the Plan Area except for those approved by the Environmental Utilities Director. Property CC&Rs, if recorded, shall include this prohibition.

3.7 Sewer Improvements. Landowner shall provide on-site improvements to the sewer system as provided in this Section. Landowner shall be solely responsible for obtaining all easements and rights-of-way located within the Plan Area that are required for the construction of such improvements; City shall provide Landowner with any rights-of-entry needed to connect these improvements to the City's existing lines. Except for the improvements expressly described herein, Landowner shall have no obligation to install or pay for the installation of any off-site treatment or transmission facilities, except through the payment of sewer connection fees levied and collected by City at the time of development as provided in section 2.4.2.

3.7.1 Improvement Standards. All sanitary sewer improvements shall be designed and constructed pursuant to City's then current Improvement Standards and shall be subject to City plan review, construction inspection and final approval. Landowner shall pay then current plan check and inspection costs as incurred by City for review and inspection of such improvements. All sewer system improvements shall minimize the generation of hydrogen sulfide, and include protection from hydrogen sulfide corrosion.

3.7.2 Access to Manholes. All manholes shall be located so that they are accessible by City sewer maintenance vehicles, unless otherwise approved by the Environmental Utilities Director.

3.7.3 Public Utility Easements. Where the wastewater improvements to be constructed by Landowner are not located within road rights-of-way, as and when Landowner installs such wastewater improvements, Landowner shall grant and City shall accept a non-exclusive public utility easement for the ownership and maintenance of such lines, together with access thereto for maintenance purposes only. Easement widths shall be granted in accordance with the City's then current Improvement Standards.

3.8 Circulation Improvements. Landowner shall construct off-site roads as necessary to serve Stoneridge Parcels 16 and 17 if not constructed by others. Off-site roads shall be identified by the City Engineer as those necessary roadways identified within the approved Tentative Map for parcels 27 and 28 of the Stoneridge Specific Plan, approved by the Planning Commission on September 26, 2002, that will provide required service to this site. The improvements shall consist generally of grading, curb, gutter, sidewalk, paving, drainage laterals and inlets, cross culverts, water and sewer laterals to future lots within Parcel 27 and 28, and streetlights.

3.8.1 Timing of Circulation Improvements. Prior to the approval of construction drawings and the development of this Parcel, the dedication and construction of Public Roadways necessary to provide Public Access to this site from existing Public Roadways shall have been completed and accepted by a public entity. Access shall either be through Stoneridge Specific Plan Parcel 28 or through subsequent development within the City of Rocklin. The Landowner is fully and solely responsible to acquire the necessary rights-of-way. Landowner acknowledges and understands that it is solely responsible for the orderly development of the Property, and Landowner is solely responsible to obtain all necessary access to the Property. City shall not be obligated to acquire or provide access for the Property, and Landowner hereby waives any and all rights, which it may now or hereafter possess to compel City to acquire or provide such access.

3.8.2 Timing of Sidewalks. Sidewalks shall be installed adjacent to single-family subdivisions concurrently with the subdivision improvements. Sidewalks installed adjacent to open space shall be installed concurrently with the construction of road improvements or subdivision improvements.

3.8.3 Road Improvement Standards. All improvements to be installed by Landowner and to be owned and maintained by City shall comply with the City's then current standards for public streets. The rights-of-way required for such road improvements shall be as set forth in the Specific Plan, or, if not shown in the Specific Plan, then as set forth in the City's Improvement Standards. As to any road improvements to be constructed by Landowner hereunder, Landowner shall have the responsibility of securing any and all state and federal permits necessary for such construction.

3.8.4 Highway 65 JPA. Landowner agrees that the Property will be included in the assessment district formed pursuant to the Buzz Johnson Highway Interchange Joint Power Authority (the "JPA") for the purposes of constructing interchanges along Highway 65 at Harding Boulevard/Stanford Ranch Road, Pleasant Grove Boulevard, Blue Oaks Boulevard and Sunset Boulevard. Landowner waives herewith any objection and consents to and will cooperate with City in the inclusion of the Property within such district.

3.8.5 Transportation Systems Management. Landowner and its successors shall comply with the City's Transportation Systems Management Ordinance.

3.8.6 Master Plan Funding. Landowner consents to and agrees that the Property shall participate in its fair share of citywide funding mechanisms for the updates of the City's Bikeway Master Plan and Long Range Transit Master Plan.

3.9 Off-site Improvements. The utility and roadway improvements necessary to provide access to this Plan Area shall be developed in accordance with the Phase 3 Land Use and Infrastructure Phasing Plan set forth as Chapter 7 of the Stoneridge Specific Plan. Parcels 16 and 17 are located adjacent to Phase 3 of the SRSP Land Use and Infrastructure Phasing Plan. The Infrastructure Phasing Plan set forth therein provides a detailed listing of the roadway, sewer, water, and electric facilities to be constructed with Phase 3.

Except as otherwise provided herein or as approved by the Public Works Director, no final subdivision map shall be approved or filed until all public infrastructure improvements within said Phase 3 of the SRSP and access to the site as described in section 3.8 have been substantially completed or adequate security, in the form and amount acceptable to the City Attorney, has been posted to assure completion of such improvements. Similarly, except as otherwise approved by the Public Works Director, no building permit shall be issued for the construction of any structures in the Project until all required dedications of real property located in the SRSP Phase 3 and off-site access requirements as specified in section 3.8 have been made to the City and all public infrastructure improvements have been completed and accepted.

The following infrastructure facilities shall be constructed to serve Phase 3:

3.9.1. Phase 3 roadway improvements as set forth below:

- i. Scarborough Drive, full street section (four lanes), including frontage improvements on both sides of Scarborough Drive and all in-street utilities from intersection with Stoneridge Drive to connection with Scarborough Drive in Rocklin.
- ii. Road access to Parcel 24, along the western boundary of Parcel 23, the design and location of which shall be approved by the City.

3.9.2 Phase 3 sewer improvements as set forth below:

- i. Sewer lift station on Parcel 24 and force main through Parcel 23 to serve Parcels 24, 17 and 27.

3.9.3 Phase 3 water improvements as set forth below for Pressure Zone 2:

Pressure Zone 2

- i. Twelve-inch (12") water line to be located within Scarborough Drive from Stoneridge Drive to planned 10 million gallon reservoir and pressure reducing station within Scarborough Drive approximately at the northern boundary of Parcel 29.
- ii. Twelve-inch (12") water line from 12" water line in Scarborough Drive through Parcels 28, 27, 25, 24 and 23 to 24" water line in Stoneridge Drive, to be constructed with the subdivision improvements for such Parcels. Stubs to be provided to allow loop to be constructed within Parcel 17.

3.9.4 Phase 3 electric facilities as set forth below:

- i. Joint trench and street lights within all streets required pursuant to Section 3.9.1.

3.9.5 Phase 3 Bike Trails as set forth below:

- i. Extension of the connection from False Ravine to Park Parcel 29.
- ii. Construction of the new bike trail through Parcel 25, from Stoneridge Drive to the northern boundary of Parcel 25, with access into Parcel 27, near the northwest corner of such Parcel.

3.10 Miscellaneous Public Facilities and Services.

3.10.1 Fire Tax. During the term of this Agreement, Landowner or its successors shall continue to pay the Fire Service Construction Tax set forth at Chapter 4.46 of the Roseville Municipal Code.

3.10.2 Wildfire Safety Plan. Landowner agrees to implement all applicable mitigation measures from the Stoneridge Specific Plan Wildfire Safety Plan that was approved on August 31, 1999.

3.10.3 County-Wide Facilities Fee. Landowner will be required to pay the county-wide facilities impact fee in accordance with the provisions of Section 2.4.2

3.11 Liens, Encumbrances, Covenants, Conditions and Restrictions. Except as approved by the City or provided for by this Agreement, all property to be conveyed in fee to the City pursuant to this Agreement shall be free of any and all liens, financial encumbrances, special taxes, hazardous substances and assessments, provided the City's interest shall be subject to the application of the Project CC&Rs to the extent the conditions, covenants and restrictions thereof implement the provisions of the Specific Plan or this Agreement with respect to such interest. City shall not be required to accept conveyance of any property that is not free of any and all liens, financial encumbrances, special taxes, hazardous substances and assessments. Landowner shall, for each such conveyance, provide to City at Landowner's expense a current preliminary title report and preliminary site assessment for hazardous substances in a form approved by the City Attorney. Any policy of title insurance required by City shall be at City's expense.

3.12 Plan EIR Mitigation Measures. Notwithstanding any other provision in this Agreement to the contrary, as and when Landowner elects to develop the Property, Landowner shall be bound by, and shall perform, all mitigation measures contained in the Plan EIR related to such development which are adopted by the City and are identified in the mitigation monitoring plan or the Plan EIR as being a responsibility of Landowner.

3.13 No Financing District for Improvements/Private Financing Agreement. City acknowledges that Landowner does not intend to finance the construction or acquisition of any improvements in connection with the development of the Property through the formation of any community facilities district or other such public financing mechanism. However, the Landowner may enter into a private financing agreement with another Plan Area landowner to share in the financing of the improvements required for development of the Plan Area. Landowner agrees that a breach under the private financing agreement will constitute a breach under this Development Agreement with the City.

3.14 Design of Improvements. Landowner acknowledges that all utilities and improvements to be installed by Landowner pursuant to Sections 3.5, 3.6 3.7 and 3.8 will be subject to the review and approval of the City Public Works or Environmental Utilities Department, as appropriate.

3.15 Additional Dedications and Easements. In addition to the dedications and easements required in connection with Landowner's development of the Property, upon request of City, Landowner will dedicate any right of way and grant any public utility easements consistent with the Entitlements for the Property that may be necessary for any other Plan Area landowner to develop its portion of the Plan Area, subject to Landowner's reasonable approval of the proposed location therefore. Upon request of City, Landowner shall also grant to another Plan Area landowner any temporary construction easements to allow the construction of such public improvements within the Property, subject to the agreement of Landowner regarding the extent and duration of such easement and the terms thereof, including provisions for indemnity and insurance relating to such construction.

In consideration thereof, as a condition of every other development agreement or other land use entitlement within the Plan Area, City shall use its best efforts to cause the landowner thereof to covenant to dedicate and convey any rights of way, easements and temporary construction easements through its property to the extent needed by Landowner to develop the Property. In the event of any failure of such landowner to dedicate and/or grant the necessary easements and rights of way, City will use its best efforts and diligently enforce its rights under the applicable development agreements and entitlements to cause such rights of way to be granted.

If the City is unable to obtain the necessary rights of way and easements through such enforcement, or if Landowner and City are otherwise unable to obtain the necessary rights-of-way and easements through agreements with the affected landowners, then City will prepare for consideration and hearing by the City Council the necessary resolutions and documentation to initiate condemnation proceedings for such right of way, provided the decision to proceed therewith shall not be prejudiced by the City's entry into this Agreement. All costs related to the enforcement of such rights and any such condemnation shall be at the other landowner's expense.

### 3.16 Service District

3.16.1 Annexation. The Property shall be annexed into the Stoneridge Services District for the following purposes:

3.16.1.A provide a mechanism for the perpetual maintenance of landscape medians and scenic corridors to be installed within the landscaped roadways, electrical easement corridors and buffers within the Plan Area, all as described in the Specific Plan;

3.16.1.B perform autumn leaf cleanup for collector and local streets;

3.16.1.C maintain all public open space areas within the Plan Area, other than improved park sites, including without limitation, conducting weed abatement and providing fire prevention to the satisfaction of the City Fire Department within such open space areas. Such fire prevention efforts may include flail mowing from adjacent private property lines into such open space areas and other such vegetation management efforts as deemed necessary by the City Fire Department.

3.16.1.D maintain all the Environmental Preserves within the Property in accordance with the Specific Plan, provided however, the costs arising out of or associated with

compliance with Landowner's 404 Permit shall be assessed exclusively upon the Property and not upon any other landowner's property within the District;

3.16.1.E maintain City and neighborhood entry features to the Plan Area and ancillary landscaping; and

3.16.1.F conduct, manage and finance the environmental mitigation monitoring, and the annual review thereof, as required by the mitigation monitoring plan related to the Plan EIR.

3.16.2 Encroachment Permits, Landscape Maintenance Easements. Landowner and City agree to grant encroachment permit(s) or maintenance easements to the Services District, Landowner or City or their agents, employees, successors, assigns, agents and employees, for the purpose of entry into the landscape easement and setback areas or City property (including streets and rights-of-way) to perform the maintenance obligations described herein.

#### **SECTION 4: CITY OBLIGATIONS**

4.1 City Cooperation. The City agrees to cooperate with Landowner in securing all permits, which may be required by City. In the event State or Federal laws or regulations enacted after this Agreement has been executed, or action of any governmental jurisdiction, prevent, delay or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the parties agree that the provisions of this Agreement shall be modified, extended or suspended as may be necessary to comply with such State and Federal laws or regulations or the regulations of other governmental jurisdictions. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agreement or approved plans.

4.2 Credits and Reimbursements. Landowner may, pursuant to this Agreement, be financing construction of certain improvements which would otherwise be paid for by the City or other parties and which serve other properties. City and Landowner agree that, in consideration of the construction of such improvements by Landowner, and only where this Agreement explicitly so provides, Landowner shall be entitled to credits and reimbursement as follows:

4.2.1 Reimbursement by City. The parties agree that Landowner shall not be entitled to any reimbursement from the City for the construction of any public improvements required by this Agreement unless explicitly provided by the Agreement.

4.2.2 Term for Credits and Reimbursements. City's obligation to provide any credits or to pay any reimbursements to Landowner that accrue hereunder shall terminate twenty (20) years after the effective date of this Agreement except for any obligation by City that then may be in default.

4.2.3 Not a Limitation. Nothing in the foregoing Section 4.2 shall be construed to limit Landowner from receiving, in consideration of the improvements to be constructed by Landowner hereunder, any other credits or reimbursements from City otherwise provided under then existing City policy, rule, regulation or ordinance.

#### 4.3 Applications for Permits and Entitlements.

4.3.1 Action by City. City agrees that it will accept, in good faith, for processing review and action, all applications for development permits or other entitlements for use of the Property in accordance with the Entitlements and this Agreement, and shall act upon such applications in a timely manner.

4.3.2 Maps and Permits. Provided that Landowner has posted security in form and amount acceptable to City to secure the completion of both the on-site and off-site improvements required for the project, and further provided that Landowner is not in default under this Agreement, City shall not refrain from approving final residential lot subdivision maps. Similarly, subject to the satisfaction of the foregoing and the completion of the improvements necessary to serve the development, as determined by the City, the City shall not cease to issue building permits, certificates of occupancy or final inspections for development of the Property that is consistent with the Entitlements. The acceptance, review and approval of any application for a final residential lot subdivision map or building permit may be conditioned upon the posting of the necessary security and the submission of a petition to annex the subject property into the Services District, as applicable.

City acknowledges that under Government Code Section 66452.6, the term of a tentative subdivision map will be automatically extended for a period of time where a subdivider is obligated to install certain improvements located outside the boundaries of the subdivision. In determining the term of any tentative subdivision map approved by the City for the Property, or any portion thereof, and without limiting the effect of any other provisions of the Government Code dealing with map extensions, the City agrees that the Improvements described hereunder shall be treated as such off-site improvements for purposes of applying Section 66452.6 of the Government Code.

4.3.3 Personnel. Nothing in this Agreement shall be construed to require City to hire or retain personnel for the purposes of evaluating, processing or reviewing applications for permits, maps or other entitlements or for the design, engineering or construction of public facilities in excess of those for which provision is made in the normal and customary budgeting process or fee schedules of City.

4.4 Subdivision Map Act Waiver. Notwithstanding any other provision of this Agreement, or of Sections 66452.1, 66452.2, 66456.2, and 66458, of the Government Code (or any successor or replacement statute), Landowner expressly waives the time limits for review and approval by City of tentative subdivision maps to the extent that each such period does not exceed one hundred fifty (150) days beyond the time the application for such map is filed with the City, unless Landowner and City mutually agree to another time limit.

4.5 No Moratorium, Quotas, Restrictions or Other Growth Limitations. Subject to applicable law relating to the vesting provisions of development agreements, Landowner and City intend that, except as otherwise provided herein, this Agreement shall vest the Entitlements against subsequent City resolutions, ordinances and initiative that directly or indirectly limit the rate, timing or sequencing of development or prevent or conflict with the permitted uses, density and intensity of uses or the maximum building heights and sizes as set forth in the Entitlements. Landowner shall, to the extent allowed by the laws pertaining to development agreements, be subject to any growth limitation ordinance, resolution, rule, regulation or policy which is adopted on a uniformly applied, city-wide or area-wide basis and directly concerns a public health or safety issue, in which case City shall treat Landowner in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by said public health or safety issue.

In consideration of Landowner's covenants to install the improvements described herein and to pay the development and impact fees required hereunder, for any such health or safety issue that can be resolved through the expansion of existing facilities or installation of new facilities, City shall use its best efforts and due diligence to obtain the permits, approvals and financing necessary for such facilities and to design and complete the facilities as expeditiously as possible to support the planned development of the property, including the Plan Area, affected by such issue.

By way of example only, an ordinance which precluded the issuance of a building permit because City had inadequate sewage transmission capacity to meet the demand therefore (either city-wide or in a designated sub-area of the City) would directly concern a public health issue under the terms of this paragraph and would support a denial of a building permit within the Property, so long as City were also denying city-wide or area-wide all other requests for building permits which require sewage transmission capacity and City was using its best efforts to resolve such capacity problem. However, an attempt to limit the issuance of building permits because of a general increase in traffic congestion levels in the City would not directly concern a public health or safety issue under the terms of this paragraph.

4.6 Roadway connection to Rocklin. City shall permit a roadway connection from the project to the remainder of the Landowner's Property located in Rocklin (APN 046-020-003). The connection shall occur via the northerly extension of Road D as shown on Exhibit D.

4.7 Essence of Agreement. The foregoing Sections 2, 3 and 4 are of the essence of this Agreement.

## **SECTION 5: DEFAULT, REMEDIES, TERMINATION**

5.1 General Provisions. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either party to perform any term or provisions of this Agreement shall constitute a default. In the event of alleged default or breach of any term or condition of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30)-day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the thirty-day period, the other party to this Agreement at its option may institute legal proceedings pursuant to this Agreement or give notice of intent to terminate the Agreement pursuant to California Government Code Section 65868 and regulations of City implementing said Government Code Section. Following notice of intent to terminate, the matter shall be scheduled for consideration and review by the City Council within thirty (30) calendar days in the manner set forth in Government Code Sections 65865, 65867 and 65868 and City regulations implementing such Sections.

Following consideration of the evidence presented in said review before the City Council, either party alleging the default by the other party may give written notice of termination of this Agreement to the other party.

Evidence of default may also arise in the course of a regularly scheduled periodic review of this Agreement pursuant to Government Code Section 65865.1. If either party determines that the other party is in default following the completion of the normally scheduled periodic review, said party may give written notice of default of this Agreement as set forth in this section, specifying in said notice the alleged nature of the default, and potential actions to cure said default and shall specify a reasonable

period of time in which such default is to be cured. If the alleged default is not cured within thirty (30) days or within such longer period specified in the notice, or if the defaulting party waives its right to cure such alleged default, the other party may terminate this Agreement.

No building permit shall be issued or building permit application accepted for any structure on the Property if the permit applicant owns and controls any property subject to this Agreement, and if such applicant or entity or person controlling such applicant is in default of the terms of this Agreement.

5.2 Annual Review. City shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Landowner with the terms of this Agreement. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to Section 65865.1 of the Government Code and the monitoring of mitigation in accordance with Section 21081.6 of the Public Resources Code of the State of California. Notice of such annual review shall include the statement that any review of obligations of Landowner as set forth in this Agreement may result in termination of this Agreement. A finding by City of good faith compliance by Landowner with the terms of the Agreement shall be conclusive with respect to the performance of Landowner during the period preceding the review. Landowner shall be responsible for the cost reasonably and directly incurred by the City to conduct such annual review, the payment of which shall be due within thirty (30) days after conclusion of the review and receipt from the City of the bill for such costs.

Upon not less than thirty (30) days written notice by the Planning Director of City, Landowner shall provide such information as may be reasonably requested and deemed to be required by the Planning Director in order to ascertain compliance with this Agreement.

In the same manner prescribed in Section 10, the City shall deposit in the mail to Landowner a copy of all staff reports and related exhibits concerning contract performance and, to the extent practical, at least ten (10) calendar days prior to any such periodic review. Landowner shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before the City Council or if the matter is referred to the Planning Commission before said Commission.

If City takes no action within thirty (30) days following the hearing required under Roseville Municipal Code Section 19.94.080, or any successor thereof or amendment thereto, Landowner shall be deemed to have complied in good faith with the provisions of the Agreement.

5.3 Enforced Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or default are due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, or similar bases for excused performance. If written notice of such delay is given to City within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

5.4 Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation. Provided, however, the sole remedy of City for any default of this Agreement by Landowner shall be to terminate this Agreement and the vesting of the Entitlements hereunder and to cease approving requests for development of the Property. All legal actions shall be

initiated in the Superior Court of the County of Placer, State of California, or in the Federal District Court in the Eastern District of California.

5.5 Effect of Termination. If this Agreement is terminated following any event of default of Landowner or for any other reason, such termination shall not affect the validity of any building or improvement within the Property which is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a building permit issued by the City. Furthermore, no termination of this Agreement shall prevent Landowner from completing and occupying any building or other improvement authorized pursuant to a valid building permit previously issued by the City that is under construction at the time of termination, provided that any such building or improvement is completed in accordance with said building permit in effect at the time of such termination.

5.6 Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Should any legal action be brought by either party for breach of this Agreement or to enforce any provisions herein, the prevailing party to such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the Court.

#### **SECTION 6: HOLD HARMLESS AGREEMENT**

Landowner and its successors-in-interest and assigns, hereby agrees to, and shall defend and hold City, its elective and appointive boards, commissions, officers, agents, and employees harmless from any liability for damage or claims for damage for personal injury, or bodily injury including death, as well as from claims for property damage which may arise from the operations of Landowner, or of Landowner's contractors, subcontractors, agents, or employees under this Agreement, whether such operations be by Landowner, or by any of Landowner's contractors or subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for, Landowner or Landowner's contractors or subcontractors, unless such damage or claim arises from the negligence or willful misconduct of City. The foregoing indemnity obligation of Landowner shall not apply to any liability for damage or claims for damage with respect to any damage to or use of any public improvements after the completion and acceptance thereof by City. In addition to the foregoing indemnity obligation, Landowner agrees to and shall defend, indemnify and hold City, its elective and appointive boards, commissions, officers, agents and employees harmless from any suits or actions at law or in equity arising out of the execution, adoption or implementation of this Agreement, exclusive of any such actions brought by Landowner, its successors-in-interests or assigns. City acknowledges hereby that the foregoing liability of Landowner shall be limited to its interest in the Property and that neither Landowner nor any of its partners, officers, shareholders, employees or agents shall have any personal liability therefore.

#### **SECTION 7: PROJECT AS A PRIVATE UNDERTAKING**

It is specifically understood and agreed by and between the parties hereto that the subject project is a private development. No partnership, joint venture or other association of any kind is formed by this Agreement.

#### **SECTION 8: COOPERATION IN THE EVENT OF LEGAL CHALLENGE**

In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending said action.

## SECTION 9: GENERAL

9.1 Enforceability. The City agrees that unless this Agreement is amended or cancelled pursuant to the provisions of this Agreement and the Adopting Ordinance, this Agreement shall be enforceable by any party hereto notwithstanding any change hereafter in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance or building regulation adopted by City, or by initiative, which changes, alters or amends the rules, regulations and policies applicable to the development of the Property at the time of approval of this Agreement, as provided by Government Code Section 65866.

9.2 City Finding. The City hereby finds and determines that execution of this Agreement is in the best interest of the public health, safety and general welfare and is consistent with the General Plan.

9.3 Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Landowner and the City and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

9.4 Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a party hereto of an essential benefit of its bargain hereunder, then such party so deprived shall have the option to terminate this entire Agreement from and after such determination.

9.5 Construction. This Agreement shall be subject to and construed in accordance and harmony with the Roseville Municipal Code, as it may be amended, provided that such amendments do not affect the rights granted to the parties by this Agreement.

9.6 Other Necessary Acts. Each party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

9.7 Estoppel Certificate. Either party may, at any time, and from time to time, deliver written notice to the other party requesting such party to certify in writing that, to the knowledge of the certifying party, (i) this Agreement is in full force and effect and a binding obligation of the parties, (ii) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (iii) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature of such default. The party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. City acknowledges that a certificate hereunder may be relied upon by transferees and mortgages of Landowner.

## SECTION 10: NOTICES

All notices required by this Agreement, the enabling legislation, or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notice required to be given to the City shall be addressed as follows:

Planning Director  
City of Roseville  
316 Vernon Street, Room 104  
Roseville, CA 95678

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

Ronald M. Guntert, Jr., Etal  
222 East Fourth Street  
Ripon, CA 95366

Either party may change the address stated herein by giving notice in writing to the other party, or thereafter notices shall be addressed and transmitted to the new address.

## II. ASSIGNMENT

Landowner shall have the full right to assign this Agreement as to the Property, or any portion thereof, in connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Landowner and assumption by the assignee of such assignment in the form attached hereto as **Exhibit "E"** and the conveyance of Landowner's interest in the Property related thereto, Landowner shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the "Landowner," with all rights and obligations related thereto, with respect to such conveyed property.

Formal written notices, demands, correspondence and communications between City and Landowner shall be sufficiently given if dispatched by postage prepaid first-class mail to the principal offices of the City and Landowner, as set forth in Section 10, or such person or entity designated in notice to the City pursuant to this Section II. Such written notices, demands, correspondence and communications may be directed in the same manner to such other persons and addressees as wither party may from time to time designate. Landowner shall give written notice to City, within ten (10) days after close of escrow, of any sale or transfer of any portion of the Property and any assignment of this Agreement, specifying the name or names of the transferee, the transferee's mailing address, the amount and location of the land sold or transferred, and the name and address of a single person or entity to whom any notice relating to this Agreement shall be given.

**III. FORM OF AGREEMENT, EXHIBITS**

This Agreement is executed in two duplicate originals, each of which is deemed to be an original. This Agreement consists of 22 pages, 6 exhibits and one addendum, which constitute the entire understanding and agreement of the parties.

Approved this 7th day of April, 2003, by the City Council of the City of Roseville.

**CITY:**

**CITY OF ROSEVILLE,  
A municipal corporation**

By W. Craig Robinson  
W. Craig Robinson

**ATTEST:**

Carolyn Parkinson  
Carolyn Parkinson, City Clerk

**APPROVED AS TO FORM**

Mark Doane  
Mark Doane, City Attorney

**LANDOWNER:**

Ronald M. Guntert, Jr.

Terry M. Guntert  
Terry M. Guntert

Celia Guntert Wedding  
Celia Guntert Wedding

Karen Guntert Adams  
Karen Guntert Adams

Christian H. Guntert  
Christian H. Guntert

\* California All-Purpose Acknowledgment Attached. (av)

**ALL-PURPOSE ACKNOWLEDGEMENT**

State of California

County of San Joaquin } SS.

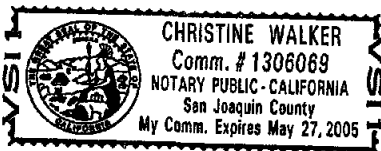
On 2-10-03 (DATE)

before me, Christine Walker (NOTARY)

personally appeared Ronald M. Sunter Jr. (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 signatures(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.

Christine Walker  
NOTARY'S SIGNATURE

**OPTIONAL INFORMATION**

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgement to an unauthorized document.

**CAPACITY CLAIMED BY SIGNER (PRINCIPAL)**

- INDIVIDUAL
- CORPORATE OFFICER

\_\_\_\_\_  
TITLES)

- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

Development Agreement  
TITLE OR TYPE OF DOCUMENT

\_\_\_\_\_  
NUMBER OF PAGES

2-10-03  
DATE OF DOCUMENT

\_\_\_\_\_  
OTHER

**SIGNER IS REPRESENTING:**  
NAME OF PERSON(S) OR ENTITY(IES)

self

RIGHT THUMBPRINT  
OF  
SIGNER



**ALL-PURPOSE ACKNOWLEDGEMENT**

State of California

County of San Joaquin } SS.

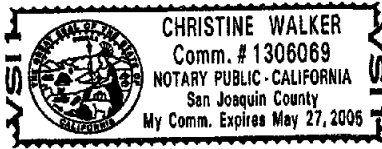
On 2-10-03 before me, Christine Walker,  
(DATE) (NOTARY)

personally appeared Jerry M. Hunter  
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 signatures(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.



Christine Walker  
NOTARY'S SIGNATURE

**OPTIONAL INFORMATION**

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgement to an unauthorized document.

**CAPACITY CLAIMED BY SIGNER (PRINCIPAL)**

- INDIVIDUAL
- CORPORATE OFFICER

\_\_\_\_\_  
TITLES)

- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

Development Agreement  
TITLE OR TYPE OF DOCUMENT

\_\_\_\_\_  
NUMBER OF PAGES

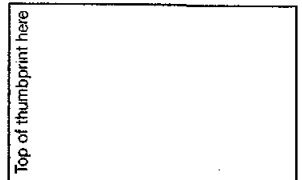
2-10-03  
DATE OF DOCUMENT

\_\_\_\_\_  
OTHER

**SIGNER IS REPRESENTING:**  
NAME OF PERSON(S) OR ENTITY(IES)

Self

RIGHT THUMBPRINT  
OF  
SIGNER



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Contra Costa } ss.

On Feb 6, 03 before me, Amphai Vongthavady, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Celia Wedding, Karen Adams  
Name(s) of Signer(s)

- personally known to me
- 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.

Amphai Vongthavady  
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: Development Agreement By The City of Roseville And Ronald M. Guntert, JR. Etal. Relative To The Stoneridge Specific Plan  
Document Date: Feb 6, 03 Number of Pages: 25 pgs

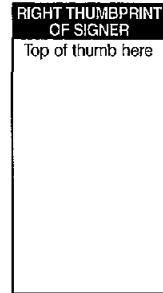
Signer(s) Other Than Named Above: Ronald, Terry, Christian Guntert

**Capacity(ies) Claimed by Signer**

Signer's Name: N/A

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

Signer Is Representing: \_\_\_\_\_



0400 1000 1001 0025

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of CALIFORNIA

County of SANTA CLARA

On Feb. 7, 2003 before me, PATRICIA A. CYESTER,  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Christian H. Guertel  
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.

Patricia A. Cyester  
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: Development Agreement

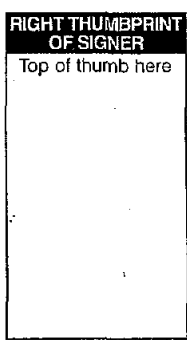
Document Date: Feb. 3, 2003 Number of Pages: 25

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

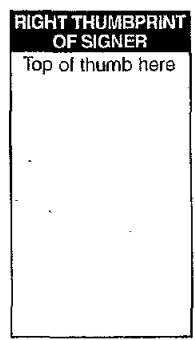
- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

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

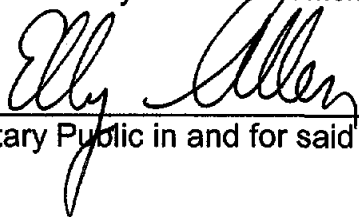


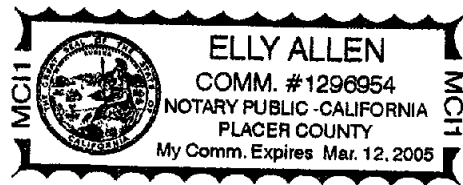
Signer Is Representing: \_\_\_\_\_

STATE OF CALIFORNIA            )  
  ): ss.  
COUNTY OF PLACER            )

On this 4<sup>th</sup> day of April in the year of 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared W. Craig Robinson, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Notary Public in and for said State



THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AS FOLLOWS:

Title or Type of Document: Development Agreement

Date of Document: April 7, 2003

Acknowledgment – All Purpose

## LIST OF EXHIBITS

- Exhibit A -- Property Description:
  - A-1 -- Legal Description of the Property
  - A-2 -- Diagram of the Property
- Exhibit B -- Land Uses for the Property
- Exhibit C -- Open Space/Trail location
- Exhibit D - Roadway Connection to Rocklin
- Exhibit E -- Form of Assignment

**Exhibit A-1**  
**Legal Description of the Property**

A portion of the South 1/2 of Lots No. 1 and 2 of the Southwest 1/4 of Section 30, T. 11 N., R. 7 E., Mount Diablo Base and Meridian, described in Deed recorded October 24, 1940 in Book 414 at Page 103, Placer County Records.

Said portion being all that part of the North 400 feet of said South 1/2 of Lots No. 1 and 2 lying Easterly from the thread of Secret Ravine Creek.

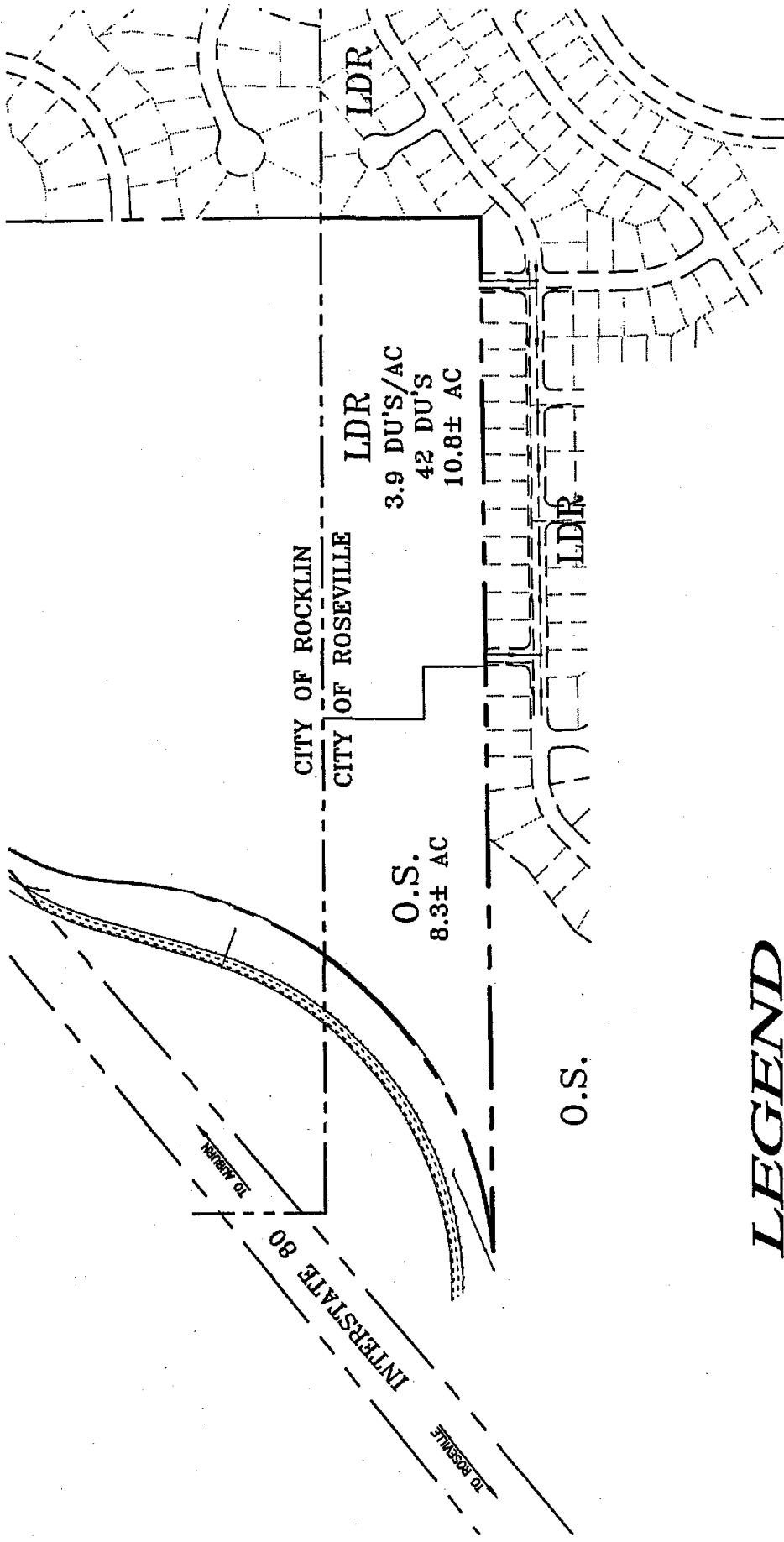
APN: 046-020-030

**Exhibit A-2**  
**Diagram of the Property**



# EXHIBIT B

## LAND USES



### LEGEND

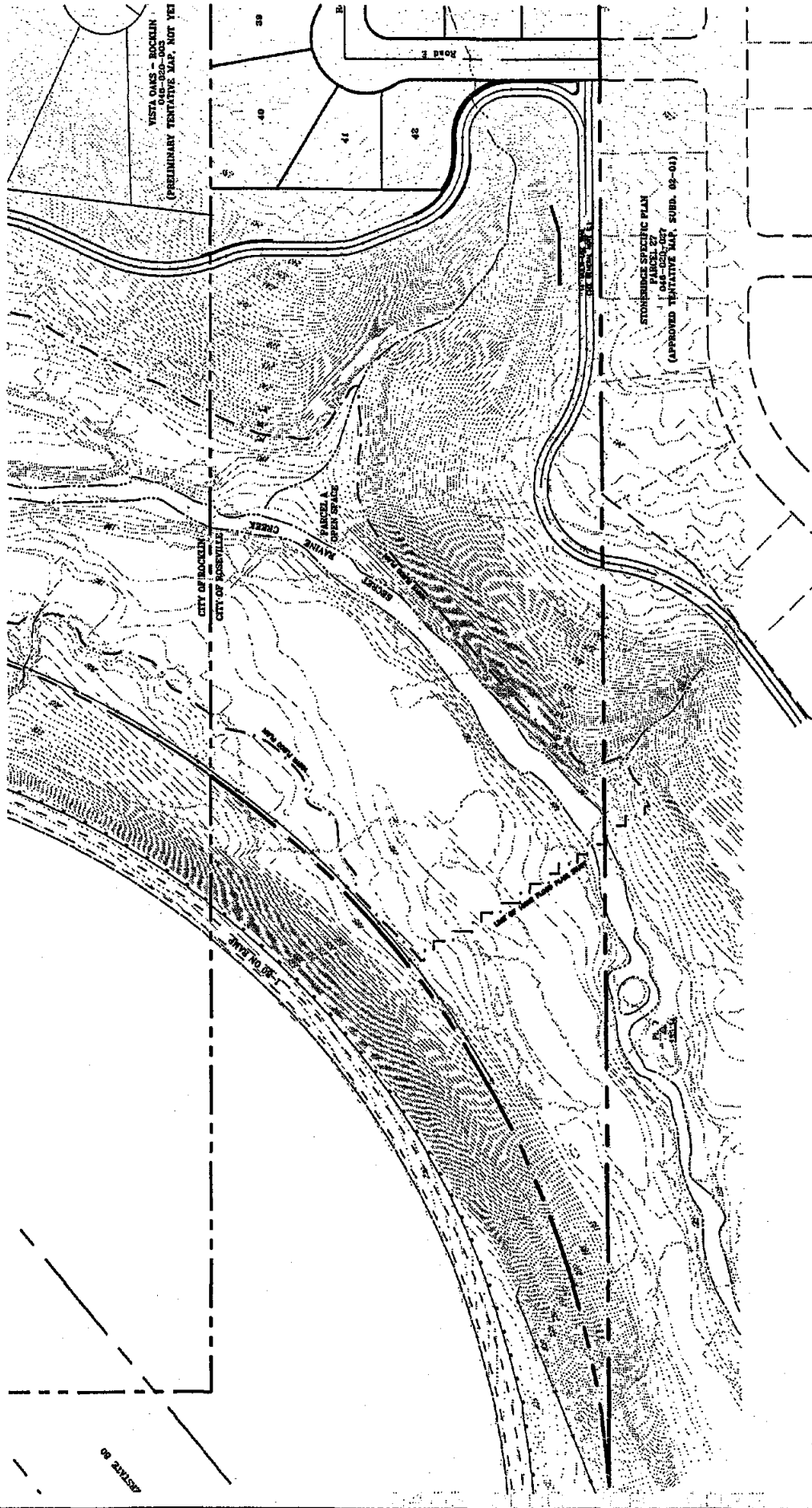
- LDR LOW DENSITY RESIDENTIAL
- OS OPEN SPACE

1" = 400'



# EXHIBIT C

## OPEN SPACE/TRAIL LOCATION



**TIA**  
 TERRANCE E. LOWELL  
 & ASSOCIATES, INC.



**EXHIBIT E**

When Recorded, Return to:

[Name of Purchaser]

Attn: \_\_\_\_\_

**ASSIGNMENT AND ASSUMPTION AGREEMENT  
RELATIVE TO  
STONERIDGE DEVELOPMENT AGREEMENT  
PARCELS 16 and 17**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter, the "Agreement") is entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between (hereinafter "Developer"), and [NAME OF PURCHASER], a \_\_\_\_\_ (hereinafter "Assignee").

**RECITALS**

A. On \_\_\_\_\_, 20\_\_\_, the City of Roseville and Developer entered into that certain agreement entitled "Development Agreement By and Between The City of Roseville and Elliott Homes, Inc., Relative to the Stoneridge Specific Plan" (hereinafter the "Development Agreement"), pursuant to which Developer agreed to develop certain property more particularly described in the Development Agreement (hereinafter "the Subject Property"), subject to certain conditions and obligations as set forth in the Development Agreement. The Development Agreement was recorded against the Subject Property in the Official Records of Placer County on \_\_\_\_\_, 20\_\_\_, in Book \_\_\_\_\_, Page \_\_\_\_\_, Series No. \_\_\_\_\_.

B. Developer intends to convey a portion of the Subject Property to Assignee, as identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Developer desires to assign and Assignee desires to assume all of Developer's right, title, interest, burdens and obligations under the Development Agreement with respect to and as related to the Assigned Parcel(s).

ASSIGNMENT AND ASSUMPTION

NOW, THEREFORE, Developer and Assignee hereby agree as follows:

1. Developer hereby assigns, effective as of Developer's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel(s). Developer retains all the rights, title, interest, burdens and obligations under the Development Agreement with respect to all other property within the Subject Property owned by Developer.

2. Assignee hereby assumes all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel(s), and agrees to observe and fully perform all of the duties and obligations of Developer under the Development Agreement with respect to the Assigned Parcel(s), and to be subject to all the terms and conditions thereof with respect to the Assigned Parcel(s). The parties intend hereby that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall become substituted for Developer as the "Developer" under the Development Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

4. The Notice Address described in Section 10 of the Development Agreement for the Developer with respect to the Assigned Parcel(s) shall be:

[Name of Assignee]

\_\_\_\_\_  
Attn: \_\_\_\_\_

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written. This Agreement may be signed in identical counterparts.

ASSIGNEE:

DEVELOPER:

[NAME OF ASSIGNEE],

a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ORDINANCE NO. 3927

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE  
ADOPTING A DEVELOPMENT AGREEMENT REGARDING STONERIDGE SPECIFIC  
PLAN (GUNTERT),  
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 Development Agreement with Ronald M. Guntert, Jr., Terry M. Guntert, Celia Guntert Wedding, Karen Guntert Adams, and Christian H. Guntert.

SECTION 2. The Council of the City of Roseville has reviewed the findings of the Planning Commission recommending approval of the Development Agreement, and makes the following findings:

1. The 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 Development Agreement is consistent with the City of Roseville Zoning Ordinance and Zoning Map;
3. The Development Agreement is in conformance with the public health, safety and welfare;
4. The Development Agreement will not adversely affect the orderly development of the property or the preservation of property values; and
5. The Development Agreement will provide sufficient benefit to the City to justify entering into said Agreement;

SECTION 3. The Development Agreement by and between Ronald M. Guntert, Jr., Terry M. Guntert, Celia Guntert Wedding, Karen Guntert Adams, and Christian H. Guntert and the City of Roseville, a copy of which is on file in the City Clerk's Department and incorporated herein by reference, 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 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 5th day of March, 2003, by the following vote on roll call:

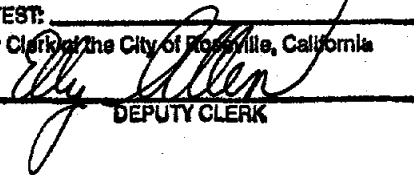
AYES	COUNCILMEMBERS:	Earl Rush, Richard Roccucci, Jim Gray, Gina Garbolino
NOES	COUNCILMEMBERS:	None
ABSENT	COUNCILMEMBERS:	Rocky Rockholm

  
MAYOR PRO TEMPORE

ATTEST:

  
City Clerk

The foregoing instrument is a correct copy of the original on file in the City Clerks Department.

ATTEST:  
City Clerk of the City of Roseville, California  
  
DEPUTY CLERK

Ord. 3927