

DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE APPROVING A DEVELOPMENT AGREEMENT WITH THE IRVINE COMPANY RELATIVE TO THE DEVELOPMENT OF THE RIVER OAKS MULTIFAMILY RESIDENTIAL PROJECT ON CERTAIN REAL PROPERTY LOCATED IN NORTH SAN JOSE AND AUTHORIZING THE CITY CLERK TO EXECUTE THE DEVELOPMENT AGREEMENT AND CAUSE THE SAME TO BE RECORDED WITH THE SANTA CLARA COUNTY RECORDER'S OFFICE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. This Ordinance is adopted under the authority of California Government Code Section 65868 and pursuant to the provisions of the City of San Jose ("City") Ordinance No. 28986 (the "Enabling Ordinance"), both of which provide for the ability of City to adopt development agreements and set forth procedures and requirements for the consideration of those agreements.

SECTION 2. This Ordinance incorporates by reference as though fully set forth herein that certain "Development Agreement By and Between the City of San José and The Irvine Company Relative to the Development of the River Oaks Multifamily Residential Project in North San José" (the "Agreement"), the substantive form of which is attached hereto as Exhibit "A."

SECTION 3. The environmental impacts of the residential development project described within the Agreement were disclosed, analyzed and evaluated as a part of that certain Final Environmental Impact Report prepared for the North San Jose Area Development Policy (the "EIR") in conformance with the California Environmental Quality Act of 1970, together with state and local guidelines implementing CEQA, all as amended from time to time, and an addendum to that EIR prepared by the Director of Planning, Building and

Code Enforcement pursuant to CEQA (collectively, the “Project Environmental Clearance”), which Project Environmental Clearance was considered by the Planning Commission of the City of San Jose and was considered and approved by the City Council prior to taking any approval actions on this Ordinance.

SECTION 4. The City Council of the City of San Jose finds that the following are the relevant facts concerning the proposed Agreement:

1. The General Plan designation for the area that is subject to this Agreement is Industrial Park with Transit Employment Residential Overlay.
2. The Irvine Company, a _____ (“Irvine”), proposes to develop on certain Subject Property more particularly described in the Agreement, consistent with the General Plan, as amended, and the Development Approvals set forth in the Agreement, a project consisting of up to four hundred fifty (450) Class A, high-density, multi-family residential units (the “Project”), all as more specifically set forth in the Agreement.
3. Irvine requests a development agreement to enable and assure phased and orderly development of the Project on the Subject Property site.
4. Consistent with the information contained in the Agreement:
 - a. Development of the Project as set forth in the Agreement is consistent with the General Plan and all applicable specific and area plans and policies, as amended;
 - b. Development of the Project should be encouraged because it will help meet important economic, social, environmental and planning goals of the City, including but not limited to locating housing near jobs to reduce commutes for City residents, redeveloping underutilized property near transit investment with housing and jobs so as to encourage use of transit, providing for an extraordinary contribution towards affordable housing in the City;
 - c. The Agreement will facilitate the development of the Project in the manner proposed in the Agreement for the further reasons set forth in the Recitals to the Agreement;

- d. Irvine will incur unusually substantial costs in order to provide public improvements, facilities or services, in particular extraordinary funding for affordable housing in the City, from which the public will benefit, as set forth in more detail in the Agreement and (ii) Irvine has made commitments to a very high standard of quality for the Project and has agreed to development limitations beyond that required by the existing laws, as set forth in the Project description, in the Development Approvals described in the Agreement and in the Agreement generally; and
- e. Development of the Project will make a substantial contribution to the economic development of the City of San Jose in that the Project will create additional, transit-oriented housing to support transit infrastructure investments, as well as provide extraordinary funding to facilitate affordable housing in the City

SECTION 5. This Council, based upon analysis of the facts set forth above and the provisions of the Agreement, finds and concludes that Irvine's proposed development, as described in the Agreement, will make a substantial contribution to the economic development of City.

SECTION 6. Based upon the foregoing facts, findings, and conclusions, and as required by the Enabling Ordinance, the City Council hereby adopts the following as its findings:

1. The proposed Irvine Project development is consistent with the General Plan, as amended, and all applicable specific or area plans of City.
2. The proposed Irvine Project development should be encouraged in order to meet important economic, social, environmental or planning goals of City.
3. The proposed Agreement will facilitate the development of the Project on the Subject Property in the manner proposed in the Agreement.
4. The proposed Irvine Project development will make a substantial contribution to the economic development of City in that:
 - a. Irvine will incur unusually substantial costs to provide public improvements, facilities or services, including without limitation an extraordinary contribution towards affordable housing in the City, all as more specifically

described in the Agreement, from which the public will benefit, and Irvine has made a commitment to a very high standard of quality for the Project and has agreed to development standards beyond that required by applicable existing laws.

5. The proposed Agreement is consistent with the provisions of the Enabling Ordinance and is in the public interest.

SECTION 7. The City Council hereby approves the proposed Agreement in substantially the form attached hereto as EXHIBIT "A" and hereby authorizes and directs the City Clerk to execute the Agreement, substantially in the form attached hereto as EXHIBIT "A," on behalf of the CITY as soon as this ordinance becomes effective.

PASSED FOR PUBLICATION of title this day of , 2012, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk