

**A RESOLUTION APPROVING A SECOND AMENDMENT TO THE
FIELD DALE II DEVELOPMENT AGREEMENT TO ALLOW FOR THE EARLY
RETURN OF THE CORRECTIVE WORK DEPOSIT ASSOCIATED WITH THE
FIELD DALE UNIT 2 SUBDIVISION**

WHEREAS, on February 11, 2014, the City of Rolling Meadows City Council approved Resolution No. 14-R-19 authorizing an agreement ("**Development Agreement**") with ROBH2011 LLC ("**Developer**") and FDC Homes, LLC concerning the development of Lots 6-11 (inclusive) of the Field Dale Unit 2 subdivision, said property being commonly known as 2301-2307 Royale Court, Rolling Meadows, Illinois ("**Subject Property**"); and

WHEREAS, among other terms, the Development Agreement required that Developer post a cash deposit in the amount of \$37,720 ("**Corrective Work Deposit**") to be used to correct any further land settlement occurring in the vicinity of the Subject Property; and

WHEREAS, on April 7, 2020, the City and the Developer agreed to a First Amendment to the Development Agreement agreeing to a \$9,250 reduction in the Corrective Work Deposit to satisfy fines owed by Developer in relation to the Subject Property; and

WHEREAS, the terms of the Development Agreement provide that the Corrective Work Deposit is to be returned to Developer on or after September 30, 2023; and

WHEREAS, the City has completed its last scheduled inspection of the Subject Property; the statute of limitations for any mechanics liens against the City resulting from the Development Agreement has expired; and the City has otherwise determined that it is no longer necessary for the City to retain the Corrective Work Deposit; and

WHEREAS, the City Council has determined that it is in the best interests of the City to approve a Second Amendment to the Development Agreement to allow for the early return of the remaining balance of the Corrective Work Deposit to the Developer.

NOW THEREFORE, be it resolved by the City Council of the City of Rolling Meadows, Illinois, as follows:

Section 1: The facts and statements contained in the preambles to this Resolution are found to be true and correct and are hereby adopted as part of this Resolution.

Section 2: That the Second Amendment to the Development Agreement is hereby approved in substantially the form attached hereto as **Exhibit A**, and the City Manager is hereby authorized and directed to execute said Second Amendment on behalf of the City, and take all actions necessary to return the remaining sum of the Corrective Work Deposit to the Developer as set forth in the Second Amendment.

Section 3: This Resolution shall be in full force and effect upon its passage and approval in accordance with law.

PASSED AND APPROVED by the City Council of Rolling Meadows, Cook County, Illinois this 25th day of April, 2023.

AYES: O'Brien, Vinezeano, Bisesi, Reyez, Sanoica, McHale, Budmats

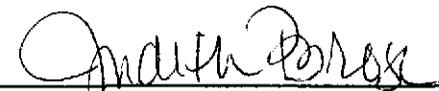
NAYS: 0

ABSENT: 0



Joe Gallo, Mayor

ATTEST:



Judith Brose, Deputy City Clerk

EXHIBIT A

Second Amendment to Development Agreement

This Second Amendment to Development Agreement ("**Second Amendment**") dated this ____ day of _____, 2023, entered into by and between the City of Rolling Meadows, an Illinois home rule municipal corporation ("**City**") and Kevin Taylor and ROBH2011, LLC, an Illinois limited liability company (collectively referred to as "**Developer**") (the City and Developer are each a "**Party**" and jointly the "**Parties**").

WHEREAS, on February 11, 2014, the City approved Resolution No. 14-R-19 authorizing an agreement ("**Development Agreement**") with Developer and FDC Homes, LLC concerning the development of Lots 6-11 (inclusive) of the Field Dale Unit 2 subdivision, said property being commonly known as 2301-2307 Royale Court, Rolling Meadows, Illinois ("**Subject Property**"); and

WHEREAS, among other terms, the Development Agreement required that Developer post a cash deposit in the amount of \$37,720 ("**Corrective Work Deposit**") to be used to correct any further land settlement occurring in the vicinity of the Subject Property; and

WHEREAS, on April 7, 2020, the Parties agreed to a First Amendment to Development Agreement agreeing to a \$9,250 reduction in the Corrective Work Deposit to satisfy fines owed by Developer in relation to the Subject Property ("**Development Agreement, as amended**"); and

WHEREAS, the City has determined that it is no longer necessary for the City to retain the remainder of the Corrective Work Deposit and desires to return it to Developer subject to certain conditions set forth in this Second Amendment.

NOW THEREFORE, it is hereby mutually agreed by and between the City and Developer, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, as follows:

1. Recitals. The foregoing recitals are hereby incorporated herein as though fully set forth in this Paragraph 1.
2. No Liens. Developer represents and warrants that:
 - a. Any work performed to fulfill its obligations under the Development Agreement, as amended, has been completed;
 - b. No remaining balances remain to be paid as to the labor or materials furnished by any contractor or subcontractor for said work;
 - c. Developer has obtained Waivers of Lien for all such contracts for work, such that no party remains able to file or claim a mechanic's lien against the City or its property;
3. Indemnity and Hold Harmless for Liens. Developer shall indemnify and hold the City harmless for all liens, claims, and demands in connection with the

work performed, including without limitation, mechanic's liens; and shall take all necessary action to keep the City's property free and clear of the same.

4. Refund of Corrective Work Deposit.

- a. In reliance upon the representations and warranties contained in paragraphs 2 and 3 above, the City agrees that it will refund the remainder of the Corrective Work Deposit, as previously reduced by the First Amendment to Development Agreement, in the amount of \$28,470.00, within 30 days of the effective date of this Second Amendment, and the provisions of the Development Agreement, as amended, are hereby amended further to allow for the early return of the Corrective Work Deposit.
 - b. Upon the refund of the remainder of the Corrective Work Deposit by the City to the Developer as set forth in paragraph 4 above, the Developer hereby releases the City of any and all claims associated with the refund of the Corrective Work Deposit.
5. Entire Agreement. This Second Amendment sets forth all the covenants, promises, agreements, conditions and understandings between the Parties as it relates to the matters set forth herein and there are no covenants, promises, agreements, conditions or understanding, either oral or written, between them other than as are herein set forth. No subsequent alteration, amendment, change or addition to this Second Amendment shall be binding upon the Parties unless reduced to writing and signed by the Parties.
6. Amendment: Conflicts. In all other respects not in conflict with the Second Amendment, the Development Agreement, as amended, shall be controlling over any conflicts between the Development Agreement, as amended, and this Second Amendment.
7. No Third-Party Beneficiaries. No claim as a third-party beneficiary under this Second Amendment by any person shall be made, or be valid, against the Parties.
8. Severability. The provisions of this Second Amendment shall be interpreted when possible to sustain their legality and enforceability as a whole. In the event any provision of this Second Amendment shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision, nor the validity of any other provisions of this Second Amendment shall be in any way affected thereby.
9. Interpretation. This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Second Amendment. Moreover, each and every provision of this Second Amendment shall be construed as though all parties participated equally in the drafting of this Second Amendment. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Second Amendment.

10. Governing Law. This Second Amendment and the rights of the Parties shall be interpreted according to the internal laws, but not the conflict of law rules, of the State of Illinois. Every provision of law required by law to be inserted into this Second Amendment shall be deemed to be inserted herein.
11. Authority to Execute. By signing, each Party, or the individual(s) signing on behalf of the Party, represents, warrants, and guarantees that they have the legal authority to bind the Party pursuant to the terms of this Second Amendment.
12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to constitute a duly authorized original.

IN WITNESS WHEREOF, the Parties have caused this Second Amendment to be executed, effective as of the date first written above.

CITY

CITY OF ROLLING MEADOWS,
an Illinois home rule municipal corporation

By: _____
Rob Sabo, City Manager

DEVELOPER

ROBH2011, LLC

By: _____
Kevin Taylor,

Its: _____

By: _____
Kevin Taylor, individually