

**URGENCY ORDINANCE NO. 2017-10**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF AZUSA, CALIFORNIA, APPROVING AND  
AUTHORIZING EXECUTION OF AN AMENDMENT TO  
THE DEVELOPMENT AGREEMENT BY AND BETWEEN  
THE CITY OF AZUSA AND ROSEDALE LAND  
PARTNERS II**

**WHEREAS**, the City of Azusa (“City”) and Monrovia Nursery Company entered into that certain Development Agreement dated as of May 27, 2004 (“Development Agreement”); and

**WHEREAS**, the City of Azusa (“City”) and Rosedale Land Partners II, LLC entered into the First Amendment to the Development Agreement dated as of April 7, 2014, a Second Amendment to extend the term to November 27, 2015, a Third Amendment to extend the term to August 27, 2016, and a Fourth Amendment to extend the term to August 27, 2017; and

**WHEREAS**, the Development Agreement provides for the development of a master planned community project consisting of 1,250 residential units, commercial space and various public and infrastructure improvements; and

**WHEREAS**, on August 27, 2004, Monrovia Nursery Company assigned all of its rights, obligations, title and interest under the Development Agreement to Azusa Land Partners, LLC, a Delaware limited liability company, in accordance with Section 3.6 of the Development Agreement; and

**WHEREAS**, Azusa Land Partners, LLC surrendered all of its rights, obligations, title and interest under the Development Agreement due to foreclosure; and

**WHEREAS**, on October 10, 2010, Rosedale Land Partners II, LLC, a Delaware limited liability company, obtained all rights, obligations, title and interest of the Development Agreement by acquiring the subject property pursuant to a Trustee’s Deed dated October 1, 2010, pursuant to Section 3.6 of the Development Agreement; and

**WHEREAS**, the Development Agreement is set to expire on or before August 27, 2017; and

**WHEREAS**, Owner has requested that the term of the Development Agreement be extended; and

**WHEREAS**, City and Owner are currently negotiating a long-term extension of the Development Agreement as well as substantive amendments to adjust the rights and responsibilities of the City and Owner; and

**WHEREAS**, the Development Agreement is also the subject of a lawsuit filed by the Azusa Unified School District relating to the construction of a K-8 school referenced in

documents relating to the Development Agreement; and

**WHEREAS**, the City desires to amend the Development Agreement to extend the term by twelve (12) months in order to allow sufficient time to conclude negotiations and bring those negotiated amendments to the City Council for approval, as it will be in the best interest of the City and the public interest to do so; and

**WHEREAS**, both Owner and City wish to extend the terms of the Development Agreement for an additional twelve (12) months to provide the additional time necessary to negotiate changes to the Development Agreement, resolve the pending lawsuit filed by the Azusa Unified School District (AUSD) over the references to a K-8 school and to complete the project; and

**WHEREAS**, in order to ensure the development of the Rosedale Specific Plan takes place and the Development Agreement is implemented, this Urgency Ordinance is adopted to extend the Development Agreement immediately so that it does not expire and the City can continue to work with the Owner and AUSD in the implementation of this Development Agreement; and

**WHEREAS**, the extension of the Development Agreement is for the immediate preservation of the public peace, health, and safety because the Rosedale Specific Plan and Development Agreement are considered critical projects for the City and a lapse in the Development Agreement would have significant detrimental impacts which cannot be easily remedied by other methods; and

**WHEREAS**, this Urgency Ordinance is adopted pursuant to California Government Code Section 36937 and shall take effect immediately upon adoption by a four-fifths vote of the City Council; and

**WHEREAS**, the amendment to the Development Agreement is consistent with the City of Azusa General Plan and the Rosedale Specific Plan and contains all necessary elements required by Government Code section 65864 *et seq.* and Section Division 14 of the City of Azusa Municipal Code as no substantive changes are proposed by the amendment; and

**WHEREAS**, the City Council of the City of Azusa has reviewed and studied the amendment to the Development Agreement and found it to comply with the California Environmental Quality Act (“CEQA”) as more fully described below.

**THE CITY COUNCIL OF THE CITY OF AZUSA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council hereby adopts the recitals in this Urgency Ordinance as Urgency Findings for its adoption. Based on the entire record before the City Council of the City of Azusa (“Council”) and all written and oral evidence presented to the Council, the Council finds the Fifth Amendment to the Development Agreement attached here to as Exhibit “A” (“Fifth Amendment”) is consistent with the General Plan of the City of Azusa (“General Plan”)

and the Rosedale Specific Plan and systematically implements the goals and objectives of the General Plan and Rosedale Specific Plan.

A. The Fifth Amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan and the Rosedale Specific Plan.

B. The Fifth Amendment will not be detrimental to the health safety and general welfare of persons residing in the immediate area nor be detrimental or injurious to the general welfare of the residents of the City as a whole.

C. The Fifth Amendment will not adversely affect the orderly development of property or the preservation of property values.

D. The Fifth Amendment is consistent with the provisions of Government Code sections 65864 through 65869.5 and Division 14 of the Azusa Municipal Code.

**SECTION 2.** Based on the entire record before the Council and all written and oral evidence presented to the Council, the Council hereby finds and determines, that it can be seen with certainty that adoption of this Urgency Ordinance and approval of the Fifth Amendment will not have a significant adverse effect on the environment. Thus, the adoption of this Urgency Ordinance and approval of the Fifth Amendment is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Sections 15061(b)(3) of the CEQA Guidelines. Staff is directed to file a Notice of Exemption with the Los Angeles County Recorder's Office within five (5) working days of adoption of this Urgency Ordinance.

**SECTION 3.** The Council hereby approves the Fifth Amendment in substantially the form presented to the Council, together with such additions favoring the City and non-substantive revisions as may be approved by both the City Manager and the City Attorney during execution of the Fifth Amendment.

**SECTION 4.** The City Manager is hereby authorized to execute the Fifth Amendment on behalf of the City and City staff is authorized to take any action and execute any and all necessary documents to implement the Fifth Amendment.

**SECTION 5.** The City Clerk is directed to record the Fifth Amendment with the Los Angeles County Recorder, no later than 10 days after the Fifth Amendment is fully executed.

**SECTION 6.** This Ordinance shall be in full force immediately upon its passage.

**SECTION 7.** A summary of this Ordinance shall be published in the manner required by law.

**PASSED, APPROVED, and ADOPTED** on the 17<sup>th</sup> day of July, 2017.

/s/ Joseph Romero Rocha, Mayor

**ATTEST:** Jeffrey Lawrence Cornejo, Jr., City Clerk

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF AZUSA                )

I, Jeffrey Lawrence Cornejo Jr., City Clerk of the City of Azusa, do hereby certify that the foregoing Urgency Ordinance No. 2017-10 was duly introduced and adopted at a regular meeting of the City Council held on the 17<sup>th</sup> day of July, 2017, by the following vote to wit:

AYES:            COUNCIL MEMBERS: GONZALES, CARRILLO, MACIAS, ALVAREZ, ROCHA  
NOES:            COUNCIL MEMBERS: NONE  
ABSENT:          COUNCIL MEMBERS: NONE  
ABSTAIN:         COUNCIL MEMBERS: NONE

/s/ Jeffrey Lawrence Cornejo, Jr., City Clerk

**APPROVED AS TO FORM:** /s/ Best, Best & Krieger, LLP, City Attorney

**EXHIBIT "A"**

**FIFTH AMENDMENT TO THE DEVELOPMENT AGREEMENT**

**[Attached behind this page]**