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Receipt # 2032033 MARJORIE PAGE, Recorder

BOOK 3343 PAGE 323

AMENDMENT TO ANNEXATION AGREEMENT
(Aurora)

THIS AMENDMENT TO ANNEXATION AGREEMENT is made as of this 3rd day of December, 1980, by and between THE CITY OF AURORA, COLORADO, a Colorado municipal corporation (the "City"), whose address is 1470 South Havana Street, Aurora, Colorado 80014, and MISSION VIEJO COMPANY, a California corporation ("Mission"), whose address is #6 Inverness Court East, Englewood, Colorado 80112.

In consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. Annexation Agreement. "Annexation Agreement" shall mean that certain Agreement dated May 24, 1971 by and between the City and Mission, recorded November 16, 1971 in Book 1972 at Page 502 of the records in the office of the Clerk and Recorder of Arapahoe County, Colorado (the "Arapahoe County Records"), as amended by that certain Addendum dated February 26, 1979, by and between the City and Mission recorded April 3, 1979 in Book 2963 at Page 88 of the Arapahoe County Records.

2. Park Property. The "Park Property" shall mean Lot 1, Block 1, Mission Viejo Subdivision, Filing No. 17, City of Aurora, County of Arapahoe, State of Colorado, according to the recorded plat thereof.

3. School District. "School District" shall mean the Cherry Creek School District #5.

4. Park Improvements. "Park Improvements" shall mean a regulation-sized baseball diamond, a backstop, fences and reasonable seating therefor, landscaping, including laying sod and planting trees, and such other changes and improvements to the Park Property which the City, in its sole discretion, may decide to construct thereon.

5. Purpose of Amendment. The City and Mission entered into the Annexation Agreement to define the rights and obligations of each party with regard to the annexation into the City and the development by Mission of certain real property described as Section 5, Township 5 South, Range 66 West of the 6th Principle Meridian, County of Arapahoe, State of Colorado (the "Property"). The Annexation Agreement requires that Mission dedicate to the City 29.5 acres of the Property for utilization for public park and recreation facilities. The Annexation Agreement further provides that Mission shall complete certain improvements thereon and the City shall reimburse Mission for its costs and expenses in completing said improvements. After completion of said improvements, the City is required to maintain the public park and recreation facilities in a first-class condition. The parties desire to amend the Annexation Agreement to provide that Mission will convey the Park Property to the City as partial satisfaction of Mission's obligation to dedicate such 29.5 acres of the Property to the City, that Mission will pay \$100,000 to the City and the City, rather than Mission, will be required to construct the Park Improvements on the Park Property.

6. Amendments of Annexation Agreement. Paragraph 3 of the Annexation Agreement shall be and hereby is amended according to the terms and conditions contained in this Amendment.

7. Amendments as to Conveyance and Completion of Park Improvements. Mission agrees to convey the Park Property to the City as partial satisfaction of its obligation to dedicate 29.5 acres of the Property to the City. In lieu of Mission constructing the Park Improvements and the City reimbursing Mission for its costs and

expenses in so doing, as is presently provided in paragraph 3 of the Annexation Agreement, Mission agrees to pay to the City, concurrent with the conveyance of the Park Property to the City, \$100,000 (the "Improvement Funds"). The City agrees to use the Improvement Funds solely for constructing the Park Improvements and for no other purpose whatsoever. The City further agrees to commence the construction of the Park Improvements no later than March 1, 1981 and to complete the Park Improvements no later than July 1, 1981. Such Improvements shall be completed in a good and workmanlike manner and, except for Mission's payment of the Improvement Funds, such Improvements shall be made at the City's cost and expense.

8. Time of Conveyance. The Park Property, with the exception of Tract D, hereinafter defined, shall be conveyed to the City upon execution of this Agreement, either by Warranty Deed or by dedication as a part of Mission Viejo Subdivision Filing No. 17 at the City's choosing. Tract D shall be conveyed to the City at such time as it is no longer utilized by Mission as a Contractor Yard or January 1, 1984, whichever is sooner.

9. Maintenance of Park Property. Upon the conveyance of the Park Property by Mission to the City, the City agrees to maintain the Park Property and Park Improvements in a first-class condition and agrees that Mission shall have no responsibility whatsoever for maintaining the Park Property or Park Improvements.

10. Satisfaction of Annexation Agreement. Upon Mission's conveyance of the Park Property to the City and the payment to the City of the Improvement Funds, Mission shall be deemed to have fully complied with all of its obligations under paragraph 3 of the Annexation Agreement with regard to Park Property.

11. School Facilities. The City, Mission and The School District have conferred and cooperated in respect to the location of school sites as provided under paragraph 9 of the Annexation Agreement. The City agrees to review with the School District the needs for a school site as part of the Park Property. In the event such a need exists, the City shall convey to The School District a part of the Park Property of sufficient size and area to accommodate the school facilities needed by The School District. The City and School District acknowledge that Mission has fully complied with its obligations under paragraph 9 of the Annexation Agreement to plan and provide school sites. The acknowledgment of the School District is indicated by its execution of this Agreement on Page 4 for that limited purpose as stated herein.

12. Contractor Yard. The portion of the property described on Exhibit A, attached hereto and incorporated herein by reference (referred to as Tract D), is presently utilized by Mission as a contractor yard for vehicles, equipment, materials and/or supplies. Subject to the amendment of the General Development Plan, it is agreed that Tract D may be continued to be utilized as a contractor yard until the development and construction in the Mission Viejo Subdivision is complete, or until January 1, 1984, whichever date is sooner. The "Mission Viejo Subdivision" referred to in this paragraph shall mean subdivision filing by Mission in Arapahoe County, Colorado, bounded by Hampden Avenue on the north, East Quincy Avenue on the south, Chambers Road on the west and Buckley Road on the east.

It is understood that a contractor yard is a permitted use in a Planned Community Zone District under Article 17 of Chapter 41 of the zoning code of Aurora, Colorado. Mission shall file an application for an amendment to the Mission Viejo General Development Plan, which amendment shall request the use of Tract D as a contractor yard pursuant to the provisions of this Agreement.

13. Annexation Agreement Incorporated. The terms and provisions of this Amendment are hereby incorporated into the Annexation Agreement and, except as specifically amended hereby, all the terms and provisions of the Annexation Agreement shall remain in full force and effect, unaltered and unchanged by this Amendment.

14. Captions for Convenience. The headings and captions hereof are for convenience only and shall not be considered in interpreting the provisions hereof.

15. Survival of Provisions. Any provisions contained in this Amendment which require observance or performance subsequent to the date of the conveyance of the Park Property to the City by Mission shall continue in full force and effect following the date of said conveyance.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to Annexation Agreement to be executed the day and year first above written.

CITY OF AURORA, COLORADO
A municipal corporation

MISSION VIEJO COMPANY
A California corporation

By Dennis Champine
DENNIS CHAMPINE, Mayor

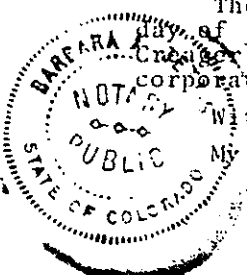
By James G. Toepfer
JAMES G. TOEPFER

By James B. Creager
JAMES B. CREAGER
Attorneys-in-Fact

ATTEST:

Gail C. Johnston
GAIL C. JOHNSTON
Deputy City Clerk
STATE OF COLORADO)
COUNTY OF ARAPAHOE) SS

The foregoing instrument was acknowledged before me this 3rd day of December, 1980 by James G. Toepfer and James B. Creager as Attorneys-in-Fact for Mission Viejo Company, a California corporation.



Witness my hand and official seal.

My commission expires 5-9-82

Barbara A. Dattis
NOTARY PUBLIC

STATE OF COLORADO)
COUNTY OF ARAPAHOE) SS

The foregoing instrument was acknowledged before me this ___ day of _____, 1980, by Dennis Champine as Mayor and Gail C. Johnston as Deputy City Clerk of the City of Aurora, Colorado, a Colorado municipal corporation.

Witness my hand and official seal.

My commission expires _____

NOTARY PUBLIC

Acknowledgment of Cherry Creek School District No. 5

The School District does hereby execute the foregoing Amendment to Annexation Agreement for the limited purpose of acknowledging as stated in paragraph 11 thereof that Mission has fully complied with its obligation to plan and provide for school sites and to make donations of limited funds, all as described in paragraph 9 of the Annexation Agreement and all Amendments thereto.

Dated this 10th day of November, 1980.

CHERRY CREEK SCHOOL DISTRICT NO. 5

BY 
Assistant Superintendent

REGULAR MEETING, BOARD OF EDUCATION
CHERRY CREEK DISTRICT #5

248-80 APPROVAL OF AMENDMENT TO ANNEXATION AGREEMENT

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WHEREAS, Cherry Creek School District No. 5 was the beneficiary under provisions of an Annexation Agreement between the City of Aurora, Colorado and Mission Viejo Company dated May 14, 1971 with respect to certain school sites in Section 5, Township 5 South, Range 66 West, Arapahoe County, State of Colorado, and

WHEREAS, it is not believed to be in the best interests of the Cherry Creek School District No. 5 to acquire and build another school facility in the area described in said Annexation Agreement, and

WHEREAS, an amendment to said Annexation Agreement has been proposed wherein the School District acknowledges the fulfillment by Mission Viejo Company of its obligation to the School District under said Annexation Agreement and provides for land donation to the City of Aurora for park purposes which may at a future date be available to the School District if such need is so determined by the City, and it is believed the original Agreement should be so amended.

RESOLVED, That the amendment to the May 14, 1971 Annexation Agreement between the City of Aurora, Colorado and Mission Viejo Company in the form and content presented and reviewed by the Board of Education of Cherry Creek School District No. 5 be and the same is hereby approved and the President of the Board of Education is authorized and directed to execute the same for and on behalf of Cherry Creek School District No. 5 and the Secretary is directed to attest to the execution thereof.

Unanimously approved November 10, 1980