

REGULAR

NUMBER: 38.819

TITLE: AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MILPITAS AND SCS DEVELOPMENT CO., AMALFI MILPITAS, LLC, AND DPD INVESTMENTS, LLC RELATING TO THE CITATION I (ALMALFI I AND AMALFI II) AND CITATION II (THE EDGE) RESIDENTIAL AND MIXED-USE DEVELOPMENT PROJECTS

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

ORDINANCE NO. 38.819

**AN UNCODIFIED ORDINANCE OF THE CITY OF MILPITAS
APPROVING A DEVELOPMENT AGREEMENT WITH SCS
DEVELOPMENT CO., AMALFI MILPITAS, LLC AND DPD
INVESTMENTS, LLC RELATIVE TO THE DEVELOPMENT OF
CITATION I (AMALFI I AND AMALFI II) AND CITATION II (THE
EDGE) MULTIFAMILY RESIDENTIAL AND MIXED-USE
PROJECTS ON CERTAIN REAL PROPERTY LOCATED IN THE
CITY OF MILPITAS AND AUTHORIZING THE CITY MANAGER
TO EXECUTE THE DEVELOPMENT AGREEMENT AND THE
CITY CLERK TO 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 MILPITAS:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. This Ordinance is adopted under the authority of California Government Code Section 65868 and pursuant to the provisions of the City Council Resolution No. 6642 (the "Enabling Resolution"), 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 3. This Ordinance incorporates by reference as though fully set forth herein that certain "Development Agreement By and Between the City of Milpitas and SCS Development Co., Amalfi Milpitas, LLC, and DPD Investments, LLC" relative to the Development of the Citation I (Amalfi I and Amalfi II) and the Citation II (the Edge) multifamily residential and mixed-use projects in the City of Milpitas (the "Agreement"), the substantive form of which is attached hereto as Exhibit "A."

SECTION 4. 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 Transit Area Specific Plan (the "EIR" State Clearinghouse No. 2006032091) 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, which Project Environmental Clearance was considered by the Planning Commission of the City Council City of Milpitas and was considered and

approved by the City Council prior to taking any approval actions on this Ordinance.

SECTION 5. The City Council of the City of Milpitas finds that the following are the relevant facts concerning the proposed Agreement:

1. The General Plan and Transit Area Specific Plan land use designation for the area that is subject to this Agreement is Boulevard Very High Density Mixed Use, Multi-Family Very High Density, and Multi-Family High Density and the Subject Project is consistent with the General Plan and Transit Area Specific Plan.
2. SCS Development Company, Amalfi Milpitas, LLC and DPD Investments, LLC (collectively “Developer”) proposes to develop on certain Subject Property more particularly described in the Agreement, consistent with the General Plan, Transit Area Specific Plan and the Development Approvals set forth in the Agreement, the “Amalfi I Building” consisting of up to three hundred and seventy-eight (378) multi-family residential units and “Amalfi II Building” consisting of up to two hundred sixty (260) multi-family residential units (collectively “Citation I Project”), and up to three hundred and eight-one (381) apartment units, 8100 square feet of commercial and office space, and associated site improvements (the “Edge Project” or “Citation II Project”) (collectively, all the “Project”), all as more specifically set forth in the Agreement.
3. Developer 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 housing and jobs 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 accompanying staff reports and Agreement;
 - d. Developer will incur unusually substantial costs in order to provide public improvements, facilities or services, in particular extraordinary funding for housing in the City, from which

the public will benefit, as set forth in more detail in the accompanying staff report and Agreement and (ii) Developer 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 Agreement and Development Approvals; and

- e. Development of the Project will make a substantial contribution to the economic development of the City of Milpitas in that the Project will create additional, transit-oriented housing to support transit infrastructure investments, as well as provide extraordinary tax revenues to the City.

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

1. The proposed Developer Project development is consistent with the General Plan, as amended, and all applicable specific or area plans of City.
2. The proposed Developer 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 Developer Project development will make a substantial contribution to the economic development of City in that:
 - a. Developer will incur unusually substantial costs to provide public improvements, facilities or services, including without limitation an extraordinary contribution towards housing in the City, all as more specifically described in the Agreement, from which the public will benefit, and Developer 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.
 - b. The Project will create additional, transit-oriented housing to support transit infrastructure investments, as well as provide extraordinary tax revenues to the City.
5. The proposed Agreement is consistent with the provisions of the Enabling Resolution 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 Manager 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.

SECTION 8. SEVERABILITY The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 9. EFFECTIVE DATE AND POSTING In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.