RECORDING FEES EXEMPT PURSUANT TO GOVERNMENT CODE §27383

RECORDING REQUESTED BY:
City of Vacaville

WHEN RECORDED MAIL TO:
Michelle Thornbrugh
City Clerk
City of Vacaville
650 Merchant Street
Vacaville, CA 95688

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)RECORDER'S USE)

Affects APNs: 0133-120-190, 0133-120-340, 0134-020-180, 0134-020-240, 0134-020-290, 0134-020-300, 0134-020-310, 0134-020-320, 0134-020-330, 0134-020-340, 0134-020-350, 0134-020-360, 0134-020-380, 0134-020-450, 0134-020-460, 0134-033-010, 0134-033-370, 0134-033-380, 0134-033-400, 0134-180-030, 0134-180-040, 0134-181-130, 0134-181-140, 0134-183-140, 0134-183-150, 0134-310-010, 0134-332-100, 0134-332-180, 0134-480-110.

DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF VACAVILLE AND GREEN TREE SOUTH, LLC AND GREEN TREE PROPERTIES, LLC REGARDING THE DEVELOPMENT OF REAL PROPERTY COMMONLY REFERRED TO AS THE GREENTREE GOLF COURSE PROPERTY

JANUARY 12, 2023

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DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF VACAVILLE
AND GREEN TREE SOUTH, LLC AND GREEN TREE PROPERTIES, LLC
REGARDING THE DEVELOPMENT OF REAL PROPERTY COMMONLY REFERRED TO AS THE GREENTREE GOLF COURSE PROPERTY

THIS DEVELOPMENT AGREEMENT (hereinafter "**Agreement**") is entered into this 21st day of December, 2022, by and between **GREEN TREE SOUTH, LLC,** a California limited liability company and **GREEN TREE PROPERTIES, LLC,** a California limited liability company (together, "**Developer,**" as further defined in Section 2.16), and the **CITY OF VACAVILLE**, a municipal corporation ("**City**"), pursuant to the authority of Sections 65864 through 65869.5 of the California Government Code, and Division 14.17 of the Vacaville Municipal Code.

RECITALS

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs of development, the Legislature of the State of California enacted Section 65864 et. seq. of the California Government Code (the "**Development Agreement Statute**"). The Development Agreement Statute authorizes City to enter into a development agreement for the development of property with any person having a legal or equitable interest in real property. City has authorized the undertaking of development agreements within the City of Vacaville and has established procedures for entering into development agreements through the adoption of Division 14.17 of the Vacaville Municipal Code.

B. Developer is the legal owner of that certain real property consisting of approximately 185.4 acres commonly referred to as the Greentree Golf Course property located at 999 Leisure Town Road, south of Interstate 80, in Solano County (the "**Property**"), California legally described in Exhibit A-1 attached hereto and incorporated herein by reference and generally shown on Exhibit A-2.

C. Developer intends to develop the Property as a mixed-use community consisting of approximately 1,149 single-family dwelling units, 950 of which are intended to be high-density 'Workforce Housing' units, and 199 of which are intended to be lower density senior housing units, two (2) neighborhood parks connected by a network of trails and bikeways, and integrated with approximately 299,345 square feet of neighborhood serving commercial uses, all as described in greater detail in the Greentree Project Specific Plan (the "**Specific Plan**"). Development of the Property consistent with the Specific Plan is referred to herein as the "**Project**."

D. On November 15, 2022 (the "**Adoption Date**"), the City Council of City ("**City Council**") took the following actions relating to the Property (collectively, the "**Project Approvals**"):

D.1. By Resolution No. 2022-104, certified an environmental impact report (State Clearinghouse No. 2019049003) (the "**EIR**") and adopted a mitigation monitoring and reporting program (the "**MMRP**") in compliance with the California Environmental Quality Act (Public Resources Code §§ 21000, et seq.) ("**CEQA**") and its implementing regulations (Title 14, Cal. Code Regs. §§ 15000, et seq.) (the "**CEQA Guidelines**").

D.2. By Resolution No. 2022-105, adopted a General Plan amendment to: (a) incorporate the Greentree Specific Plan; (b) amend the General Plan land use map to show that land within the specific plan boundary is governed by the Greentree Specific Plan; (c) incorporate other amendments to the General Plan text and figures to ensure consistency between the General Plan and the Specific Plan; (d) include an amendment to Policy COS-P1.12 to allow analysis of and mitigation for biological resources impacts to be provided through project-specific CEQA compliance documents; and (e) approve amendments to the Green Tree Park Policy Plan to remove the portions of the Project site that are within the Policy Plan boundary from that Plan, because with approval of the Specific Plan, the Specific Plan became the applicable development implementation plan document (the "**General Plan Amendment**").

D.3. By Ordinance No. 1979, adopted the Specific Plan and amended Division 14.09 of Title 14 of the Vacaville Municipal Code (the "**Zoning Ordinance**") to rezone the Property to be consistent with and implement the land use designations in the amended General Plan and the Specific Plan and to establish that the Greentree Project Specific Plan contains development regulations that apply solely to development within the Specific Plan boundary (the "**Zoning Change**").

D.4. By Resolution No. 2022-106, approved the Greentree Vesting Tentative Map to create 199 individual residential lots and parcels for infrastructure, open space, and park uses south of Sequoia Drive, and a series of larger parcels for higher-density residential uses (including multi-family rental uses), commercial uses, infrastructure, open space, and park uses north of Sequoia Drive, all designated to implement the Specific Plan, and concurrently authorized the vacation of existing Gilley Way to implement the proposed circulation network consistent with the Specific Plan and the General Plan Circulation Element, as amended (the "**Vesting Tentative Map**").

D.5 By Resolution No. 2022-107, adopted an exception to the Vacaville Design Standards to accommodate the street layout as shown on the Vesting Tentative Map (the "**Design Standards Exception**").

D.6 By Resolution No. 2022-108, adopted a Planned Development Permit for the Greentree Project Apartments.

D.7 By Ordinance No. 1980 (the "**Enacting Ordinance**"), approved and authorized the execution of this Agreement.

E. To develop the Property consistent with the Specific Plan, Developer intends to subsequently apply to City for additional land use approvals, entitlements, and discretionary and ministerial permits other than the Project Approvals (collectively, "**Subsequent Approvals**") as necessary or desirable for development of the Project. At such time as any Subsequent Approval applicable to the Property is approved by City, then such Subsequent Approval shall become subject to all the terms and conditions of this Agreement applicable to the Project Approvals and shall be treated as a "Project Approval" under this Agreement.

F. For the reasons recited herein, City and Developer have determined that the Project is a development project for which this Agreement is appropriate. This Agreement will provide Developer with certainty regarding the Project Approvals and the Subsequent Approvals and thereby encourage planning for, investment in and commitment to use and develop the Property consistent with the Specific Plan, which use and development is expected to, in turn, provide substantial housing, employment, property and sales tax revenues, and other benefits to City, and contribute to the provision of needed infrastructure for area growth, thereby achieving the goals and purposes for which the Development Agreement Legislation was enacted.

G. The terms and conditions of this Agreement have undergone extensive review by City's staff, and by its Planning Commission and City Council at publicly-noticed meetings and have been found to be fair, just and reasonable and in conformance with City's General Plan, the Development Agreement Legislation, and Title 14 of the Vacaville Municipal Code and, further, the City Council finds that the economic interests of City's residents and the public health, safety and welfare will be best served by entering into this Agreement.

NOW, THEREFORE, in consideration of the premises, covenants and provisions set forth herein, the parties agree as follows:

AGREEMENT

1. Incorporation of Exhibits and Recitals. The Preamble, Recitals, Exhibits and all defined terms set forth therein are hereby incorporated into this Agreement as if set forth herein in full.

2. Definitions. Each reference in this Agreement to any of the following terms shall have the meaning set forth below for each such term.

2.1 Adoption Date. November 15, 2022, the date the City Council adopted the Enacting Ordinance (see Recital D).

2.2 Agreement. Defined in the Preamble.

2.3 Annual Review Date. Defined in Section 17.1.

2.4 CEQA and **CEQA Guidelines**. Defined in Recital D.1.

2.5 City. Defined in the Preamble.

2.6 City Costs. Defined in Section 13.2.1.

2.7 City Council. Defined in Recital D.

2.8 City-wide. All (a) privately owned property in the territorial limits of City, and (b) privately owned property within a designated use district or classification of City, so long as (i) any such use district or use classification includes a substantial amount of affected private property other than the affected portion of the Property, and (ii) the use district or use classification includes substantially all private property within the use district or use classification that receives the general or special benefits of, or cause the burdens that occasion the need for the new or increased Development Fees or Exactions.

2.9 Claims. Defined in Section 18.

2.10 Complaining Party. Defined in Section 22.

2.11 Consent. Defined in Section 14.2.1.

2.12 County. The County of Solano, a political subdivision of the State of California.

2.13 Default. Defined in Section 20.

2.14 Developer. As defined in the Preamble, and including all Persons that succeed to or are assigned ownership of all or any portion of the Property at any time during the Term of this Agreement.

2.15 Development Agreement Statute. Defined in Recital A.

2.16 Effective Date. Defined in Section 5.2.

2.17 EIR. Defined in Recital D.1.

2.18 Enacting Ordinance. Defined in Recital D.7.

2.19 Existing City Land Use Regulations. The ordinances, resolutions, codes, rules, regulations, and official policies of the City governing the permitted uses of land, density, design, improvement and construction standards and specifications applicable to the Property (or portion thereof) and to any other property where off-site Project Infrastructure will be constructed in City jurisdiction, in effect on the Adoption Date, and as amended by the Project Approvals. Specifically, but without limiting the generality of the foregoing, Existing City Land Use Regulations shall include (i) City's General Plan, (ii) the Specific Plan and Vesting Tentative Map, (iii) all applicable provisions of City's Municipal Code, (iv) this Agreement, and (v) all other ordinances, resolutions, regulations, and policies of the City governing land use, development, and building construction, as any of the foregoing or their application has been amended by the Project Approvals or this Agreement.

2.20 Final Map. Any final subdivision map applicable to the Property approved and recorded in the Official Records of the County pursuant to and in accordance with the California Subdivision Map Act (Government Code sections 66410 et seq.).

2.21 Final Validity Date. If a referendum petition relating to this Agreement or any Project Approval is timely and duly circulated and filed, certified as valid, and an election is held, the date the election results on the ballot measure are certified by the Board in the manner provided by the Elections Code reflecting the final defeat or rejection of the referendum; and if no such referendum petition is filed, then the date that (i) all applicable appeal periods and statutes of limitations to challenge any of the Project Approvals has expired and no such appeal of judicial action has been filed, or (ii) if any administrative appeal or judicial action challenging any of the Project Approvals is timely filed, then the date that such administrative appeal or judicial action has been finally resolved such that no further appeals are available and the validity of the Project Approvals has been affirmed.

2.22 General Plan. The General Plan for City as amended by the Project Approvals and in effect as of the Adoption Date. The term "**General Plan**" as used herein includes the General Plan Amendment.

2.23 General Plan Amendment. Defined in Recital D.2.

2.24 Law(s). The laws of the State of California, the Constitution of the United States, and any codes, statutes, regulations or mandates in any court decision, state or federal, thereunder.

2.25 Minor Amendment. Defined in Section 19.4.

2.26 Mitigation Measures. The mitigation measures applicable to the Project developed as part of the EIR process and adopted as part of the Project Approvals as reflected in the MMRP.

2.27 MMRP. Defined in Recital D.1.

2.28 Mortgage. A mortgage or deed of trust, or other transaction, in which the Property, or a portion thereof or an interest therein, or any improvements thereon, is conveyed or pledged as security, contracted in good faith and for fair value, or a sale and leaseback arrangement in which the Property, or a portion thereof or an interest therein, or improvements thereon, is sold and leased back concurrently therewith in good faith and for fair value.

2.29 Mortgagee. The holder of the beneficial interest under a Mortgage, or the owner of the Property, or interest therein, under a Mortgage.

2.30 Party and **Parties**. Each of City, Developer, and their respective successors, assignees or Transferees, determined as of the time in question, are a Party to this Agreement and may be referred to collectively as the "**Parties**."

2.31 Party in Default. Defined in Section 22.

2.32 Permitted Delay. Defined in Section 29.

2.33 Person. An individual, partnership, firm, association, corporation, trust, governmental agency, administrative tribunal or other form of business or legal entity.

2.34 Phasing Program. Defined in Section 12.2.

2.35 Intentionally Omitted.

2.36 Processing Fee. A City fee payable upon the submission of an application for a permit or approval which covers only the estimated actual and non-duplicative or supplemental costs to City of processing that application, including inspections, in accordance with regular practices on a City-wide basis.

2.37 Project. Defined in Recital C.

2.38 Project Approvals. Defined in Recital D.

2.39 Property. Defined in Recital B.

2.40 Public Benefits. The public benefits to be provided by the Project described in Section 10.2.

2.41 Public Infrastructure. The lands and facilities, both on the Property and off-site, to be improved and constructed by Developer and dedicated to City or made available for public use, as provided by the Project Approvals and this Agreement.

2.42 RHNA. Defined in Section 10.2.1.

2.43 Specific Plan. Defined in Recital C.

2.44 Subsequent Approvals. Defined in Recital E.

2.45 Subsequent Development. Defined in Section 5.6.

2.46 Subsequent Rules. Defined in Section 7.

2.47 Substantive Amendment. Defined in Section 19.3.

2.48 Term. Defined in Section 5.3.

2.49 Transfer. Defined in Section 14.1.

2.50 Transferee. Defined in Section 14.1.

2.51 Transferred Property. Defined in Section 14.1.

2.52 Vested Rights. Defined in Section 6.1.

2.53 Workforce Housing. Workforce Housing is intended to provide "missing middle" housing, which falls in the medium to high density housing land use categories, to offer middle-income workers an affordable place to live proximate to jobs. All single-family and multi-family residential development to be undertaken on the Property north of Sequoia Drive, which shall include up to 950 residential units consisting of a variety of housing product types, developed within the various subareas identified in the Specific Plan in compliance with the densities and development standards specified in the Specific Plan and the municipal code. The Specific Plan subareas and associated densities are:

Subareas	**Density Range** (units per acre, minimum and maximum)
R1 and R2	8.1 – 14
R3, R5 and R6	14.1 – 20
R4 and R7	20.1 - 24

2.54 Zoning Change. Defined in Recital D.3.

2.55 Zoning Ordinance. Defined in Recital D.3.

3. Description of Property. The property that is the subject of this Agreement is described generally in Recital B and with greater particularity in Exhibits A-1 and A-2 attached hereto.

4. Relationship of City and Developer. The Parties specifically acknowledge that the Project is a private development, that no Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in the businesses of Developer, the affairs of City, or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. City and Developer hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Developer joint venturers or partners.

5. Execution and Recording; Effective Date; Term.

5.1 Execution and Recording. Not later than ten (10) days after the Adoption Date, City and Developer shall execute and acknowledge this Agreement. Not later than forty (40) days after the Effective Date of this Agreement, the City Clerk shall cause this Agreement to be recorded in the Official Records of Solano County, State of California.

5.2 Effective Date. Provided that no referendum applicable to any Project Approval has been timely filed and submitted to City, and no administrative appeal or judicial action challenging any Project Approval has been timely filed, the **Effective Date** shall be January 12, 2023. If such a referendum has been timely filed and submitted, or if an

administrative appeal or judicial action has been timely filed and submitted, then this Agreement shall remain binding upon all of the Parties but all of the Parties' respective rights and obligations shall be suspended until the Final Validity Date, which date shall then be the Effective Date.

5.3 Term. The term of this Agreement shall be fifteen (15) years from the Adoption Date ("**Term**"), unless said Term is terminated, modified or extended by the Parties in accordance with the requirements of this Agreement.

5.4 Term of Subdivision Maps. Subject to the provisions of Section 24 of this Agreement, the term of the Vesting Tentative Map and any subsequent tentative subdivision maps for the Property approved by City, shall be the longer of: (i) the Term, or (ii) the term of the particular tentative subdivision map that would otherwise be allowed under the Subdivision Map Act or Division 14.11 (Subdivisions) of the Vacaville Municipal Code.

5.5 Automatic Termination Upon Issuance of Certificates of Occupancy for Lots or Condominium Units. This Agreement shall be terminated with respect to any residential single-family lot, any residential condominium unit, or any commercial lot, which lot or unit has been created under a recorded Final Map, upon the issuance of a final certificate of occupancy for the last lot or unit to which such Final Map applies, without any further action by any Party or need to record any additional document.

5.6 Rights and Obligations Upon Expiration of the Term or Earlier Termination. Upon termination of this Agreement, all of the rights, duties and obligations of the Parties hereunder shall terminate and be of no further force and effect, except as otherwise expressly set forth herein, and except as to Developer's obligation to provide the Public Benefits and Public Infrastructure that have arisen in connection with the issuance of Subsequent Approvals. Following termination of this Agreement, to the extent that Developer or its successors or assigns remains entitled, under the Existing City Land Use Regulations, to proceed with and does obtain Subsequent Approvals of new development that is consistent with or greater than the development densities or intensities allowed by the Existing City Land Use Regulations ("**Subsequent Development**"), Developer agrees that City shall have the right to require those Public Benefits and Public Infrastructure as called for in the Project and in accordance with the Specific Plan Phasing Plan, as conditions of approval for such Subsequent Development, and Developer hereby waives all rights to object to or challenge such conditions of approval under the Mitigation Fee Act (Government Code Sections 66000-66011) or any other law or authority.

6. Vested Rights.

6.1 Vested Rights and Permitted Uses. Except as otherwise provided in this Agreement, during the Term of this Agreement, the permitted uses of the Property, the density and intensity of use, the rate, timing and sequence of development, the location and number of buildings, maximum height and design and size of proposed buildings, parking standards, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Project Approvals and any Subsequent Approvals. Developer shall have and be subject to those benefits granted and obligations created herein to develop the Project in

accordance with the Project Approvals and any Subsequent Approvals and consistent therewith (the "**Vested Rights**"). By stating that the terms and conditions of the Project Approvals and any Subsequent Approvals, control the overall design, development and construction of the Project, this Agreement is consistent with the requirements of California Government Code Section 65865.2 (requiring a development agreement to state permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings and provisions for reservation or dedication of land for public purposes).

6.1.1 City shall retain its right and power to impose on the Property and the Project new ordinances, resolutions, rules, regulations, and official policies of City governing the permitted uses and development of land (collectively, "**Subsequent Rules**"), provided that such Subsequent Rules do not conflict with any of the Vested Rights established elsewhere in this Agreement and provided that such Subsequent Rules apply to all similarly designated private property on a City-wide basis.

6.2 Applicable Impact Fees and Fee Credits. Except as specifically set forth herein, Developer shall pay all development impact fees applicable to the Property and the Project in accordance with the requirements and fee schedule adopted by the City Council by Resolution No. 2022-059 on June 28, 2022 (the "Resolution No. 2022-059"), subject to such regular inflationary adjustments as are adopted by City in the normal course, and Developer's eligibility for credits against such fee obligations shall be as set forth in the Existing City Land Use Regulations as modified herein.

6.2.1 Drainage Conveyance Fee Credits. Notwithstanding any and all language to the contrary in Section 6.2 above, Developer shall be eligible for credit against Developer's obligation to pay Drainage Conveyance Fees, in an amount not to exceed the costs incurred by Developer for construction of drainage conveyance infrastructure for the Project, minus the cost of the drainage conveyance infrastructure that would have been built if its service area was limited to the Property, as reasonably determined by City. The cash value of this credit shall be applied to the Developer's 50% share of costs of the Yellowstone Drive Work, as described in Section 6.3 below.

6.3 Yellowstone Drive Storm Drainage Infrastructure Improvements. City and Developer shall complete the Yellowstone Drive storm drainage infrastructure improvements described in Appendix B of Appendix 4.14-3 of the EIR (the "Yellowstone Drive Work") as set forth in this Section 6.3.

6.3.1 Cost Responsibility. City and Developer each shall pay fifty percent (50%) of the costs of the Yellowstone Drive Work, provided that Developer shall not be required to pay more than six hundred fifty thousand dollars ($650,000), and if the costs of the Yellowstone Drive Work exceed one million three hundred thousand dollars ($1,300,000), then City shall be responsible for all costs in excess of $1,300,000. As set forth in Section 6.2.1 above, the cash value of any credit against Developer's obligation to pay Drainage Conveyance Fee credits for which Developer is determined to be eligible shall be applied to Developer's payment obligation under this Section 6.3.1.

6.3.2 Improvement Plans. Developer shall prepare design and improvement plans for the Yellowstone Drive Work, which shall be submitted to City for review and approval concurrent with Developer's plans for public improvements within Subareas R8 and R9 of the Project as shown in the Specific Plan. The costs incurred by Developer to prepare and process with City design and improvement plans for the Yellowstone Drive Work shall be subject to City's review and reasonable approval, and all approved costs shall be applied to Developers payment obligation under Section 6.3.1 above.

6.3.3 Construction. Following City's approval of the improvement plans for the Yellowstone Drive Work as described in Section 6.3.1 above, City shall be solely responsible construction of the Yellowstone Drive Work. Subject to Developer's satisfactory completion, as determined by City's Public Works Director, of storm drainage improvements for Subareas R8 and R9, as shown in the Specific Plan, City shall use best efforts to complete the Yellowstone Drive Work not later than December 31, 2024.

6.3.4 Reconciliation. Following City's completion of construction of the Yellowstone Drive Work, City shall determine the total cost thereof (the "Total Cost"), which Total Cost shall include the costs incurred by Developer to prepare and process the improvement plans as set forth in Section 6.3.2 above ("Developer's Plan Costs"), and shall also determine the value of the fee credits for which Developer is eligible under Section 6.2.1 above ("Developer's Fee Credit Value").

(a) If the Total Cost is equal to or exceeds one million three hundred thousand dollars ($1,300,000), then Developer shall pay to City, within thirty (30) days of Developer's receipt of an invoice from City setting forth in reasonable detail the Total Cost and Developer's Fee Credit Value, an amount equal to six hundred fifty thousand dollars ($650,000) minus Developer's Plan Costs and minus Developer's Fee Credit Value.

(b) If the Total Cost is less than one million three hundred thousand dollars ($1,300,000), then Developer shall pay to City, within thirty (30) days of Developer's receipt of an invoice from City setting forth in reasonable detail the Total Cost and Developer's Fee Credit Value, an amount equal to fifty percent (50%) of the Total Cost minus Developer's Plan Costs and minus Developer's Fee Credit Value.

6.4 Park Obligations. The Specific Plan's "Park" land use and zoning designations are applied to two (2) specific parcels within the Specific Plan area: a 6.0-acre parcel north of Sequoia Drive (the "Northern Park Parcel") and a 4.5-acre parcel south of Sequoia Drive (the "Southern Park Parcel"), as set forth and described in the Specific Plan in Figure 2-1 and Section 2.6 and shown on the Vesting Tentative Map (each a "Park Parcel" and together the "Park Parcels").

6.4.1 Dedication of Park Land. The Park Parcels shall each be dedicated to City via separate irrevocable offers of dedication ("IODs"), made in a form acceptable to City as determined by the City Manager in its reasonable discretion, at the times and subject to improvement schedules and credits described below.

6.4.2 Park Planning and Construction. Prior to recordation of any Final Map within the Project north of Sequoia Drive, Developer shall execute a Park Development Agreement with City for the Northern Park Parcel. Prior to recordation of any Final Map within the Project south of Sequoia Drive, Developer shall execute a Park Development Agreement with City for the Southern Park Parcel. Each Park Development Agreement shall be in a form acceptable to City as determined by the City Manager in its reasonable discretion. Each Park Development Agreement shall require Developer to, among other things, prepare and submit for City review and approval detailed construction documents ("Plans") for park improvements consistent with the Project Approvals and City's Park and Recreation Master Plan ("PRMP"), and shall provide a schedule for construction of the approved Plans requiring Developer to commence construction as follows: (a) Construction of the Northern Park shall be commenced within one year of issuance of any building permit within adjoining Subareas R4, R5, or R6 north of Sequoia Drive; and (b) Construction of the Southern Park shall be commenced within one year of issuance of any building permit within surrounding Subarea R9 south of Sequoia Drive. For the purposes of this section, commencement of construction means (1) securing a signed construction contract, (2) posting required bonds, and (3) mobilizing the construction contractor to site. Once Developer has completed park improvements in accordance with the Park Development Agreement, the City Engineer and Director of Parks and Recreation shall certify whether or not the park improvements are satisfactorily completed in accordance with the applicable Park Development Agreement. Following certification that the park improvements have been completed in accordance with the applicable Park Development Agreement, the IOD for the applicable Park Parcel, as fully improved in accordance with the Park Development Agreement, shall be presented to the City Council for acceptance. Developer shall be solely responsible for maintenance of the Northern Park Parcel and the Southern Park Parcel, including all improvements thereon, at all times prior to the City Council's acceptance thereof.

6.4.3 Parks and Recreation Facilities Impact Fees. Developer shall pay Parks and Recreation Facilities Fees as set forth below. To the extent that Developer is eligible for fee credits against such fee obligations, the value of such credits shall be based on the estimates for capital costs and land acquisitions set forth in the Vacaville Development Impact Fee Update report approved by Resolution 2022-059 (the "Fee Update Report"), as such estimates may be amended from time to time, and applied according to the methodologies and procedures set forth in the PRMP, the Fee Update Report, and the Existing City Land Use Regulations.

(a) For construction of the Northern Park Parcel, Developer shall be eligible for credits against Developer's obligation to pay the Neighborhood Park Fee component of the Park and Recreation Impact Fees in accordance with Resolution No. 2022-059 and the Existing City Land Use Regulations.

(b) For construction of the Southern Park Parcel, Developer shall be eligible for a credit against Developer's obligation to pay all normally applicable Parks and Recreation Facilities Fees in the amount of fifty percent (50%) of the normal fee amounts, which credit may be applied to Parks and Recreation Facilities Fees that would normally be due from residential development in the Project south of Sequoia Drive.

(c) Following the exhaustion of the fee credits set forth in Sections 6.4.3(a) and (b) above, all Project development shall pay all normally applicable Parks and Recreation Facilities Fees.

6.4.4 Park Maintenance Responsibility. The entire Property shall be included into Landscape & Lighting Maintenance Districts ("LLMDs") to provide funding for, among other things, ongoing park maintenance. Developer shall cooperate and take all actions necessary to form or to annex the Property into one or more LLMDs, such that the formation or annexation is completed prior to recording of the first final subdivision map for the Project. The purpose of the LLMDs is to pay for the non-City General Funded maintenance costs for the following: (i) neighborhood parks, (ii) the setback landscaping and open space including bike trails, (iii) the street lighting, and (iv) drainage facilities including the creeks, water quality facilities and detention basins. Developer agrees to pay for all costs associated with forming or annexing the Project into the LLMDs. City agrees to process and act upon such applications with due diligence. Following City Council acceptance of the Northern Park Parcel and the Southern Park Parcel as set forth Section 6.4.2 above, the LLMD shall fund ongoing park maintenance for the Northern Park Parcel and the Southern Park Parcel as follows:

(a) Northern Park Parcel. The LLMD shall fund ninety percent (90%) of the ongoing maintenance costs for the Northern Park Parcel, and City shall be responsible for the remaining ten percent (10%) of such maintenance costs.

(b) Southern Park Parcel. The LLMD shall fund fifty percent (50%) of the ongoing maintenance costs for the Southern Park Parcel, and City shall be responsible for the remaining fifty (50%) percent of such maintenance costs.

6.5 Traffic Circulation Improvements. Developer shall construct, in conformance with designs and plans approved by City's Public Works Director, and complete and in accordance with the requirements of the Phasing Program and to the reasonable satisfaction of the Public Works Director, the following traffic circulation improvements:

6.5.1 The small-format roundabout at the intersection of Yellowstone Drive and Sequoia Drive intersection as depicted in designs prepared by GHD and received by email by City on January 20, 2022; and

6.5.2 The traffic calming improvements, consisting of two (2) Radar Feedback Signs and one (1) Ladder Crosswalk with Rectangular Rapid Flashing Beacon, as depicted in the certain exhibit titled "Green Tree Proposed Locations, Yellowstone – Nut Tree Road to Sequoia Drive", prepared by the Traffic Engineering division of City's Public Works department and dated May 2, 2022.

6.6 Uniform Codes Applicable. Any provisions of Section 6.1 to contrary notwithstanding, the Project shall be constructed in accordance with the provisions of the California Building Standards (including, without limitation, the California Green Building Standards), Building, Mechanical, Plumbing, Electrical and Fire Codes as set forth in Title 15 of the Vacaville Municipal Code, the standard construction specifications of City, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the time of

approval of the appropriate building, grading, encroachment or other construction permits for the Project.

7. Subsequent Rules and Approvals. Nothing in this Agreement shall limit City's right and power to impose on the Property and the Project new ordinances, resolutions, rules, regulations, and official policies of City governing the permitted uses and development of land (collectively, "**Subsequent Rules**"), provided that such Subsequent Rules do not conflict with Vested Rights established under this Agreement, are enacted in accordance with all applicable Laws, and apply to all similarly designated private property on a City-wide basis. Except as specifically set forth herein, during the Term, no Subsequent Rules that conflict with the Vested Rights of Developer set forth in this Agreement, shall be applicable to development or use of the Property without Developer's written consent; provided, however, that nothing herein shall prevent City from taking such action as may be necessary and appropriate on an emergency basis to protect the physical public health and/or safety from impacts caused by the Project or to protect residents of City against such specific physical health and/or safety impacts.

7.1 Conflicting Actions. For purposes of Section 7 above, any action or proceeding of City (whether enacted by administrative action, or by a commission, board, or the legislative body) undertaken without the consent of Developer, that has any of the following effects on the Project shall be considered in conflict with the Vested Rights, this Agreement, and the Existing City Land Use Regulations:

7.1.1 limiting, reducing or modifying the uses, height, bulk, density or intensity of permitted uses of all or any part of the Project, or otherwise requiring any reduction in the square footage or total number or location of buildings, residential units or other improvements;

7.1.2 limiting or controlling the rate, timing, phasing, or sequencing of the approval, development, or construction of all or any part of a Project except as otherwise provided herein;

7.1.3 limiting the availability of public utilities, services or facilities or any privileges or rights to public utilities, services, or facilities for the Project, or any portion thereof, that are required to implement the Project Approvals;

7.1.4 limiting the processing or procuring of applications and approvals of Subsequent Approvals that are required to implement the Project Approvals;

7.1.5 imposing new development impact fees, increases to existing development impact fees other than annual adjustments for inflation as specified in the existing fees, or other obligations or conditions for issuance of Subsequent Approvals; or

7.1.6 imposing new requirements relating to the provision of affordable housing, including without limitation imposing requirements to include a minimum number of affordable housing units or to pay fees to support the provision of affordable housing by City.

7.2 Changes in State or Federal Law. This Agreement shall not preclude the application to development of the Property of Subsequent Rules mandated and required by changes in Laws.

7.3 Moratorium, Quotas, Restrictions or Other Growth Limitations. Developer and City intend that, except as otherwise provided in this Agreement, this Agreement shall vest the Existing City Land Use Regulations, as applied to development of the Property, against subsequent City resolutions, ordinances, initiatives, and other actions, of whatever nature, that would limit the rate, timing, housing affordability, or sequencing of development (except as provided for herein), or prevent or conflict with the permitted uses, and the density and intensity of uses of the Property as set forth in the Existing City Land Use Regulations.

7.4 Subsequent Approvals.

7.4.1 Application Review. Applications for Subsequent Approvals shall be processed by City consistent with the applicable requirements of Title 14 of the Vacaville Municipal Code and the Specific Plan. Development of the Project is subject to discretionary and ministerial Subsequent Approvals in accordance with the Project Approvals. In reviewing, considering, and acting on applications for Subsequent Approvals, City shall apply the Existing City Land Use Regulations, subject to any changes to Existing City Land Use Regulations mandated by this Agreement. Notwithstanding the foregoing, in reviewing applications for Subsequent Approvals, City shall exercise its authority consistent with its customary practice, and provided that the scope of City's review of Subsequent Approvals shall be limited to a determination of compliance and consistency with the Project Approvals and any prior Subsequent Approvals, and in the course of such review, City shall not apply criteria or standards that would conflict with the Project Approvals or prior Subsequent Approvals. Consequently, City shall not use its authority to change the policy decisions reflected by the Project Approvals and this Agreement or otherwise to prevent, delay, or otherwise modify development of the Project as contemplated by the Project Approvals.

7.4.2 Processing and Payment Costs. In processing applications for Subsequent Approvals, City may retain a third-party permit review consultant having experience and ability to review the application. Developer shall pay all applicable Processing Fees and reimburse City for City's actual and non-duplicative costs incurred in the application review and inspection processes, including the costs of review and inspection processes by any third-party consultant, subject to Developer's right to dispute such costs by the procedure set forth in Section 13.2.2.

7.5 Subsequent Environmental Review.

7.5.1 Subsequent Environmental Review. All applications for Subsequent Approvals shall be subject to compliance with the applicable provisions of CEQA, as they may be amended from time to time. The Parties acknowledge, however, that the EIR contains a thorough analysis of the Project and specifies feasible mitigation measures necessary to eliminate or reduce to an acceptable level adverse environmental impacts of the Project and acknowledges a statement of overriding considerations in connection with the Project Approvals, pursuant to Section 15093 of the CEQA Guidelines, for those significant impacts which could

not be mitigated to a less than significant level. For these reasons, no further review or mitigation under CEQA shall be required for any Subsequent Approvals unless City determines that CEQA mandates such further review or mitigation in accordance with applicable Law.

7.5.2 Compliance with CEQA Mitigation Measures. Developer shall perform, or cause to be performed, all mitigation measures applicable to each Project component that are identified therein as the responsibility of the Developer (including its successors in interest and contractors). The EIR and MMRP are intended to be used in connection with each of the Project Approvals and any Subsequent Approvals to the extent appropriate and permitted under Applicable Law. Nothing in this Agreement shall limit the ability of City to impose conditions on any new, discretionary approval resulting from Substantive Amendments (as defined in Section 19.3) to the Project from that described by the original Project Approvals or any prior Subsequent Approvals as determined by City to be necessary to mitigate adverse environmental impacts identified through the CEQA review process; provided, however, any such conditions or measures must be in accordance with this Section 7 and applicable law.

8. Other Governmental Permits. Developer shall apply for such other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project and the Property as may be required for the development of, or provision of services to, the Project. City shall reasonably cooperate with Developer in its efforts to obtain such permits, agreements, entitlements, or approvals as may be necessary or desirable for the development and operation of the Project and use of the Property.

9. Future Subdivisions of Property. Developer shall have the right to apply to City, from time to time, for one or more subdivision maps to subdivide the Property into smaller developable parcels, as may be necessary in order to develop, sell, lease or finance any portion of the Property in connection with development of the Project consistent with the Existing City Land Use Regulations and Project Approvals. All future subdivision map applications shall be processed in accordance with the California Subdivision Map Act and Division 14.11 (Subdivisions) of the Vacaville Municipal Code.

10. Project Summary and Public Benefits.

10.1 Project Summary. The Project shall be consistent with and conform to the requirements of the Specific Plan, and includes the following improvements:

10.1.1 Up to 1,149 residential housing units, including 950 higher-density Workforce Housing units and 199 lower density senior housing units.

10.1.2 Up to 299,345 gross square feet of neighborhood-serving commercial uses including one tenant of over 45,000 square feet, and potentially including a grocery store and pharmacy use as provided for in the Specific Plan.

10.1.3 Two public parks totaling at 10.5 acres.

10.1.4 Approximately 42 acres of public open space uses, including trail corridors, detention basins and water quality facilities.

10.1.5 On-site and off-site Public Infrastructure necessary to serve the Project as described in the Specific Plan.

10.2 Public Benefits.

10.2.1 Workforce and Senior Housing. The Project will provide up to nine hundred fifty (950) higher-density Workforce Housing units and one hundred ninety-nine (199) lower-density senior housing units to enhance City's ability to comply with its State-mandated Regional Housing Needs Allocation ("**RHNA**") requirements, and will locate the Workforce Housing component in close proximity to City's growing major biotechnology and high technology manufacturing center, thereby helping to reduce commute distances and vehicle miles traveled ("**VMT**"). Further, the Greentree Project is within walking or bicycle distance of hospital and higher educational facilities. These attributes of the Project maximize housing efficiently and sustainably, thereby helping to attract advanced manufacturing and biotechnology employers targeted in City's General Plan Economic Development Strategy and Policy LU-P4.3.

10.2.2 Public Parks. The Project will include approximately 10.5 acres of new parks. Consistent with City standards and requirements, Developer will construct one new six (6) acre neighborhood park and, in collaboration with City, Developer will construct one four and one-half (4.5) acre special park. Both parks will be connected by a network of trails, bikeways, and "complete streets" to promote ease of use and reduce automobile travel within and around the Project.

10.2.3 Local Serving Retail Component. The Project will include a local serving retail component designed to meet the daily needs of both Greentree residents and the existing surrounding neighborhood, thereby helping to promote walkability and strengthen neighborhood identify and further reduce VMT.

10.2.4 Open Space and Trails. The Project will construct approximately 42 acres of public open space, including detention basins and water quality features, and an extensive off-street trail network with pedestrian and bicycle paths that will promote walkability and effectively knit the Project into the fabric of the existing, surrounding communities.

10.2.5 Sustainable High-Quality Development. The Project will promote state and local efforts to reduce greenhouse has emissions and slow the adverse effects of climate change by implementing green building practices and providing new, all electric homes that will help promote the change from fossil fuels to carbon-free energy usage and enable more sustainable neighborhoods, communities and lifestyles.

10.2.6 Public Infrastructure and Land Dedications. The Project will construct extensive public infrastructure and facilities, including mobility and circulation infrastructure, water and sewer service facilities, and storm water detention, treatment, and drainage facilities, which will serve the Project and the surrounding community. The circulation infrastructure to be constructed by the Project includes a unique, small-format roundabout to replace the existing three-way intersection at Yellowstone and Sequoia Drives, and extensive traffic calming measures to improve safety and enhance walkability within the Project and in the

surrounding neighborhood. The multiple storm water detention basins will be oversized to both provide storm water drainage for the Project and to improve drainage for the adjacent Leisure Town community.

10.2.7 Net Positive Annual Tax Revenues. Completion of the Project is estimated to have a net positive effect on City tax revenues of between approximately seven hundred thousand and eight hundred fifty thousand dollars ($700,000 to $850,000) per year, as reflected in the FINAL Fiscal Impact Analysis of the Greentree Specific Plan prepared by BAE Urban Economics and dated August 1, 2022.

11. Public Infrastructure.

11.1 Developer Responsibilities. Consistent with the Vesting Tentative Map and Specific Plan, and except as specifically provided herein, Developer shall be solely responsible for all costs necessary to design and construct all Public Infrastructure necessary for development and operation of the Project. In connection with each final map, Developer shall provide an irrevocable offer of dedication to City of (i) the water service facilities components of Project Infrastructure and associated easements or other rights for access and maintenance, (ii) the waste water facilities components of Project Infrastructure and associated easements or other rights for access and maintenance, (iii) storm water detention, treatment and drainage facilities components of Project Infrastructure and associated easements or other rights for access and maintenance, and (iv) the right-of-way improvements required to be publicly dedicated in accordance with all applicable conditions of approval adopted by City; provided, however, that City shall not be required to accept any such offers of dedication unless and until the Project Infrastructure at issue has been constructed in accordance with the approved improvement plans, and to the reasonable satisfaction of the responsible City officials. Developer shall be responsible for all on-going operation, maintenance and repair of all publicly-dedicated Project Infrastructure, in accordance with the applicable City standards, until the applicable offer of dedication has been formally accepted by the City Council of City. The on-going operation, maintenance and repair obligations of Developer described in this Section 11.1 shall survive the termination of this Agreement.

11.2 Public Facilities Financing. Developer shall have the right, but not the obligation, to work with City to petition City to establish a community facilities district or other financing mechanism to fund or finance public facilities consistent with the Project Approvals.

11.3 City Action; Reimbursement of City Costs. City shall have the right, but not the obligation, to undertake the maintenance or repair of any privately maintained Public Infrastructure if its Director of Public Works determines in his or her sole discretion, that the applicable Public Infrastructure, or Developer's failure to comply with its obligations under this Agreement (including but not limited to a failure to maintain required access so that emergency and utility vehicles can service the property described in the final map(s) and the properties contiguous or adjacent thereto) presents a substantial threat to the physical health and safety of the public that is immediate or on-going. City's rights under this Section shall survive the expiration or termination of this Agreement. If City incurs costs to repair, maintain, or correct unsafe conditions for privately-owned Public Infrastructure, Developer shall timely reimburse City for all such actual and reasonable costs, subject to Developer's right to dispute such costs by

the procedure set forth in Section 13.2.2. For purposes of this Section 11.2, timely reimbursement means payment not later than forty-five (45) days following receipt of a written invoice from City detailing the costs incurred by City relating to such Public Infrastructure with reasonable and appropriate documentation substantiating such costs.

12. No Development Obligation; Phasing.

12.1 No Development Obligation. There is no requirement under this Agreement that Developer initiate or complete development of the Project, or any portion thereof, except for Project Infrastructure, public benefits and affordable housing, to the extent any such obligation has arisen as provided in this Agreement. There is no requirement that development of the Project be initiated or completed within any period of time or in any particular order except as provided in Section 12.2. The development of the Project is subject to numerous factors that are not within the control of Developer or City, such as the availability of financing, interest rates, access to capital and other market conditions and similar factors. Except as expressly required by this Agreement, Developer may develop the Project in such order and at such rate and times as Developer deems appropriate within the exercise of its sole and subjective business judgment, provided, however, that City shall have the right to withhold building permits for any proposed development to the extent the proposed sequence of development of Project Infrastructure fails to conform to the Development Phasing program set forth in the Specific Plan, Section 9.7 and Appendix B. In *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), the California Supreme Court ruled that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development and controlling the parties' agreement. It is the intent of the Parties to avoid such a result by acknowledging and providing for the timing of development of the Project in the manner set forth herein. The Parties acknowledge that such a right is consistent with the intent, purpose and understanding of the Parties to this Agreement, and that without such a right, Developer's development of the Project would be subject to the uncertainties sought to be avoided by the Development Agreement Statute and this Agreement.

12.2 Phasing. Public Infrastructure shall be constructed as specified in the Development Phasing program set forth in the Specific Plan, Section 9.7 and Appendix B (collectively, the "**Phasing Program**").

13. Permit Processing/Costs.

13.1 Permit Processing. City shall accept and process all complete applications for development of any portion of the Property in accordance with the Existing City Land Use Regulations and Project Approvals

13.2 City Cost Recovery and Developer Reimbursement Obligations.

13.2.1 City Cost Recovery. Developer shall timely pay to City the actual and reasonable costs incurred by City, including its outside consultants, contractors and outside counsel, in drafting, reviewing, revising, processing and implementing this Agreement, including, but not limited to, recording fees, ordinance publication fees, special notice or special meeting costs, staff time in preparing staff reports, and staff time, including legal counsel fees,

for preparation and review of this Agreement and changes requested by Developer, and actual and reasonable costs to implement the Project Approvals, all Subsequent Approvals, and the provisions herein (all of the foregoing, collectively, "**City Costs**"), as determined on a time and materials basis, including any defense costs as set forth in Section 23, but excluding Processing Fees applicable to the processing or review of applications for the Project Approvals, the Subsequent Approvals or for inspection of work associated therewith, recovery of which shall be governed by Section 7.4.2 hereof, under applicable City laws or as otherwise established under the Project Approvals. In connection with any environmental review relative to a Subsequent Approval, Developer shall reimburse City or pay directly all reasonable and actual costs relating to the hiring of consultants and the performing of studies as may be necessary to perform such environmental review. City's reasonably detailed invoices shall be provided on a not more frequent than monthly basis (or such alternative period as agreed by the Parties). Developer shall pay to City all of City's actual and reasonable City Costs incurred during the Term within thirty (30) days following receipt of a written invoice from City. Developer's obligation to pay previously incurred City Costs hereunder shall survive the termination of this Agreement.

13.2.2 Disputed Costs. If Developer disputes any portion of an invoice, then within sixty (60) days following receipt of the invoice, Developer shall provide notice of the reason for the dispute and the amount disputed, without withholding the disputed amount, and the Parties will in good faith attempt to reconcile the dispute as soon as practicable. If not resolved within ninety (90) days following receipt of Developer's notice, Developer may pursue its remedies under this Agreement.

14. Transfers and Assignments.

14.1 Transfers Generally. Subject to the terms of this Section 14, Developer shall have the right to assign or transfer all or any portion of its interest, rights or obligations under this Agreement to a third Person (the "**Transferee**") acquiring an interest or estate in all or a portion of the Property (the "**Transferred Property**"). Developer shall provide thirty (30) days written notice to City prior to the effective date of any sale, transfer or assignment (collectively, "**Transfer**") of its interest in all or any portion of the Property or any of its interests, rights and obligations under this Agreement, and upon giving of such notice and closing the conveyance, transfer, sale or lease, said Transferee shall be deemed a Party.

14.2 Assignment and Release of Project Infrastructure Obligations.

14.2.1 Conditions for Assignment and Release. Developer shall remain responsible for all obligations and requirements under this Agreement after the effective date of a Transfer unless Developer satisfies the following conditions: (i) prior to the effective date of the Transfer, Transferee executes and delivers to City an Assignment and Assumption Agreement substantially in the form set forth in Exhibit B to this Agreement specifying the obligations and requirements to be assumed by the Transferee; (ii) Developer has not received a notice of a Default under this Agreement that remains uncured as of the effective date of the Transfer; and (iii) Developer has received from the City Manager of City the written consent to the Assignment and Assumption Agreement ("**Consent**"). Such Consent shall be granted by the City Manager, and shall not be unreasonably withheld, conditioned or delayed, so long as the proposed Transferee is demonstrated, to the reasonable satisfaction of the City Manager, to have

experience acting as the developer of projects similar in size and complexity to the development opportunity being transferred and the financial resources necessary to develop or complete the Public Infrastructure associated with development of the Transferred Property. If the City Manager does not provide Consent, he or she shall state the reasons for the refusal and the corrections to be made to obtain such Consent.

14.2.2 Effect of Transfer. If the conditions to Developer's release from its obligations under this Agreement set forth in Section 14.2.1 above are satisfied, then Developer shall be released from any further liability or obligation under this Agreement related to the Transferred Property as specified in the Assignment and Assumption Agreement, and the Transferee shall be deemed to be the Developer under this Agreement with all rights and obligations related thereto, with respect to such Transferred Property.

14.2.3 Constructive Notice. Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is, and shall be, constructively deemed to have consented to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property. Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property and undertakes any development activities on the Property is, and shall be, constructively deemed to have consented and agreed to, and is obligated by, all of the terms and conditions of this Agreement, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

14.2.4 Rights of Developer. The provisions in this Section 14 shall not be deemed to prohibit or otherwise restrict Developer from (i) granting easements or licenses to facilitate development of the Property, (ii) encumbering the Property or any portion thereof or of the improvements thereon by any mortgage, deed of trust, or other devise securing financing with respect to the Property or Project, (iii) granting a leasehold interest in portions of the Property, (iv) entering into a joint venture agreement or similar partnership agreement to fulfill its obligations under this Agreement, or (v) transferring all or a portion of the Property pursuant to a foreclosure, conveyance in lieu of foreclosure, or other remedial action in connection with a mortgage.

15. Lender Obligations and Protections.

15.1 Encumbrances on the Property. This Agreement shall not prevent or limit Developer, in any manner, from encumbering the Property or any portion thereof or any improvements thereon with any Mortgage securing financing with respect to the construction, development, use, or operation of the Property.

15.2 Mortgagee Obligations. A Mortgagee not in legal possession of the Property or any portion thereof shall not be subject to the obligations or liabilities of the Developer under this Agreement, including the obligation to construct or complete construction of improvements or pay fees. A Mortgagee in legal possession shall not have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to pay, perform or provide any fee, dedication, improvements or other exaction or imposition. A

Mortgagee in legal possession of the Property or portion thereof shall only be entitled to use of Property or to construct any improvements on the Property in accordance with the Project Approvals and this Agreement if Mortgagee fully complies with the terms of this Agreement.

15.3 Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, after the date of recording this Agreement, including the lien for any deed of trust or Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Agreement shall be binding upon and effective against any Person or entity, including any deed of trust beneficiary or Mortgagee that acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise, and any such Mortgagee or successor to a Mortgagee that takes title to the Property or any portion thereof shall be entitled to the benefits arising under this Agreement.

15.4 Notice of Default to Mortgagee; Right of Mortgagee to Cure. If City receives notice from a Mortgagee requesting a copy of any notice of Default given Developer under this Agreement and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer is in Default and/or Certificate of Non-Compliance. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the Default or non-compliance as provided in this Agreement; provided, however, that if the Default, noncompliance or Certificate of Non-Compliance is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee may seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall thereafter remedy or cure the Default, noncompliance or Certificate of Non-Compliance within ninety (90) days after obtaining possession. If any such Default, noncompliance or Certificate of Non-Compliance cannot, with diligence, be remedied or cured within such ninety (90) day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such Default, noncompliance or Certificate of Non-Compliance (including but not limited to proceeding to gain possession of the Property) if such Mortgagee commences cure during such ninety (90) day period, and thereafter diligently pursues completion of such cure to the extent possible.

16. Estoppel Certificate. Any Party may, at any time, and from time to time, deliver written notice to any other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (a) this Agreement is in full force and effect and a binding obligation of the Parties, (b) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, (c) the requesting Party is not in Default in the performance of its obligations under this Agreement, or if in Default, to describe therein the nature and amount of any such Default; and (d) such other information as may reasonably be requested. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. The City Manager, or its designee, shall have the right to execute any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by Transferees, lenders and Mortgagees.

17. Annual Review.

17.1 Review Date. The annual review date for this Agreement shall occur each year on the anniversary of the Adoption Date ("**Annual Review Date**"). The annual review letter required hereunder shall be submitted by Developer and any Transferee pursuant to Section 14.1.

17.2 Required Information from Developer. Not more than sixty (60) days and not less than forty-five (45) days prior to the Annual Review Date, the Developer and each Transferee shall provide a letter to the City Manager demonstrating its compliance with this Agreement, including, but not limited to, compliance with the requirements of the Phasing Program and the Public Benefits to be provided under this Agreement.

17.3 Local Agency Report. Within sixty (60) days after Developer and each Transferee submits its letter, the City Manager shall review the information submitted and all other available evidence on Developer's and each Transferee's compliance with this Agreement. All such available evidence including public comments and final staff reports shall, upon receipt by City, be made available as soon as practicable to Developer and each Transferee. The City Manager shall notify the Developer and each Transferee in writing whether it has complied with the terms of this Agreement. If City Manager finds the Developer or a Transferee in compliance, the City Manager shall issue a Certificate of Compliance. If the City Manager finds the Developer or a Transferee is not in compliance, the City Manager shall issue a Certificate of Non-Compliance after complying with the procedures set forth in Section 17.4. City's failure to timely complete the annual review is not deemed to be a waiver of the right to do so at a later date.

17.4 Non-Compliance with Agreement; Hearing. Prior to issuing a Certificate of Non-Compliance, if the City Manager, on the basis of substantial evidence, finds that the Developer or a Transferee has not complied with the terms of this Agreement, it shall specify in writing to such Developer or Transferee, with reasonable specificity, the respects in which Developer or Transferee has failed to comply. The City Manager shall also specify a reasonable time for Developer and Transferee to respond, provide additional evidence of compliance or to meet the terms of compliance, which time shall be not less than thirty (30) days, and shall be reasonably related to the time necessary for Developer or Transferee to adequately bring its performance into compliance with the terms of this Agreement, subject to any Permitted Delay; provided, however, that if the non-compliance solely involves a monetary Default, then the City Manager may require payment in thirty (30) days. If after the reasonable time for Developer or Transferee to meet the terms of compliance has passed and the City Manager, on the basis of substantial evidence, continues to find that the Developer or Transferee has not complied, then the City Manager shall issue a Certificate of Non-Compliance. Any Certificate of Non-Compliance shall be made in writing with reasonable specificity as to the reasons for the determination, and a copy shall be provided to Developer and Transferee in the manner prescribed in Section 17.3. If the City Manager issues a Certificate of Non-Compliance, then the City Council shall conduct a hearing within thirty (30) days of the City Manager's issuance of the Certificate of Non-Compliance, or at the next available, regularly scheduled hearing thereafter. The Developer and Transferee shall be given not less than ten (10) days written notice of the hearing and copies of the evidence upon which the City Manager made

her/his determination. Developer and Transferee will be given the opportunity to present evidence at the hearing. If the City Council determines that the Developer or a Transferee is not in compliance with this Agreement, it may proceed to enforce City's rights and remedies, including, modifying or terminating this Agreement at a subsequent public hearing.

17.5 Appeal of Determination. The decision of the City Council as to Developer's or a Transferee's compliance shall be final, and any Court action or proceeding to attack, review, set aside, void or annul any decision of the determination by the City Council shall be commenced within thirty (30) days of the decision by the City Council.

17.6 Costs. Costs reasonably incurred by City in connection with the annual review and related hearings shall be paid by Developer and Transferee(s) in accordance with City's schedule of fees and billing rates for staff time in effect at the time of review.

17.7 Effect on Transferees. If Developer has completed a transfer so that its interest in the Property has been divided between Transferees, and an annual review hereunder has been performed with respect to Developer and one or more Transferees, then the City Manager, and if appealed the City Council, shall make its determinations and take its actions separately with respect to each Party. If the City Manager or City Council terminates, modifies or takes such other actions as may be provided by this Agreement in connection with a determination that such Party has not complied with the terms and conditions of this Agreement, such action shall be effective only as to the Party as to whom the determination is made and the portions of the Property in which such Party has an interest.

17.8 No Limit on Remedies for Default. The rights and powers of the City Council under this Section 17 are in addition to, and shall not limit, the rights of City to terminate or take other action under this Agreement on account of the commission by Developer or a Transferee of an event of Default.

18. Indemnification. To the fullest extent permitted by law, Developer agrees to indemnify, defend and hold harmless City, and its elected and appointed councils, boards, commissions, officers, agents, employees, volunteers and representatives from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death or physical property damage (including inverse condemnation) and from any and all claims, demands and actions in law or equity (including attorneys' fees and litigation expenses) (collectively, "**Claims**") by any Person or entity, directly or indirectly arising or alleged to have arisen out of or in any way related to (1) any third party claim arising from the approval of or Developer's default or failure to comply with the Project Approvals (including this Agreement) or any Subsequent Approvals; (2) failure of the Public Infrastructure to comply with Laws; (3) any development or use of the Property under this Agreement, the Project Approvals or any Subsequent Project Approvals; and (4) any actions or inactions by the Developer or its contractors, subcontractors, agents, or employees or by any one or more persons directly or indirectly employed by or acting as an agent for Developer or any of Developer's contractors or subcontractors in connection with the construction or improvement of the Property and the Project, including Public Infrastructure.

Notwithstanding the foregoing, Developer shall have no indemnification obligation with respect to (1) the gross negligence or willful misconduct of City, or its contractors, subcontractors, agents or employees; (2) the maintenance, use or condition of any improvement or portion of the Property after the time it has been dedicated to and accepted by City, or another public entity or agency or utility service provider (except as provided in an improvement agreement or warranty bond); or (3) any public use easements for water and sewer services after the time such public use easements have been accepted by City (except as provided in an improvement agreement or warranty bond).

The indemnity under this Section shall survive termination of this Agreement. Developer shall timely pay all costs incurred by City in defending any such Claims or challenges, and Developer shall be solely responsible to pay, in a timely manner and on City's behalf, any and all awards of money damages, attorney fees and court costs against City.

19. Amendment, Termination and Suspension.

19.1 Modification Because of Conflict with State or Federal Laws. In the event that Laws or regulations enacted after the Adoption Date prevent or preclude compliance with one or more provisions of this Agreement or require substantial and material changes in Project Approvals, the Parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such change in Laws. Any such amendment of the Agreement shall be approved by the City Council, in accordance with existing local laws and this Agreement.

19.2 Amendment by Mutual Consent. This Agreement may be amended in writing from time to time by mutual consent of the Parties hereto and in accordance with the procedures of State law, the Vacaville Municipal Code, and this Agreement.

19.3 Substantive Amendments. Any substantive amendment to the Agreement shall require approval of an amendment to this Agreement in accordance with state law and the City of Vacaville Municipal Code. The term "**Substantive Amendment**" is defined to include the following: (a) any change to the Term of this Agreement; (b) any changes to the permitted uses of the Project, the density and/or intensity of use of the Project, or the aggregate total number of housing units or square footage of commercial uses in the Project; (c) any changes to provisions in this Agreement or the Project Approvals related to reservation or dedication of land or easements; (d) any changes to provisions in this Agreement or the Project Approvals related to monetary contributions or payments by Developer; (e) a material amendment to the Phasing Program; or (f) any other proposed amendment reasonably determined by the City Manager to be a Substantive Amendment. If a Substantive Amendment is required, City, in its reasonable discretion, may withhold or suspend any Subsequent Approval until the approval of the Substantive Amendment is final.

19.4 Minor Amendment. A "**Minor Amendment**" is any amendment of this Agreement other than a Substantive Amendment. Subject to compliance with the requirements of Section 19.2, a Minor Amendment may be approved by a written agreement approved by the City Manager, without a public hearing.

19.5 Amendment Exemptions. No Subsequent Approval and no amendment of a Project Approval or a Subsequent Approval shall require amendment to this Agreement. Upon approval of an amendment to a Project Approval, the meaning of the term "**Project Approval**" as used in this Agreement shall be amended to reflect the approved amendment to the Project Approval (and any conditions imposed by City thereon), and, along with any Subsequent Approval or amendment to a Subsequent Approval, shall be deemed to be incorporated automatically into the Project and vested under this Agreement (subject to any conditions set forth in the Subsequent Approval or amendment). Notwithstanding the foregoing, in the event of any direct conflict between the terms of this Agreement and a Subsequent Approval, or between this Agreement and any amendment to a Project Approval or Subsequent Approval, the terms of this Agreement shall prevail.

19.6 Termination by Mutual Consent. This Agreement may be terminated in whole or in part by the mutual consent of Developer and City or their respective successors in interest, by means of a writing executed by the terminating parties and in accordance with the provisions of the State law and the Vacaville Municipal Code. Any fees or payments of any kind paid pursuant to this Agreement prior to the date of mutual termination shall be retained by City, as the recipient thereof.

19.7 Recording of Amendments or Termination. City shall cause any amendments to this Agreement, or any writing terminating all or any portion of this Agreement, to be recorded, at the sole expense of Developer and Transferee(s), as applicable, in the Official Records of Solano County, not later than forty (40) days after the Effective Date of such amendment or termination.

19.8 Suspension by City. City may temporarily suspend a portion of this Agreement, if it finds, in its reasonable and sole discretion, that such suspension is necessary to protect persons or property from a temporary emergency condition which would create an immediate and serious risk to the physical health and safety of the general public or residents or employees who are occupying or will occupy the Property, such as might be the case in the event of a major earthquake or natural disaster of similar magnitude. Any such suspension shall be documented in the form of a written notice to Developer and shall be lifted as soon as the emergency conditions precipitating its imposition have been resolved as reasonably determined by City.

20. Default. Subject to Section 21, a Party's violation of any material term of this Agreement or failure by any Party to perform any material obligation of this Agreement required to be performed by such Party shall constitute a default ("**Default**"). A Default by Developer includes, but is not limited to any failure by Developer to: (a) pay when due any fee, tax, assessment or other charge applicable to the Project or Property and required pursuant to this Agreement; (b) transfer, reserve or dedicate land for Public Infrastructure; or (c) implement or comply with terms and conditions set out in the Project Approvals, including, but not limited to, Mitigation Measures. While a Developer is in Default under this Agreement, City may, in its sole discretion, withhold any Subsequent Approval with respect to any Property that is owned by such Developer, until such Developer cures the Default in accordance with Section 22.3.

21. Remedies for Default. Subject to the notice and opportunity to cure provisions in Section 22, the sole and exclusive judicial remedy for any Party in the event of a Default by the other Party (except with respect to a monetary payment Default) shall be an action in mandamus, specific performance, or other injunctive or declaratory relief. In addition, upon the occurrence of a Default and subject to the procedures described in Section 22, the non-defaulting Party shall have the right to terminate this Agreement, but any such termination shall not affect such Party's right to seek such remedies as are provided for in this Agreement on account of the Default for which this Agreement has been terminated, and shall be subject to the procedures specified in this Agreement. Developer expressly agrees that neither City, nor any of its elected and appointed officials, boards, commissions, officers, agents, employees, volunteers and representatives shall be liable for any monetary damage for a Default by City or any claims against City arising out of this Agreement. Except as provided above, Developer, for itself and all of its officers, agents, employees, volunteers and representatives waives any and all rights to monetary damages against City, and, except with respect to payment or cost disputes arising under specific terms of this Agreement, City expressly agrees that Developer shall not be liable for any monetary damage for a Default by Developer or any claims by City against Developer arising out of this Agreement and City hereby expressly waives any such monetary damages against Developer. Any legal action by a Party alleging a Default shall be filed within one hundred eighty (180) days from the end of the default procedure described in Section 22.

22. Procedure Regarding Defaults. For purposes of this Section 22, a Party claiming another Party is in Default shall be referred to as the "**Complaining Party**," and the Party alleged to be in Default shall be referred to as the "**Party in Default**." A Complaining Party shall not exercise any of its remedies as the result of Default unless such Complaining Party first gives notice to the Party in Default as provided in this Section, and the Party in Default fails to cure such Default within the applicable cure period.

22.1 Notice; Meet and Confer. The Complaining Party shall give written notice of Default to the Party in Default, specifying the Default alleged by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any Default nor shall it change the time of Default. Before sending a Notice of Default, the Complaining Party shall first attempt to meet and confer with the Party in Default to discuss the alleged failure and shall permit such Party a reasonable period, but not less than ten (10) days, to respond to or cure such alleged failure; provided, however, the meet and confer process shall not be required (i) for any failure to pay amounts due and owing under this Agreement or (ii) if a delay in sending a notice pursuant to this Section would materially and adversely affect a Party or its rights under this Agreement. The Complaining Party shall request and if, despite the good faith efforts of the Complaining Party, such meeting has not occurred within seven (7) business days of such request, the Complaining Party shall be deemed to have satisfied the requirements of this Section and may proceed in accordance with the issuance of a notice of default.

22.2 Notice. The Complaining Party shall give written notice of Default to the Party in Default, specifying the Default alleged by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any Default nor shall it change the time of Default.

22.3 Cure. The Party in Default shall have thirty (30) days from receipt of the Notice of Default to effect a cure prior to exercise of remedies by the Complaining Party. If the

nature of the alleged Default is such that it cannot practicably be cured within such thirty (30) day period, then it shall not be considered a Default during that thirty (30) day period so long as: (a) the cure was commenced at the earliest practicable date following receipt of the notice; (b) the cure was diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than thirty (30) days after the Party in Default's receipt of the notice), the Party in Default provided written notice to the Complaining Party that the cure cannot practicably be completed within such thirty (30) day period; and (d) the cure was completed at the earliest practicable date. The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be agreed to by the Complaining Party to be reasonably necessary to correct the matter).

22.4 Failure to Assert. Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies.

22.5 Procedure for Terminating Agreement upon Default. If City desires to terminate this Agreement in the event of a Default that has not been cured pursuant to Section 22.3, the matter shall be set for a public hearing before the City Council. The burden of proof of whether a Party is in Default shall be on the Complaining Party. If City determines that Developer is in Default and has not cured to City's reasonable satisfaction, or that the Default presents a serious risk to the physical public health, safety or welfare, the City Council may terminate this Agreement.

23. Costs Incurred by City in Legal Actions by Third Parties. If any Person or entity not a Party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement, the Project Approvals or Subsequent Approvals, the Parties shall cooperate in defending such action. Developer shall bear its own costs of defense as a real party in interest in any such action, and Developer shall timely reimburse City for all costs, including without limitation court costs and attorneys' fees, incurred by City in defense of any such action or other proceeding, and all costs and attorneys' fees awarded to any party to such action that are paid or payable by and incurred by City. For purposes of this provision, "**timely**" reimbursement means full payment by Developer of costs incurred by City not later than forty-five (45) days following Developer's receipt of an invoice from City describing costs previously incurred by City in connection with such action. In its sole discretion, City may tender its defense of such action to Developer or defend the action itself. Upon a tender of defense to Developer by City, Developer shall defend through counsel approved by City, which approval shall not be unreasonably withheld, and Developer shall bear all attorneys' fees and costs from the date of tender.

24. Third Party Court Action/Limitation on Action. If any court action or proceeding is brought by any third party to challenge any Project Approval or this Agreement, then (a) Developer shall have the right to terminate this Agreement upon thirty (30) days' notice,

in writing to City, given at any time during the pendency of such action or proceeding, or within ninety (90) days after the final determination therein (including any appeals), irrespective of the nature of such final determination, and (b) any such action or proceeding shall constitute a Permitted Delay(s). If this Agreement is terminated pursuant to the authority in this section, the following Project Approvals shall be terminated and of no further force and effect: the Vesting Tentative Map and the Enacting Ordinance.

25. Eminent Domain. If Developer is required by City to acquire from a third party an interest in property necessary for construction of Public Infrastructure and is unable to do so despite commercially reasonable, good-faith efforts, City may attempt to negotiate a purchase with the property owner. If necessary, and in compliance with State law, City may use its power of eminent domain, in which case Developer shall pay for all costs, expenses and fees, including attorneys' fees and staff time, incurred by City in an eminent domain action.

26. Agreement Runs with the Land. Except as otherwise provided for in this Agreement, all of the provisions, agreements, rights, terms, powers, standards, covenants, and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assignees, representatives, lessees, and all other Persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the California Civil Code, and the burdens and benefits shall be binding upon and inure to the benefit of each of the Parties and their respective heirs, successors (by merger, consolidation, or otherwise), assigns, devisees, administrators, representatives, and lessees.

27. Bankruptcy. The obligations of this Agreement shall not be dischargeable in bankruptcy.

28. Insurance.

28.1 Liability and Property Damage Insurance. At all times that Developer is constructing any improvements that will become Public Infrastructure, Developer shall maintain an effective policy of comprehensive general liability insurance with a per-occurrence combined single limit of not less than five million dollars ($5,000,000), ten million dollars ($10,000,000) aggregate, and a deductible of not more than fifty thousand ($50,000) dollars per Claim. The policy so maintained by Developer shall name the City of Vacaville, its officers, officials, employees, agents and volunteers as Additional Insured for all liability arising out of, or in any way caused, in whole or in part, actively or passively, by the named insured in the performance of this Agreement. All coverage available to the named insured shall also be available and applicable to City as Additional Insured. The Additional Insured coverage under Developer's policy shall be Primary and Noncontributory and will not seek contribution from City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01 04 13. Developer shall maintain insurance as required by this Agreement for a minimum of five years following the completion of the Project. In the event Developer fails to obtain or maintain completed operations coverage as required by this Agreement, City at its sole discretion may purchase the coverage required and the cost will be paid by Developer.

28.2 Workers' Compensation Insurance. At all times that Developer is constructing any improvements that will become Public Infrastructure, Developer shall maintain workers' compensation insurance as required by California law for all persons employed by Developer for work relating to Public Infrastructure. Developer shall require each contractor and subcontractor similarly to provide workers' compensation insurance for its respective employees. Developer agrees to indemnify City for any damage resulting from Developer's failure to maintain any such insurance. Developer's insurer shall provide a Waiver of Subrogation endorsement in favor of City for Worker's Compensation coverage during the life of this Agreement.

28.3 Evidence of Insurance. Prior to commencing construction of any improvements which will become Public Infrastructure, Developer shall furnish City with satisfactory evidence of the insurance required in Sections 29.1 and 29.2 and evidence that the carrier is required to give City at least fifteen (15) days prior written notice of the cancellation or reduction in coverage of a policy. The insurance shall extend to City and its agencies and their respective elective and appointive boards, commissions, officers, agents, employees, volunteers and representatives and to Developer performing work on the Project.

29. Excuse for Nonperformance. Notwithstanding anything to the contrary in this Agreement, Developer and City shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by act of God, fire, earthquake, flood, explosion, action of the elements, war, civil unrest, quarantine restrictions, invasion, insurrection, riot, mob violence, sabotage, freight embargoes, condemnation, changes in Laws, litigation, orders of governmental, civil, military or naval authority, the failure of any governmental agency, public utility or communication or transportation provider to issue a permit, authorization, consent, or approval required for development, construction, use, or operation of the Project or portion thereof within typical, standard or customary timeframes, or any other cause, whether similar or dissimilar to the foregoing, not within the control of the Party claiming the extension of time to perform (a "**Permitted Delay**"). The Party claiming such extension shall send written notice of the claimed extension to the other Party within thirty (30) days from the commencement of the cause entitling the Party to the extension.

30. No Third-Party Beneficiary. This Agreement is made and entered into solely for the protection and benefit of the Developer and City, and their respective successors and assigns, and no other Person shall have any right of action based upon any provision in this Agreement.

31. Notice. Any notice to any Party required by this Agreement, the enabling legislation, or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and given by delivering the same to such party in person or by sending the same by registered or certified mail, or express mail, return receipt requested, with postage prepaid, to the party's mailing address. The respective mailing addresses of the Parties are, until changed as hereinafter provided, the following:

Developer:

GREEN TREE SOUTH, LLC, a California limited liability company and **GREEN TREE PROPERTIES, LLC,** a California limited liability company
477 Devlin Road, Suite 109
Napa, CA 94558
Attention: Paul Aherne, General Counsel

with a copy to:

Richard Loewke
Loewke Planning Associates, Inc.
1907 Vintage Circle
Brentwood, CA 94513

City:

Office of the City Manager
City of Vacaville
650 Merchant Street
Vacaville, CA 95688
Attention: City Manager

with a copy to:

Office of the City Attorney
City of Vacaville
650 Merchant Street
Vacaville, CA 95688
Attention: City Attorney

Any Party may change its mailing address at any time by giving written notice of such change to the other Party in the manner provided herein at least ten (10) days prior to the date such change is affected. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

32. Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any Person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to Persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the

effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

33. Waiver; Remedies Cumulative. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of a Default shall be effective or binding upon such Party unless made in writing by such Party and no such waiver shall be implied from any omission by a Party to take any action with respect to such Default. No express written waiver of any Default shall affect any other Default, or cover any other period of time, other than the Default and/or period of time specified in such express waiver. Except as provided in Section 21, all of the remedies permitted or available to a Party under this Agreement, or at law or in equity, shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

34. Applicable Law and Venue. This Agreement, and the rights and obligations of the Parties, shall be governed by and interpreted in accordance with the laws of the State of California. The Parties agree that any lawsuit or legal proceeding arising hereunder shall be heard in the Federal District Court in the Northern District (Sacramento branch) if in federal court or the Solano County Superior Court if in California Superior Court.

35. Further Assurances. Each Party covenants, on behalf of itself and its successors, heirs and assigns, to use good faith efforts to take all actions and do all things as may reasonably be necessary or appropriate to carry out this Agreement, the Project Approvals and Subsequent Approvals, and to execute, with acknowledgment or affidavit if required, any and all documents and writings that may be necessary or appropriate to achieve the purposes and objectives of this Agreement, the Project Approvals and Subsequent Approvals.

36. Entire Agreement. This written Agreement, which consists of thirty-three (33) pages and three (3) exhibits (Exhibits A-1, A-2 and B), contains all of the representations and the entire agreement between the Parties with respect to its subject matter. Except as otherwise specified herein, any prior correspondence, memoranda, agreements, warranties or representations by, among and between the Parties are superseded in total by this Agreement. This Agreement shall be executed in three duplicate originals, each of which is deemed to be an original.

37. Construction of Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning in order to achieve the objectives and purposes of the Parties, and not strictly for or against any Party. The captions and headings are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, or vice versa. The exhibits to this Agreement are intended to be and shall be incorporated into this Agreement as if stated fully herein. The use in this Agreement of the words "including", "such as" or words of similar import when following any general term, statement or matter shall

not be construed to limit such statement, term or matter to the specific items or matters, whether or not language of non-limitation, such as "without limitation" or ''but not limited to", or words of similar import, are used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter. This Agreement has been reviewed and revised by legal counsel for Developer and City, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

38. Signature Pages. For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages in counterparts which, when attached to this Agreement, shall constitute this as one complete Agreement.

39. Time. Time is of the essence of this Agreement and of each and every term and condition hereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANLK]

IN WITNESS WHEREOF, this Agreement is executed on the date(s) indicated below:

"DEVELOPER"

GREEN TREE SOUTH, LLC, a California limited liability company, and
GREEN TREE PROPERTIES, LLC, a California limited liability company

By: _____
Name: J.M. Syar, Authorized Manager

"CITY"

CITY OF VACAVILLE,
a municipal corporation

_____ Date: _____
GeorgeAnne Meggers-Smith, Assistant City Manager

ATTEST:

_____ Date: _____
Michelle Thornbrugh, City Clerk

APPROVED AS TO FORM:

_____ Date: _____
Andria Borba, Assistant City Attorney

IN WITNESS WHEREOF, this Agreement is executed on the date(s) indicated below:

"**DEVELOPER**"

GREEN TREE SOUTH, LLC, a California limited liability company, and
GREEN TREE PROPERTIES, LLC, a California limited liability company

By: _____
Name: J.M. Syar, Authorized Manager

"**CITY**"

CITY OF VACAVILLE,
a municipal corporation

_____ Date: 12/21/22
GeorgeAnne Meggers-Smith, Assistant City Manager

ATTEST:

_____ Date: 12/21/22
Michelle Thornbrugh, City Clerk

APPROVED AS TO FORM:

_____ Date: 12/21/22
Andria Borba, Assistant City Attorney

Exhibit A-1 Legal Description of the Greentree Project Property

The land described herein is situated in the City of Vacaville, County of Solano, State of California, described as follows:

PARCEL ONE:

LOT B1, AS SHOWN ON THAT CERTAIN CERTIFICATE OF WAIVER OF PARCEL MAP NO. 93-04 EXECUTED BY THE CITY OF VACAVILLE AND SYAR INDUSTRIES, INC., RECORDED MARCH 28, 1994, SERIES NO. 94-31176, SOLANO COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF PARCEL "A" AS SHOWN IN BOOK 28 OF PARCEL MAPS, AT PAGE 79 SOLANO COUNTY RECORDS; THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL "A" NORTH 89° 06' 00" WEST, 1029.85 FEET TO THE NORTHERLY BOUNDARY OF "TOWN CENTER APARTMENTS UNIT NO. 1" FILED IN BOOK 21 OF MAP, AT PAGE 47, SOLANO COUNTY RECORDS; THENCE ALONG SAID NORTHERLY BOUNDARY NORTH 6° 45' 04" EAST, 4.31 FEET; THENCE NORTH 74° 45' 00" WEST, 135.00 FEET ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL "A" AND THEN SAID PARCEL FOUR; THENCE CONTINUING ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL FOUR NORTH 89° 35' 00" WEST, 161.88 FEET THENCE NORTH 44° 28' 00" WEST, 144.92 FEET; THENCE SOUTH 45° 32' 00" WEST, 194.21 FEET; THENCE NORTH 89° 06' 00" WEST, 417.17 FEET THENCE NORTH 00° 18' 32" WEST, 741.08 FEET TO THE SOUTHEASTERLY LINE OF ORANGE DRIVE AS SHOWN ON SAID PARCEL MAP FILED IN BOOK 33 OF PARCEL MAPS, AT PAGE 60, THENCE ALONG SAID SOUTHEASTERLY LINE OF ORANGE DRIVE NORTH 45° 52' 45" EAST, 848.25 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF GILLEY WAY, ALSO KNOWN AS SYAR WAY, SHOWN ON SAID PARCEL MAP FILED IN BOOK 33 OF PARCEL MAPS, AT PAGE 60, THENCE ALONG A TANGENT CURVE TO THE RIGHT, FOLLOWING SAID SOUTHERLY RIGHT OF WAY OF GILLEY WAY, SAID CURVE HAVING A RADIUS OF 20.00 FEET, AN ARC LENGTH OF 31.42 FEET, AND A CENTRAL ANGLE OF 90° 00' 00"; THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY SOUTH 44° 07' 15" EAST, 33.03 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 330.00 FEET, AN ARC LENGTH OF 263.15 FEET AND A CENTRAL ANGLE OF 45° 41' 20"; THENCE SOUTH 89° 48' 35" EAST, 1070.29 FEET THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AN ARC LENGTH OF 31.42 FEET AND A CENTRAL ANGLE OF 90° 00' 00" TO THE WESTERLY RIGHT OF WAY LEISURE TOWN ROAD AS SHOWN ON SAID PARCEL MAP FILED IN BOOK 33 OF PARCEL MAPS, AT PAGE 60 AND THE EASTERLY BOUNDARY OF PARCEL FOUR OF SAID PARCEL MAP, THENCE SOUTH 00° 11' 25", WEST 1214.79 FEET, MORE OR LESS, ALONG SAID WESTERLY RIGHT OF WAY TO LEISURE TOWN ROAD TO THE POINT OF BEGINNING.

ALL EASEMENT RIGHTS SHOWN ON SAID PARCEL MAP RECORDED IN BOOK 33, AT PAGE 60, AFFECTING THAT PORTION OF LAND DESCRIBED ABOVE WHICH IS WITHIN SAID PARCEL FOUR AS SHOWN ON SAID PARCEL MAP, SHALL BE FOREVER PRESERVED AND MADE A PART OF THE REAL PROPERTY DESCRIBED HEREIN.

A.P.No.: 133-120-340

PARCEL TWO:

PARCELS 1, 2, 3 AND 4 AS SHOWN ON THE MAP ENTITLED: "PARCEL MAP OF THE LANDS OF THE THREE-S COMPANY", FILED FOR RECORD IN BOOK 28 OF PARCEL MAPS, AT PAGE 74 IN THE OFFICE OF THE SOLANO COUNTY RECORDER ON SEPTEMBER 13, 1985
A.P.No.: 134-020-180, 240, 290, 300, 450 AND 460; 134-033-010 AND 400; 134-180-030 AND 040; 134-181-130 AND 140; 134-183-140 AND 150

EXCEPTING FROM PARCEL TWO

ALL THAT PORTION LYING WITHIN THE BOUNDARY LINES OF THE "MAP OF GOLF COURSE ESTATES UNIT NO. 2", FILED APRIL 20, 1989, BOOK 55, MAPS, PAGE 35, SOLANO COUNTY RECORDS.

PARCEL THREE:

EASEMENTS APPURTENANT TO PARCEL TWO FOR FLIGHT OF GOLF BALLS AND RIGHTS INCIDENTAL THERETO AS RESERVED IN DEEDS CONVEYING LOTS IN GOLF COURSE ESTATES UNIT 1 RECORDED APRIL 26, 1983 IN BOOK 42 OF MAPS, AT PAGE 61, ONE OF WHICH RECORDED AUGUST 6, 1986, BOOK 1986, PAGE 85549, SERIES 41814.

PARCEL FOUR:

PARCEL A, AS SAID PARCEL IS SHOWN ON THAT CERTAIN MAP ENTITLED: " GOLF COURSE ESTATES, UNIT NO. 1" CITY OF VACAVILLE, SOLANO COUNTY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SOLANO COUNTY, ON APRIL 26, 1983 IN BOOK 42 OF MAPS, AT PAGE 61.

A.P.No.: 134-020-310, 320, 330, 340, 350, 360 AND 380

EXCEPTING FROM PARCEL FOUR:

ALL THAT PORTION LYING WITHIN THE BOUNDARY LINES OF THE "MAP OF GOLF COURSE ESTATES UNIT NO. 2", FILED APRIL 20, 1989, BOOK 55, MAPS, PAGE 35, SOLANO COUNTY RECORDS.

PARCEL FIVE:

THAT PORTION OF THE REMAINDER PARCEL AS SHOWN ON THE MAP OF GOLF COURSE ESTATES UNIT NO. 1, FILED APRIL 26, 1983, BOOK 42 OF MAPS, PAGE 61, SOLANO COUNTY RECORDS, BOUNDED BY THE NORTHEASTERN LINE OF LOT 16, THE SOUTHWESTERN LINE OF LOT 15, THE NORTHWESTERN LINE OF WHITE SANDS DRIVE AND THE EXTENSION NORTHEASTERLY OF THE NORTHWESTERN LINE OF LOT 16, ALL AS SHOWN ON SAID MAP.

A.P.No.: 134-332-100

PARCEL SIX:

THAT PORTION OF THE REMAINDER PARCEL AS SHOWN ON THE MAP OF GOLF COURSE ESTATES UNIT NO. 1, FILED APRIL 26, 1983, BOOK 42 OF MAPS, PAGE 61, SOLANO COUNTY RECORDS, BOUNDED BY THE NORTHEASTERN LINE OF LOT 22, THE SOUTHWESTERN LINE OF LOT 23, THE SOUTHEASTERN LINE OF WHITE SANDS DRIVE AND THE EXTENSION SOUTHWESTERLY OF THE SOUTHEASTERN LINE OF LOT 23, ALL AS SHOWN ON SAID MAP.

A.P.No.: 134-332-180

PARCEL SEVEN:

THE 10 FOOT WIDE STRIP OF LAND ADJACENT TO LOT 22 AS SHOWN ON THE MAP OF TOWN CENTER APARTMENTS UNIT NO. 1-A, FILED MARCH 16, 1977. BOOK 31 OF MAPS, PAGE 63, SOLANO COUNTY RECORDS, BOUNDED BY THE NORTHEASTERN LINE OF SAID LOT 22, THE EXTENSION NORTHEASTERLY OF THE NORTHWESTERN LINE OF SAID LOT 22, THE NORTHEASTERN EXTERIOR BOUNDARY OF SAID SUBDIVISION AND THE NORTHWESTERN LINE OF GRAND CANYON DRIVE AS SHOWN ON SAID MAP.

A.P.No.: 134-310-010

PARCEL EIGHT:

PARCEL C OF RESUBDIVISION LEISURE TOWN CENTER WHICH IS FILED IN THE OFFICE OF THE SOLANO COUNTY RECORDS IN BOOK 21 OF MAPS AT PAGE 47.

EXCEPTING THEREFROM:

THAT PORTION THEREOF CONVEYED TO LEISURE TOWN HOME ASSOCIATION, A NON-PROFIT ASSOCIATION INCORPORATED UNDER THE LAWS OF THE SATE OF CALIFORNIA, BY DEED RECORDED FEBRUARY 27, 1970 IN BOOK 1609 AT PAGE 319, SOLANO COUNTY OFFICIAL RECORDS, AS DOCUMENT NUMBER 3667.

A.P.No.: 134-033-370 AND 380

APN: 133-120-340 (AFFECTS: PARCEL ONE); 0134-020-180, 240, 290, 300, 450 AND 460; 0134-033-010 AND 400; 0134-180-030 AND 040; 0134-181-130 AND 140; 0134-183-140 AND 150 (AFFECTS PARCEL TWO); 0134-020-310, 320, 330, 340, 350, 360 AND 380 (AFFECTS PARCEL FOUR); 0134-332-100 (AFFECTS PARCEL FIVE); 0134-332-180 (AFFECTS PARCEL SIX); 0134-310-010 (AFFECTS PARCEL SEVEN); 0134-033-370 AND 380 (AFFECT PARCEL EIGHT).

PARCEL NINE:

ALL THAT REAL PROPERTY SITUATE IN THE CITY OF VACAVILLE, COUNTY OF SOLANO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS: BEING A PORTION OF PARCEL "A", AS SHOWN ON THE PARCEL MAP FILED IN BOOK 43, PARCEL MAPS, PAGE 6, SOLANO COUNTY RECORDS, BEING PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHEASTERLY CORNER OF SAID PARCEL "A"; THENCE WESTERLY ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL "A", SOUTH 48° 32' 00" WEST 827.97 FEET; THENCE LEAVING SAID SOUTHERLY LINE OF PARCEL "A", NORTH 44° 28' 00" WEST 17.51 FEET TO A POINT ON THE SOUTHERLY LINE OF THE FUTURE AUTO CENTER DRIVE, SAID POINT BEING ON A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 60.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS SOUTH 44° 28' 00" EAST; THENCE NORTHERLY 85.34 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 81° 29' 35" TO THE BEGINNING OF A REVERSE CURVE HAVING A RADIUS OF 50.00 FEET; THENCE NORTHWESTERLY 34.38. FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39° 24' 02"; THENCE NORTH 3° 26' 27" EAST 248.41 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 530.00 FEET; THENCE NORTHWESTERLY 27.13 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 2° 55' 57" TO A POINT ON THE SOUTHERLY LINE OF THE LANDS OF THE CITY OF VACAVILLE AS DESCRIBED IN THE DOCUMENT FILED IN BOOK 1994, SERIES 37782, SOLANO COUNTY RECORDS; THENCE EASTERLY ALONG SAID SOUTHERLY LINE OF THE CITY OF VACAVILLE, NORTH 81° 20' 41" EAST, 86.90 FEET; THENCE NORTH 45° 52' 45" EAST, 250.00 FEET TO THE MOST NORTHWESTERLY CORNER OF SAID PARCEL "A"; THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID PARCEL "A", SOUTH 89° 06' 00" EAST 324.96 FEET TO THE POINT OF BEGINNING.

A.P No. 0134-480-110

PARCEL TEN:

ALL THE REAL PROPERTY LOCATED IN THE CITY OF VACAVILLE, COUNTY OF SOLANO, STATE OF CALIFORNIA AND BEING A PORTION OF PARCEL FOUR AS SHOWN ON "PARCEL MAP OF THE LANDS OF THE THREE-S COMPANY" IN BOCK 33 OF PARCEL MAPS, AT PAGE 60, IN THE SOLANO COUNTY RECORDER'S OFFICE, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE MOST NORTHEASTERLY CORNER OF PARCEL FOUR AS SHOWN IN BOOK 33 OF PARCEL MAPS, AT PAGE 60, SOLANO COUNTY RECORDS; THENCE ALONG THE

NORTHERLY BOUNDARY OF SAID PARCEL FOUR NORTH 88° 30' 29" WEST, 12.00 FEET TO THE TRUE POINT OF BEGINNING OF THE PARCEL OF LAND DESCRIBED HEREIN; THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY NORTH 88° 30' 29" WEST, 665.37 FEET; THENCE NORTH 01° 29' 31" EAST, 5.00 FEET; THENCE NORTH 88° 30' 29" WEST, 438.42 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF ORANGE DRIVE AS SHOWN ON SAID PARCEL MAP; THENCE LEAVING SAID NORTHERLY BOUNDARY SOUTH 33° 39' 55" WEST, 111.82 FEET ALONG SAID SOUTHEASTERLY LINE OF ORANGE DRIVE; THENCE ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 875.00 FEET, AN ARC LENGTH OF 186.53 FEET AND A CENTRAL ANGLE OF 12° 12' 50"; THENCE SOUTH 45° 52' 45" WEST, 14.72 FEET; THENCE LEAVING ORANGE DRIVE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 20.90 FEET, AN ARC LENGTH OF 31.42 FEET AND A CENTRAL ANGLE OF 90° 00' 00" TO THE NORTHERLY RIGHT OF WAY LINE OF GILLEY WAY, ALSO KNOWN AS SYAR WAY, SHOWN ON SAID PARCEL MAP; THENCE ALONG THE NORTHERLY LINE OF GILLEY WAY SOUTH 44° 07' 15" EAST, 33.03 FEET, THENCE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 270.00 FEET, AN ARC LENGTH OF 215.30 FEET AND A CENTRAL ANGLE OF 45° 41' 20"; THENCE SOUTH 89° 48' 35" EAST, 1058.29 FEET; THENCE LEAVING GILLEY WAY ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 20.00 FEET, AN ARC LENGTH OF 31.42 FEET AND A CENTRAL ANGLE OF 90° 00' 00" TO A POINT 12.00 PERPENDICULAR TO THE WESTERLY RIGHT OF WAY LINE OF LEISURE TOWN ROAD AS SHOWN ON SAID PARCEL MAP; THENCE NORTH 00° 11' 25" EAST, 330.27 FEET ALONG A LINE PARALLEL WITH AND 12.00 FEET PERPENDICULAR TO SAID WESTERLY LINE OF LEISURE TOWN ROAD TO THE TRUE POINT OF BEGINNING.

ALL EASEMENT RIGHTS WHICH ARE EXISTING INCLUDING THOSE SHOWN ON SAID PARCEL MAP RECORDED IN BOOK 33, AT PAGE 60, AFFECTING THAT PORTION OF LAND DESCRIBED ABOVE WHICH IS WITHIN SAID PARCEL FOUR AS SHOWN ON SAID PARCEL MAP, SHALL BE FOREVER PRESERVED AND MADE A PART OF THE REAL PROPERTY DESCRIBED HEREIN.

AP No. 0133-120-190

Exhibit A-2 Map of Property

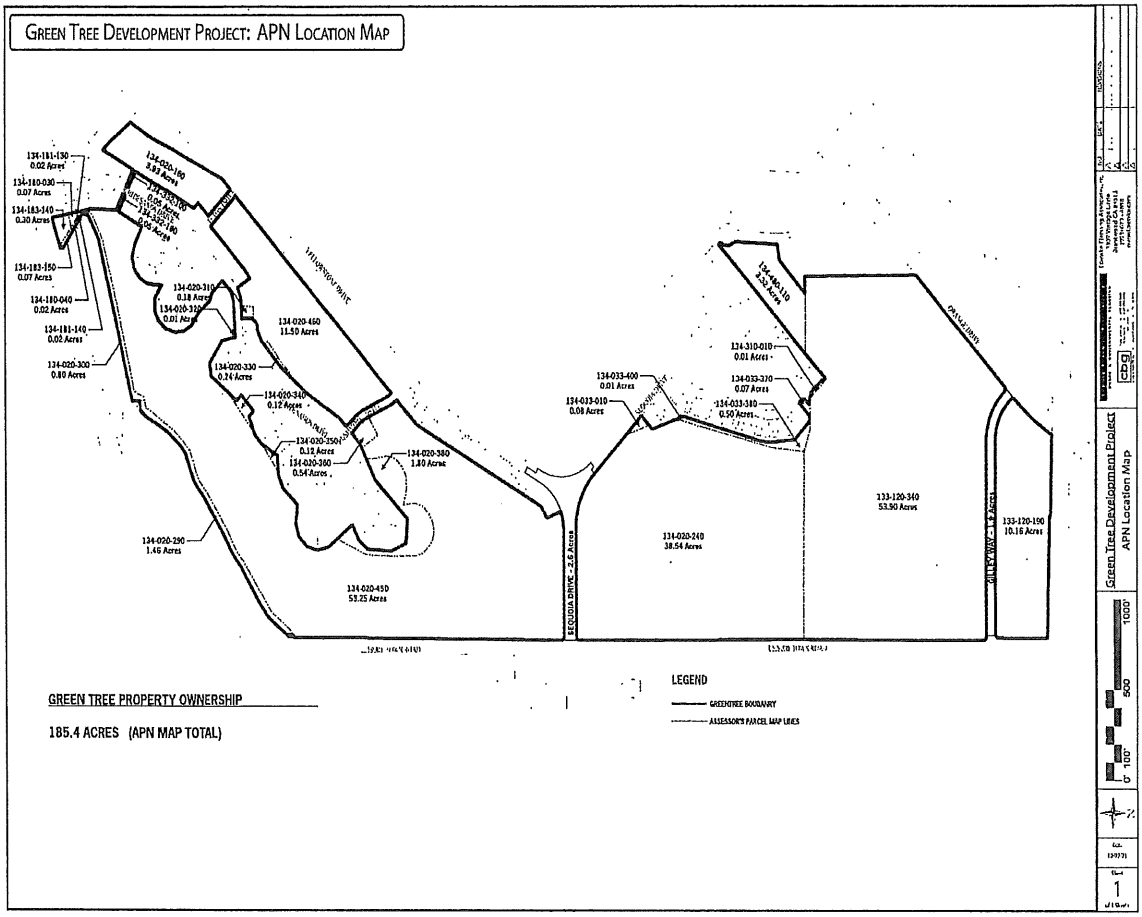

Exhibit B Assignment and Assumption Agreement

RECORDING REQUESTED BY
AND WHEN RECORDED, RETURN TO:

(Space Above This Line For Recorder's Use)

ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT (ENTER PROJECT NAME)

This ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT ("Agreement") is entered into this _____ day of _____, 20XX, by and between **XXXXX, (ENTER TYPPE OF ENTITY)** ("Assignor"), and **XXXXXX, (ENTER TYPE OF ENTITY)** ("Assignee").

RECITALS

A. Assignor and the City of Vacaville, a municipal corporation ("City") entered into that certain "Development Agreement by and between the City of Vacaville and XXXX Regarding the Development of Real Property Commonly Referred to as XXXX, dated XXXXX, 20XX, and recorded on XXXX, 20XX, as Document No. XXXX of Official Records, Solano County (the "Development Agreement"), pursuant to which Seller agreed to develop certain property more particularly described in the Development Agreement subject to certain conditions and obligations set forth in the Development Agreement.

B. Assignor is the owner of certain property more particularly described on Exhibit A attached hereto (the "Assignor Land"), that is subject to the Development Agreement.

C. Assignee, is purchasing a portion of the Assignor Land, as more particularly described on Exhibit B attached hereto (the "Property"), from Assignor, in accordance with the terms of that certain Purchase and Sale Agreement and Escrow Instructions dated XXXX, 20XX, Seller/Assignor and Assignee (the "Purchase Agreement").

D. Pursuant to the terms of the Purchase Agreement, Assignor agreed to assign and Assignee agreed to assume certain rights, interests and obligations and other terms and conditions under the Development Agreement, as such right, interests and obligations relate to the Property.

E. The purpose of this Assignment is to set forth the terms and provisions agreed upon between Assignor and Assignee with respect to the assignment of certain rights, permits, entitlements and interests and the delegation of certain duties and obligations of Assignor under the Development Agreement, as such rights, permits, entitlements, interests, duties and obligations relate to the Property. The Development Agreement does not require the City's consent to an assignment, but Assignor and Assignee have agreed to ask the City to affirm their understanding of the Development Agreement regarding each party's obligations.

AGREEMENT

NOW, THEREFORE, Seller/Assignor and Assignee agree as follows:

1. Partial Assignment. Assignor hereby assigns, conveys and transfers to Assignee the rights, permits, entitlements and interests of Assignor, as the "Developer", under the Development Agreement to the extent such rights, permits, entitlements and interests relate to the Property or are necessary for the development of the Property, and Assignee hereby accepts such assignment.

2. Assumption of Obligations. Assignee hereby assumes all of Assignor's duties and obligations under the Development Agreement accruing after the date hereof, but only to the extent such obligations are with respect to the Property or are necessary for the development of the Property and excepting any non-monetary obligations for improvements not to be constructed on the site of the Property and also excepting any monetary obligations for permits, fees, and other amounts payable as a condition to constructing improvements not on the site of the Property, and that first arise after the date on which Assignee acquires fee title to the Property, regardless of whether the obligations originate in the Development Agreement itself or documents executed in connection therewith as a means to effectuate the intent of those provisions, including, without limitation: (a) any indemnity obligations, to the extent applicable to the Property or to Assignee by reason of its ownership of the Property, (b) any obligation to follow and be bound by all applicable rules, regulations and policies, (c) any obligation to pay any fees, assessments or exactions as may be imposed by the Development Agreement, and (d) any obligations arising under the Development Agreement by reason of a default of Assignee under the Development Agreement (with respect to any obligations assumed by Assignee hereunder).

3. Development Agreement Transfer and Assignment Provision. Assignee understands and agrees that this Agreement is subject to Section 14 of the Development Agreement, which reads as follows:

"**14. Transfers and Assignments.**

14.1 Transfers Generally. Subject to the terms of this Section 14, Developer shall have the right to assign or transfer all or any portion of its interest, rights or obligations under this Agreement to a third Person (the "**Transferee**") acquiring an interest or estate in all or a portion of the Property (the "**Transferred Property**"). Developer shall provide thirty (30) days written notice to City prior to the effective date of any sale, transfer or assignment (collectively, "**Transfer**") of its interest in all or any portion of the Property or any of its interests, rights and

obligations under this Agreement, and upon giving of such notice and closing the conveyance, transfer, sale or lease, said Transferee shall be deemed a Party.

14.2 Assignment and Release of Project Infrastructure Obligations.

14.2.1 Conditions for Assignment and Release. Developer shall remain responsible for all obligations and requirements under this Agreement after the effective date of a Transfer unless Developer satisfies the following conditions: (i) prior to the effective date of the Transfer, Transferee executes and delivers to City an Assignment and Assumption Agreement substantially in the form set forth in Exhibit C to this Agreement specifying the obligations and requirements to be assumed by the Transferee; (ii) Developer has not received a notice of a Default under this Agreement that remains uncured as of the effective date of the Transfer; and (iii) Developer has received from the City Manager of City the written consent to the Assignment and Assumption Agreement ("**Consent**"). Such Consent shall be granted by the City Manager, and shall not be unreasonably withheld, conditioned or delayed, so long as the proposed Transferee is demonstrated, to the reasonable satisfaction of the City Manager, to have experience acting as the developer of projects similar in size and complexity to the development opportunity being transferred and the financial resources necessary to develop or complete the Public Infrastructure associated with development of the Transferred Property. If the City Manager does not provide Consent, he or she shall state the reasons for the refusal and the corrections to be made to obtain such Consent.

14.2.2 Effect of Transfer. If the conditions to Developer's release from its obligations under this Agreement set forth in Section 14.2.1 above are satisfied, then Developer shall be released from any further liability or obligation under this Agreement related to the Transferred Property as specified in the Assignment and Assumption Agreement, and the Transferee shall be deemed to be the Developer under this Agreement with all rights and obligations related thereto, with respect to such Transferred Property.

14.2.3 Constructive Notice. Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is, and shall be, constructively deemed to have consented to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property. Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property and undertakes any development activities on the Property is, and shall be, constructively deemed to have consented and agreed to, and is obligated by, all of the terms and conditions of this Agreement, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

14.2.4 Rights of Developer. The provisions in this Section 14 shall not be deemed to prohibit or otherwise restrict Developer from (i) granting easements or

licenses to facilitate development of the Property, (ii) encumbering the Property or any portion thereof or of the improvements thereon by any mortgage, deed of trust, or other devise securing financing with respect to the Property or Project, (iii) granting a leasehold interest in portions of the Property, (iv) entering into a joint venture agreement or similar partnership agreement to fulfill its obligations under this Agreement, or (v) transferring all or a portion of the Property pursuant to a foreclosure, conveyance in lieu of foreclosure, or other remedial action in connection with a mortgage."

4. Indemnification.

4.1 By Assignee. Assignee agrees to indemnify, defend and hold harmless Assignor, its affiliated entities and persons, and their respective members, managers, partners, officers, directors, shareholders, employees and agents from any claims, demands, losses, liability, damages, causes of action, costs or expenses (including reasonable attorneys' fees) (collectively, "Liabilities") made against or suffered by Assignor with regard to any failure by Assignee to perform any term or condition of the Development Agreement which has been expressly assumed by Assignee hereunder.

4.2 By Assignor. Assignor shall indemnify, defend and hold harmless Assignee, its affiliated entities and persons, and their respective members, managers, partners, officers, directors, shareholders, employees and agents from any Liabilities made against or suffered by Assignee with regard to any failure by Assignor to perform any term or condition of the Development Agreement (a) to the extent it is with respect to the Property and has not been expressly assumed by Assignee hereunder, and (b) to the extent it relates to the Assignor Land, exclusive of the Property, before or after the date hereof, other than to the extent any acts of Assignee on the Retained Land give rise to any Liabilities under the Development Agreement.

4.3 By Assignor. Assignor shall also indemnify, defend and hold harmless Assignee, its affiliated entities and persons, and their respective members, managers, partners, officers, directors, shareholders, employees and agents from any loss or damage resulting from the City's refusal to issue building permits or certificates of occupancy for the Property to the extent such refusal arises from Assignor's failure to perform its remaining obligations (i.e. Assignor's obligations other than those assumed by Assignee hereunder) under the Development Agreement.

5. Miscellaneous.

5.1 Interpretation; Governing Law. This Assignment shall be construed according to its fair meaning and as prepared by both parties hereto. This Assignment shall be construed in accordance with and governed by the laws of the State of California.

5.2 Attorneys' and Other Fees. In the event of any dispute between the parties hereto or institution of any action or proceeding to interpret or enforce the provisions of this Assignment, or arising out of the subject matter of this Assignment or the transaction contemplated hereby, the prevailing party shall be entitled to recover from the losing party all of its costs and expenses incurred, including court costs and reasonable attorney's fees and expert witness fees.

5.3 Authority. Each of the parties hereto represents and warrants to the other that the person or persons executing this Assignment on behalf of such party is or are authorized to execute and deliver this Assignment and that this Assignment shall be binding upon such party.

5.4 Further Assurances. Assignor and Assignee each agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably request to consummate, evidence, confirm or more fully implement the agreements of the parties as contained herein.

5.5 Execution in Counterparts. This Assignment may be executed in several counterparts, and all originals so executed shall constitute one agreement between the parties hereto.

5.6 Conflict. Nothing in this Agreement is intended to modify or amend the respective obligations of Assignor and Assignee under the Purchase Agreements between Assignor and Assignee which gave rise to this Agreement and, in the event of any conflict between this Agreement and the Purchase Agreements, as between Assignor and Assignee the provisions of the Purchase Agreements shall supersede and control over this Agreement.

5.7 Recordation. The parties hereby authorize this Assignment to be recorded in the records of the County upon the date hereof.

5.8 Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the respective successors, assigns, personal representatives, heirs and legatees of Assignor and Assignee.

5.9 Notice. All notices to Assignee under the Development Agreement should be addressed as follows:

If to Assignee:	XXXX XXXX XXXX Attention: XXXX Telephone No.: XXX-XXX-XXXX Email: XXX
with a required copy to:	XXXX XXXX XXXX Attention: XXXX Telephone No.: XXX-XXX-XXXX Email: XXX

With a copy of notice of default to:

XXXX
XXXX
XXXX
Attention: XXXX
Telephone No.: XXX-XXX-XXXX
Email: XXX

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below its name below.

"ASSIGNOR"

XXXX,
a California limited partnership

By:_____
Name: _____
Title: _____

"ASSIGNEE"

XXXX,

a California corporation

By:_____
Name: _____

Title: _____

The City of Vacaville ("City") is not a party to the above Agreement. However, City acknowledges receipt of the Agreement, and affirms that (a) Assignor has been released to the extent described in this Agreement from its obligations under the Development Agreement with respect to the Property, (b) Assignee has assumed the obligations under the Development Agreement with respect to the Property, and (c) pursuant to Section 7.F of the Development Agreement, a default under the Development Agreement by any party (or successor party) thereto other than Assignee shall not constitute a default by Assignee such that it, in itself, causes the withholding of any discretionary or ministerial permits for the Property.

"CITY"

CITY OF VACAVILLE,
a municipal corporation

By: _____

Name: _____

Title: _____

Approved as to form:

By: _____

Name: _____

Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

) ss:

COUNTY OF _____)

On _____,20__ before me, _____

(insert name and title of the officer),

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

[Seal]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

) ss:

COUNTY OF _____)

On _____,20__ before me, _____

(insert name and title of the officer),

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

[Seal]

EXHIBIT "A"
TO ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF THE ASSIGNOR LAND

EXHIBIT "B"
TO ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF THE PROPERTY