

ORDINANCE NO. 1531

**AN ORDINANCE OF THE CITY OF VACAVILLE ADOPTING
AN ANNEXATION AND A DEVELOPMENT AGREEMENT, PURSUANT
TO THE PROVISIONS OF CHAPTER 15.60 OF THE VACAVILLE
MUNICIPAL CODE, BY AND BETWEEN THE CITY OF VACAVILLE
AND MISSION LAND COMPANY**

THE CITY COUNCIL OF THE CITY OF VACAVILLE DOES ORDAIN AS FOLLOWS:

SECTION 1. - PURPOSE AND RECITALS

The Annexation and Development Agreement between the City of Vacaville and Mission Land Company relative to the development of a residential community, Community College and related facilities, as set forth fully in Section 2 of this Ordinance is hereby approved and adopted in accordance with the provisions of the Vacaville Municipal Code Chapter 15.60.

Said Annexation and Development Agreement is in furtherance of the purposes established by the State Legislature, and the authority found, in Sections 65864 through 65869.5 of the California Government Code. Said sections establish the Annexation and Development Agreement format for local agencies in California to ensure the complete financing and timely construction of public improvements and amenities related to property development in accordance with local planning standards.

Said Annexation and Development Agreement is adopted to:

- (1) protect the health and well being of the citizens of Vacaville and surrounding communities in Solano and Yolo Counties through increased and enhanced availability of housing, jobs and education.
- (2) increase and enhance the jobs-housing balance in the city of Vacaville by creating employment centers which should produce new employment opportunities for the citizens of Vacaville and for future generations of Vacaville's citizens; and

SECTION 2. - ANNEXATION AND DEVELOPMENT AGREEMENT

The Annexation and Development Agreement with Mission Land Company related to the development of North Village shall read as follows:

SECTION 3. - FINDINGS

In adopting this Annexation and Development Agreement, the City Council hereby adopts the Findings of Fact, Statement of Overriding considerations and Mitigation Monitoring Program prepared in accordance with the California Environmental Quality Act.

SECTION 4. - EXECUTION, RECORDATION

The Mayor of the City of Vacaville is hereby authorized, empowered, and directed to execute this Annexation and Development Agreement for and on behalf of the City of Vacaville. This Ordinance and Annexation and Development Agreement approved herein shall be recorded in the Office of the Solano County Recorder.

SECTION 5. - SEVERABILITY

If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. - EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after passage thereof.

SECTION 7. - PUBLICATION

This ordinance shall be published once within fifteen (15) days after its adoption in the Vacaville Reporter, a newspaper of general circulation in the City of Vacaville.

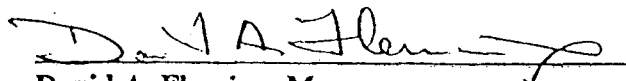
I HEREBY CERTIFY, that this ordinance was introduced at a regular meeting of the City Council of the City of Vacaville, held on the 24th day of January, 1995, and ADOPTED AND PASSED at a regular meeting of the City Council of the City of Vacaville, held on the 14th day of February, 1995, by the following vote:

AYES: Council members Clancy, Kahn, Kimme, Vice-Mayor Tatum and Mayor Fleming

NOES: None

ABSENT: None

APPROVED:



David A. Fleming, Mayor

ATTEST:



Kathleen M. Andonrico, City Clerk

RECORDING FEES EXEMPT
PURSUANT TO
GOVERNMENT CODE §27383

FILE COPY

RECORDING REQUESTED BY:
CITY OF VACAVILLE

96- 3463

H8-96

WHEN RECORDED MAIL TO:

KATHY M. ANDRONICO
CITY CLERK
CITY OF VACAVILLE
650 MERCHANT STREET
VACAVILLE, CA 95688

ANNEXATION AND DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF VACAVILLE
AND MISSION LAND COMPANY
RELATIVE TO THE PROPERTY OWNED BY
MISSION LAND COMPANY
IN AN AREA ADJACENT TO THE CITY OF VACAVILLE
AND COMMONLY KNOWN AS NORTH VILLAGE

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THIS ANNEXATION AND DEVELOPMENT AGREEMENT (hereinafter "Agreement") is entered into this 14th day of February, 1995 by and between MISSION LAND COMPANY, a California Corporation, ("Developer"), and the CITY OF VACAVILLE, a municipal corporation ("City"), pursuant to the authority of Sections 65864 through 65869.5 of the California Government Code, Chapter 15.60 of the Vacaville Municipal Code, the Vacaville General Plan, and the North Village Specific plan, each as last amended and in effect on the date of this Agreement. City and Developer are also referred to hereinafter individually as "party" or collectively as the "parties."

RECITALS

This Agreement is made with reference to the following facts:

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 Legislation"). The Development Agreement Legislation 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 established procedures for entering into Development Agreements through the adoption of Chapter 15.60 of the Vacaville Municipal Code (the "Development Agreement Ordinance").

B. Developer has a legal and/or equitable interest in certain real property consisting of approximately eight hundred eighty-two (882) acres located partially within City's existing limits and the remainder within City's sphere of influence in the unincorporated area of the County of Solano, all of which is commonly known as "North Village," as generally diagrammed in Exhibit A attached hereto, and more particularly described in Exhibit A-1 attached hereto (the "Project Site").

C. Developer intends to develop the Project Site as a master planned community of 882 acres, including a community college site of approximately sixty acres, 2499 residential units, a swimming club, a school, approximately 230 acres of open space, 104 acres of business, retail and commercial development, all as more specially described in the

Project Approvals and in the Subsequent Approvals as and when they are adopted, approved or issued, and certain off-site improvements to constructed in connection therewith (the "Project").

D. On December 10, 1992, the City Council entered into an agreement among Developer, City, and the Solano Community College District ("College") for the purpose of resolving key development issues prior to the execution of this Development Agreement. Said agreement has been amended from time to time and is referenced herein in its last amended form. Upon execution of this Development Agreement the terms and conditions of the December 10, 1992 agreement which are specifically superseded by provisions of this Development Agreement shall be of no further force or effect.

E. On August 21, 1990, the City Council of the City of Vacaville approved a comprehensive update to the City's General Plan (the "General Plan"). The General Plan update, among other changes, established broad policies for the eventual annexation of the Project Site and its development for office, commercial, residential and recreational uses. In connection with the update of the General Plan, City prepared and certified a Final Environmental Impact Report.

F. Developer has proposed to City a plan for the full development of the Project Site, including the provision of 60 acres of land to College upon which College plans to develop a campus to serve the educational needs of the citizens of Vacaville and of the surrounding area (the "College Facility"). City and City's General Plan recognize the need for expanding the educational opportunities for both its citizens and for all those persons in the surrounding area. Cost of land in an urban area can be prohibitive to the development of post-secondary educational facilities, in part because of the large area of land needed to locate such a facility. To this end, City is willing to exercise its police power to achieve the goal of obtaining land for construction of the College Facility in City by authorizing development of the Project Site in accordance with the provisions of and special benefits contained in this Agreement.

G. City and Developer recognize that funding of the construction of the College Facility is primarily a function of the State government. College is actively engaged in applying for funding of the proposed College Facility in City. However, City and Developer recognize that funding may not be available in the near term nor, perhaps, available at all. To this end, Developer has entered into an agreement with College to provide them the 60 acres of land necessary for their College Facility but also providing for that land to be transferred to City should the funding of the College Facility and commencement of construction thereof not occur by December 10, 2014. Should College be unable to develop the property as provided in their agreement with Developer and, thereby, the College Facility property transfer to City, City will be able to develop said property in accordance with the terms and limitations set forth herein.

H. The parties now desire to set forth their understandings concerning the vesting of certain components of the Vacaville General Plan and the Specific Plan for the Project. In executing this Agreement, Developer recognizes that the use and development of the Project Site are subject to completion of annexation of the entire Property into the City

and the grant of certain Subsequent Approvals which are hereinafter defined and identified. Developer recognizes that Subsequent Approvals, if any are required, are subject to review by the City's planning staff, public hearings and discretionary approval by the appropriate decision-making body in accordance with the terms and conditions of this Development Agreement, and would be subject to the requirements of the California Environmental Quality Act, Public Resources Code §§21000, et. seq., the "CEQA Guidelines", 15 California Code of Regulations §§15000 et. seq., and City's local policies and guidelines, (hereinafter collectively referred to as "CEQA") to the degree not already environmentally reviewed by existing documents such as the environmental impact report developed for this Development Agreement and the Specific Plan.

I. City acknowledges that Developer's agreement to make the commitments herein furthers the City's efforts for development of the Project Site , and such commitments constitute a material factor in City's willingness to approve this Agreement. City also acknowledges that it is willing to provide Developer with the undertaking contained in this Agreement because City has determined that development of the Project Site will provide public benefits that could not be obtained without vested approval of large-scale development including, without limitation, needed community open space, a site for post-secondary educational facilities, increased tax revenues, coordinated planning of development, installation of both on and off-site public infrastructure, creation of additional needed local employment opportunities and creation of additional housing opportunities.

J. In exchange for the special benefits to City described in this Agreement, together with other public benefits that will result from the development of the Project Site, The parties now desire to set forth their understandings concerning the vesting of Developer's right to develop the Project Site in accordance with the Project Approvals. Developer will receive by this Agreement certain assurances concerning the conditions under which it may proceed with the Project and, therefore, desires to enter into this Agreement.

K. Developer has secured various environmental and land use approvals, entitlements, and permits relating to the development of the Project (the "Project Approvals"). These Project Approvals include, without limitation, the following:

(1) EIR. The potential environmental impacts of the Project contemplated and addressed by the EIR, including the Project Approvals, and the Subsequent Approvals, and alternatives to the Project or its location, have properly been reviewed and assessed by City pursuant to CEQA. Concurrently with the adoption of this Agreement, pursuant to CEQA and in accordance with the recommendation of City Planning Commission, the City Council certified an environmental impact report, entitled the North Village Development Project Final Environmental Impact Report, No. EIR-94-070, State Clearinghouse No. 93053033, regarding the Project (the "EIR"), adopted certain Statements of Overriding Considerations, and adopted findings and a mitigation monitoring program (the "Mitigation Monitoring Program").

(2) General Plan Amendment. Immediately prior to adoption of this Agreement, following review and recommendation by the City Planning Commission, and after duly noticed public hearing and certification of the EIR, the City Council, by Resolution 95-18, approved an amendment to the City's General Plan.

(3) Specific Plan. Concurrent with the adoption of this Agreement, following review and recommendation by the City Planning Commission, and after duly noticed public hearing and certification of the EIR, the City Council, by Resolution 1995-19, approved the North Village Specific Plan (the "Specific Plan"), providing City land use regulations and development criteria relating to the development of the Project on the Project Site.

(4) Zone Change. Concurrent with the adoption of this Agreement, following review and recommendation of the City Planning Commission, and after duly noticed public hearing and certification of the EIR, the City Council, by Ordinance 1530, approved the rezoning or pre-zoning of portions of the Project Site (the Zone Change).

(5) Development Agreement. On December 20, 1994, following duly noticed public hearing, the City Planning Commission by Resolution 94-070 made the appropriate findings required by City Ordinance No. 15.60.040, and recommended that the City Council approve this Agreement. On February 14, 1995, the City Council adopted Ordinance No. 1531, approving and authorizing the execution of this Agreement.

L. Immediately prior to the adoption of this Agreement, the City Council took the following actions:

(1) determined that the EIR adequately addressed this Agreement and made the findings required by CEQA; and

(2) after a duly noticed public hearing, made appropriate findings required by City Ordinance No. 15.60.050, that the provisions of this Agreement are consistent with the General Plan and the Specific Plan.

M. Applications for land use approvals, entitlements, and permits other than the Project Approvals that are necessary to or desirable for the development of the Project and which are consistent with the Project (collectively, the "Subsequent Approvals") have been or will be made by Developer. The Subsequent Approvals may include, without limitation, the following: amendments of the Project Approvals, design review approvals (including site plan, architectural and landscaping plan approvals), deferred improvement agreements and other agreements relating to the Project, use permits, grading permits, building permits, lot line adjustments, sewer and water connections, certificates of occupancy, subdivision maps (including tentative, vesting tentative, parcel, vesting parcel, and final subdivision maps), preliminary and final development plans, rezonings,

encroachment permits, resubdivisions, and any amendments to, or repealing of, any of the foregoing.

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

AGREEMENT

SECTION 1. EFFECTIVE DATE AND TERM

A. Effective Date. This Agreement shall become effective on the thirty-first (31st) day following the adoption by the City Council of the ordinance approving this Agreement, or the date upon which this Agreement is executed by Developer and City, or upon receipt of the certified results of a referendum election, whichever is later (the "Effective Date").

B. Term. This Agreement shall commence upon the Effective Date and shall remain in effect for a term of thirty (30) years, unless said term is terminated, modified, or extended by circumstances set forth in this Agreement, or by mutual consent of the Parties hereto; provided, however, if the Project Site is not annexed prior to December 31, 1995, this Agreement shall be null and void; and, provided further that in the event Developer has not commenced the "Phase I Infrastructure" (as hereinafter defined) on or before the eighth anniversary of the Effective Date, the term shall be reduced to twenty (20) years following the Effective Date. Failure to complete annexation by December 31, 1995, shall not be subject to the cure provisions of section 15 of this agreement relating to default.

If the term of this Agreement is required to be reduced in accordance with the provisions of this Section 1.B, City and Developer shall execute a certificate, in form sufficient for recordation purposes, indicating the reduction in the term, and such certificate shall be recorded in the offices of the County Recorder of Solano County. A reduction in the term in accordance with the provisions of this Section 1.B shall not constitute an amendment to this Agreement requiring notice or public hearing. The time for Developer to commence the Phase I Infrastructure shall be extended as a result of the events described in Section 10.B (Permitted Delays) of this Agreement. Following the expiration of said term, this Agreement shall be deemed terminated and of no further force and effect; provided, such termination shall not automatically affect any Project Approvals or Subsequent Approvals which have been granted.

SECTION 2. OBLIGATIONS OF CITY

A. No Conflicting Enactments; Protection From Moratoria; Exemption From Planned Growth Ordinance; Exception For Development Limitation Due to Lack of Infrastructure or Inability of City to Provide Public Services; Timing of Project Construction and Completion. Neither City nor any agency of City shall enact any ordinance, resolution, rule, procedure or other measure that relates to the rate, timing or sequencing of development of the Project Site. Except as specifically provided herein to

the contrary and in accordance with the purpose of the Development Agreement Legislation, the Development Agreement Ordinance, and in consideration of the benefits derived by City as recited herein, no future modification of City's code or ordinances, or adoption of any code, ordinance, regulation or other action that purports to limit the rate of development over time or alter the sequencing of development phases (whether adopted or imposed by the City Council or through the initiative or referendum process) shall apply to the Project Site. However, this Section shall not limit City's right to insure that Developer timely constructs and provides all necessary infrastructure to serve proposed development as a condition of any permit, map approval or other land use entitlement sought by Developer for the Project Site. Further, except for extensions granted by mutual agreement or pursuant to Section 10.B of this Agreement relating to permitted delays. Developer shall install required infrastructure improvements in accord with the triggers contained in the Specific Plan's implementation schedule.

In particular, and not in limitation of any of the foregoing, since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties, desire to avoid that result by acknowledging that Developer shall have the right to develop the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Developer shall provide City with periodic updates of Development Projections to ensure that City will have information necessary to comply with its obligations set forth in this Agreement. However, this section shall not limit City's right to impose requirements concerning the timing or commencement of construction when related to the need for infrastructure or utilities as a condition of permits or upon approval of other land use entitlements sought by Developer.

B. Vested Elements. Certain actions of City identified below (the full enactments of which are incorporated herein by reference thereto), are declared binding and not subject to change except if specifically stated to the contrary in other Sections of this Development Agreement. These actions are referred to herein as the "Vested Elements."

No part of the Vested Elements may be revised or changed during the Term without the consent of the owner of the portion of the Project Site to which the change applies (or that would be affected by any decrease in rights or increase in burdens caused by such change), unless expressly stated to the contrary in other Sections of this Agreement, however applications for development approvals shall be subject to such changes in the General Plan, the zoning codes, and other rules, regulations, ordinances and official policies hereinafter adopted (and in effect at the time of the application) that do not conflict with the Vested Elements or deprive Developer of the benefits thereof.

The Vested Elements shall be effective against, and shall not be amended by, any subsequent ordinance or regulation, whether adopted or imposed by the City Council or through the initiative or referendum process. The Vested Elements are:

- (1) The Vacaville General Plan, approved by City Council of City on August 21, 1990, as amended on March 26, 1991, or as later amended before or concurrent with the approval of this Agreement, including that General Plan Amendment approved by City immediately prior to the approval of this Agreement.
- (2) The Specific Plan for North Village.
- (3) The Zone Change.
- (4) Mitigation measures proposed (and not-rejected as infeasible) in the Final Environmental Impact Report certified with respect to the proposed Specific Plan for the Project Site.
- (5) Parcel map waivers, tentative parcel maps, tentative subdivision maps, vesting tentative parcel maps, vesting tentative subdivision maps, use permits, design review approvals and other zoning entitlements or discretionary reviews granted with respect to portions of the Project Site, subject to the provisions of Section 3 (B) below.

C. Subdivision And Parcel Maps. Developer shall have the right from time to time to file subdivision maps, parcel map waivers and/or parcel maps with respect to some or all of the Project Site, to re configure the parcels comprising the Project Site as may be necessary or desirable in order to develop a particular phase of the Project Site or to lease, mortgage or sell a portion of it. Nothing herein contained shall be deemed to authorize Developer to subdivide or use any of the Project Site for purposes of sale, lease or financing in any manner that conflicts with the provisions of the Subdivision Map Act or with the subdivision ordinance of City; nor shall this Development Agreement prevent City from enacting or adopting changes in the methods and procedures for processing subdivision and parcel maps so long as such changes do not preclude or materially burden or delay Developer's realization of the rights conferred under the Elements.

D. Applicable Subdivision And Safety Regulations; No Conflicting Enactments. Except as expressly provided in the conditions of approval of an entitlement, every parcel map waiver, tentative parcel map, tentative subdivision map, design review application or use permit application shall be processed in accordance with the laws, ordinances, rules and regulations in effect on the date that the application therefor is determined to be complete. Further, nothing herein contained shall be deemed to prevent adoption, amendment and application to improvements throughout the City in general, including the Project Site, at the time building permits for construction of improvements are issued, of laws, ordinances, uniform codes, rules or regulations pertaining to or imposing health and safety, fire protection, mechanical, electrical, grading and/or building integrity requirements or other requirements that would be defined as "ministerial" under the California Environmental Quality Act, Public Resources Code §§21000 and following, as of the effective date of this Development Agreement.

City shall not impose upon the Project (whether by Subsequent Approval or action of City or by initiative, referendum or other means) any ordinance, resolution, rule,

regulation, standard, directive, condition or other measure (each, individually, a "City Law") that reduces the development rights provided by this Agreement. Without limiting the generality of the foregoing, any City Law shall be deemed to conflict with this Agreement or reduce the development rights provided hereby if it would accomplish any of the following results in a manner inconsistent with or more restrictive than the Project Approvals or Subsequent Approvals consistent with the Project Approvals, either by specific reference to the Project or as part of a general enactment which applies to or affects the Project:

- (1) limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any reduction in the square footage or number of proposed buildings or other improvements. However, this provision shall not require City to increase the density on Project Site lands due to the limitations on portions of Project Site lands otherwise available for development which result from state or federal laws including, but not limited to, laws relating to airport safety or wetlands, species or habitat protection, preservation or restoration. This provision is not intended to limit Developer's legal rights against state or federal authorities, but is intended to protect City from suit by Developer due to the impact of such laws upon the Project Site and to protect City from any obligation to increase the density of development, whether commercial or residential or otherwise, in one area of the Project Site due to reduction in available, developable lands in other areas of the Project Site other than as set forth in the Specific Plan. However, City will cooperate with Developer to attempt to mitigate or minimize the impacts from such reductions on the over-all development of the Project Site;
- (2) change any land uses or permitted uses of the Project Site;
- (3) limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of the Project in any manner so long as all necessary infrastructure to serve such development is constructed by Developer or as otherwise provided for in this Agreement;
- (4) apply to the Project any City Law otherwise allowed by this Agreement that is not uniformly applied on a City-wide basis to all substantially similar types of development projects and project sites with similar land use designations; however, this provision shall not prohibit City from establishing zones of benefit, rate zones, benefit districts, assessment districts or similar financing mechanisms, which may apply to the Project Site, so long as costs associated with such zones or districts are (i) uniformly applied to all similar uses within the zone or district and (ii) not limited in applicability to the Project;
- (5) require the issuance of additional permits or approvals by City other than those required by Applicable Law or which City is required to impose by the authority of the State or Federal government or of special districts or agencies that are not subject to the authority of City or Agency and whose jurisdiction extends to the Property; or

(6) impose any ordinance or regulation, which controls commercial rents charged within the Project Site.

E. Processing of Project Applications. City shall use its best efforts to commit the necessary time and resources of City staff to work with the developer on the timely processing of the necessary entitlements and annexation applications needed for the project. City will not unreasonably withhold Subsequent Approvals.

F. Relationship and Integration with City's Planned Growth Ordinance; Building Permit Allocations; Obligation of Developer to Designate Persons to Whom Permits Are To Be Allocated. City hereby exempts North Village from the building permit allocation process of the Planned Growth Ordinance, as follows:

Commencing in the calendar year in which the first tentative subdivision map for the Project, or any portion thereof, is approved and for each calendar year thereafter (effective on January 1 of such year) during the term of this Agreement, City shall allocate three hundred (300) building permits to Developer. If Developer fails to use its total allocation of permits for any year, up to 100 units of the unused portion of the allocation shall be carried over and added to Developer's succeeding year's allocation and may only be used in said succeeding year. If the interim College improvements are constructed by Developer as described herein, then the carryover shall be increased to 150 units. The allocations provided for in this section shall be automatic and Developer shall not be required to request a reservation therefor.

Such limitation on the exempt units shall not, however, prohibit Developer from applying for and receiving additional units under the Planned Growth Ordinance in accordance with the application process then generally in effect.

Building permit allocations shall be made to Developer in accordance with this Section and not to any successor in interest of less than the entire Project Site and Developer shall be responsible for the transfer of allocations to merchant builders within the Project and shall notify City in writing of any such transfer. In the alternative, Developer may notify City of the person or persons to whom the allocation of building permits for the following year should be made and City will issue those permits in accordance with the direction provided City by Developer. Developer may designate a person or entity as a "Master Developer", or that there may be a successor to all of Developer's rights in accordance with the provisions of this Agreement and the allocation of permits shall, thereafter, be made by such person or entity.

G. Development May Proceed Without Regard To Development Impact Fee Projects For Water And Sewer Lines. While development of Project must usually be accompanied by public infrastructure necessary to serve the development, it has been determined and agreed to by City that Developer may proceed with Development without regard to the availability of funds for water line and sewer line projects that are part of City's Development Impact Fee program for water and sewer projects.

H. Allowable Levels of Development Without Regard To Area Traffic LOS. City will allow Developer to develop 1500 residential units, 5 acres of commercial development, the Interim College Facility, as well as Phase I of the College Facility on the Project Site regardless of the availability of funds for TIF projects or traffic conditions. Developer may exchange commercial and business park acres or concomitant residential units based on traffic equivalencies. If, after such development, the level of service, based on actual field traffic counts when added to existing vested commitments or approved projects for other development in the area, show that traffic has not degraded below an LOS of D, the Developer may continue to develop until the City determines that additional development, when taken with existing vested commitments for development and approved projects in the area, is likely to result in an LOS of E. At such time, no more building permits will be issued to Developer unless the improvements to the LTI shown on Exhibit "C-1" (the "LTI Improvements") are then fully funded. Additionally, the City shall have the right to require Developer to provide the gap funding to assist in construction of Leisure Town Interchange at that time.

I. Providing "Gap" Financing to Advance Construction of the Leisure Town Interchange. City and Developer will fund the LTI Improvements in accordance with the following terms and conditions which provide for the financing of LTI improvements, which improvements are shown on Exhibit "C-1", or as otherwise may be necessary:

(1) City agrees to "reserve" TIF funds collected from owners of land within the LTI reservation area as shown on Exhibit "D-1" (the "LTI Reservation Area") for the construction of the LTI. City may borrow from the reserve fund for other TIF projects so long as interest is paid on the funds borrowed from the reserve fund and so long as such borrowing does not delay construction of the LTI when needed. Developer acknowledges that another overcrossing, the Allison Interchange, is of higher priority for City and until that Interchange is fully funded, all savings and grant funds obtained by City, including from the LTI Reservation Area will be credited toward funding the Allison Interchange.

(2) Developer recognizes that the reserve fund of TIF may not fully fund the LTI Improvements. Developer agrees to provide "gap" funding between that of the TIF fees collected hereunder and the actual cost of the LTI Improvements. The estimated cost of such improvements will also be made a part of the multi-owner assessment district called the North East Sector Assessment District (hereinafter "NESAD") provided for in this agreement and the assessment lien therefor will be placed on lands of Developer which are likely to develop after the need for the gap financing arose. NESAD will contain a provision for participants to "cash out" their assessment rather than bond financing the assessments.

(3) City agrees that properties subject to the gap financing assessment or which have provided gap financing will be reimbursed (i) from subsequent TIF fees collected from all development in the city following the construction of all other TIF projects which had a higher priority than the LTI or (ii) given a credit toward the applicable TIF when the Project develops. The process for administering the

credit or reimbursement shall be that contained in the City's Traffic Mitigation Policy, except that funding for the widening of Horse Creek Bridge (TIF project 12) and the I-505/VacaValley Parkway interim ramp and lane improvements through NESAD shall be provided prior to said reimbursement.

(4) The ability of Developer to secure this guarantee of certain development potential without regard to traffic impacts, and City's reservation of TIF fees for the LTI, will expire on January 1, 2005, unless the LTI is then the primary project on City's list of traffic improvements under the TIF program in which case this option for Developer will remain in effect so long as the LTI is the next project scheduled for funding on said list. Developer may voluntarily provide necessary gap financing for the project by January 1, 2005 if the LTI construction has not yet begun, in which event the reserved funds for the LTI, with the additional funding by Developer, will be used for the LTI and development of the project shall not be delayed by reasons of TIF project traffic impacts.

J. Undergrounding of Public Utilities. The City will, to the extent possible, and at no cost to the City, exercise its authority with P.G. & E. and PACTEL in undergrounding power and telephone lines so to minimize or eliminate that cost to the developer.

K. Drainage Mitigation. City agrees to the extent that Developer mitigates all storm water management impacts on site, and the drainage area located west of I-505 shown on the Detention Master Plan, Developer will be exempt from the detentions portion of the Conveyance and Detention fee and reimbursed as set forth in section 3.4.3.2 of the Specific Plan.

L. Coordination of Construction of Offsite Improvements. Developer acknowledges that certain offsite improvements may be necessary to support development of the Project Site or may be required as part of environmental or other mitigations. Further, Developer understands that City has entered into various agreements with the Chevron Company and other landowners in the area which establish obligations concerning offsite improvements, including deferred improvement agreements and other similar agreements (collectively the "Deferred Improvement Agreements.")

M. Annexation and Rezoning. After approval and execution of this Agreement by City and Developer and application by Developer for annexation and payment by Developer of any annexation fees in effect at the time of annexation, City shall commence and diligently pursue all necessary proceedings for the annexation of the Project Site to City pursuant to the Cortese Local Government Reorganization Act of 1985 (California Government Code Sections 56000, et seq.). Developer shall give all necessary approvals, written consents and any other requested assistance to accomplish such annexation, and specifically agrees not to protest such annexation before the Solano County Local Agency Formation Commission (LAFCO) or the City Council of City, so long as the annexation is consistent with the terms or conditions of this Agreement. Concurrently with such annexation proceedings, City shall, upon receipt from Developer of application therefor, commence and diligently prosecute to completion such proceedings as are necessary to

change the zoning of the Project Site to zoning classifications enabling development of the Project. City and Developer shall support and cooperate with each other in any manner reasonably required to ensure completion of such annexation and zone changes.

Annexation will not be sought by City unless and until new or express water entitlements to supply the Project Site can be demonstrated.

N. Environmental Mitigation. To the maximum extent allowed by law, City shall not impose on the Project any mitigation measures other than those specifically imposed by the Project Approvals, the Mitigation Monitoring Program adopted concurrently with the Project Approvals, as authorized by City's Zoning Ordinance or in the area Specific Plan. To the maximum extent allowed by law, City shall reject additional mitigation measures on the basis that the EIR analyzes in full the environmental impacts of the Project, thereby alleviating the need for additional environmental review except in the circumstances described in Section 21166 of CEQA. To the maximum extent allowed by law, City shall, in connection with any Subsequent Approval, adopt Statements of Overriding Consideration recognizing the specific economic, social and other benefits of the Project that outweigh and make infeasible any additional mitigation measures.

SECTION 3. PROPERTY SUBJECT TO THIS DEVELOPMENT AGREEMENT

A. Property Subject To This Development Agreement. All of the property described in Exhibit A-1 shall be subject to this Development Agreement. In addition, should Developer acquire the 10 acre parcel described as the "Out Parcel, Assessor's Parcel Number 106-240-10" that land shall become part of the property subject to this development agreement. If not acquired the City may create a benefit district to collect said parcel's allocable share of the improvements constructed by Developer.

B. Term Of Subdivision Maps And Use Permits. The term of any parcel map waiver, tentative parcel map, tentative subdivision map, vesting tentative parcel map or vesting tentative subdivision map, relating to the Project Site, or any part thereof, and the term of any subdivision improvement agreement related to development of the Project Site, or any portion thereof, shall be the period specified in the approval of said parcel map waiver, tentative parcel map, tentative subdivision map, vesting tentative parcel map or vesting tentative subdivision map or, if no period is specified, then the term shall be five (5) years. Developer may seek extensions of tentative maps in accordance with the provisions of the Subdivision Map Act. Notwithstanding the foregoing, however, any final map or final parcel map waiver shall not expire in less than the remaining Term.

The term of any use permit, design review approval or other zoning entitlement or discretionary review for development of any portion of the Property shall be one year, which period may be extended for two additional one (1) year periods by the decision maker. Any such use or approval shall continue and no extension will be necessary if, in the case of residential uses, the foundation for a single home is built and, thereafter, construction continued toward completion or, in other cases, a building permit has been issued and construction has been initiated.

SECTION 4. OBLIGATIONS OF DEVELOPER FOR WHICH CITY MAY TERMINATE DEVELOPMENT AGREEMENT FOR FAILURE OF DEVELOPER TO ACCOMPLISH OBJECTIVES

Notwithstanding anything to the contrary herein contained, the Term shall be subject to termination by City (but not by Developer) for failure on the part of Developer to achieve the objectives stated below, subject to the provisions of this Development Agreement that deal with permitted delays and delaying causes. Developer's performance in achieving these objectives shall be considered and evaluated as part of the process of annual review provided for of this Development Agreement. The objectives to be achieved by Developer are:

A. Mello-Roos District Formation. The Developer shall prepare an analysis of the development's impact upon City's General Fund and the need for additional operating revenues to maintain existing General Fund service levels. The City Council will review the analysis and determine whether or not to invoke a Mello-Roos Tax as a condition of annexation. Subject to the obligation of City diligently to process and act upon the same, Developer shall have applied for and procured adoption by City of such resolutions and actions as may be required to form the community facilities district (Mello-Roos District) or other mechanisms necessary to finance the public infrastructure and police and fire services as generally described in the Policy Plan by or before the issuance of the first final map for development of the Project Site.

B. Formation and Participation In Area Assessment District; Limitation on Ability to Develop Prior To Formation of Assessment District. Subject to the obligation of City diligently to process and act upon the same, Developer shall petition, assist in the formation of, join, and shall take all those actions necessary to be taken by it to participate in the multi-owner Assessment District presently contemplated to consist of the Project Site and adjoining property to the south between I-505, I-80 and the present alignment of Leisure Town Road and related to common public improvements including, but not limited to, the 3d and 4th lanes of Vaca Valley Parkway, \$12.638 Million for "Gap" financing the LTI, sewer lines, I-505 ramps and other improvements, all as more specifically described in Exhibit "E-1". Said Area Assessment District is commonly referred to as "NESAD". This condition shall not bar Developer from challenging the assessment spread of the costs of public improvements to be constructed by such Assessment District. Until NESAD is formed, Developer may not seek, nor shall City issue, any building permit for the Project Site unless the City Council expressly authorizes such issuance in writing or this Agreement is administratively amended to eliminate the need for the NESAD due to other funding of said NESAD improvements.

C. Transfer of or Binding Agreement for the Transfer of the Proposed Community College Site to Solano Community College District and Other Property. Developer shall transfer to District, the proposed Community College site (the "College Site") in accordance with the terms and conditions of that certain Memorandum of Understanding of December, 1992, between the District and Developer (the "College Agreement").

From the Effective Date until the conveyance of the College Site to the District, Developer agrees to hold the College Site in its present use, convey the Site only to the District and cause no additional assessments to be placed upon the College Site. Prior to the conveyance of the College Site to the District through a document herein called the "Acquisition Agreement", Developer and District shall cause a deed restriction on the College Site to be prepared substantially in conformance with the provisions of the College Agreement and submitted to the City Attorney for approval. The deed restriction will limit the College Site for thirty (30) years from December 10, 1992, to one of the following uses deemed compatible with the Project: a Higher Education Center, other educational facilities, public parks, recreational and cultural facilities, public administrative offices, well sites, community centers, day care centers, public open space, fire stations, police stations, libraries, multi-modal transportation centers, public easements and detention basins of five (5) acres or smaller unless constructed for dual service as athletic fields. After thirty (30) years, the College Site may be put to any use subject to all applicable laws and regulations in force at the time. Evidence shall be provided to City that the Acquisition Agreement contains provisions which provide that if the District takes title to the Site but (i) has not obtained a commitment of financing suitable in amount and upon conditions satisfactory to the District in its sole discretion to develop a Higher Education Center within twenty (20) years of December 10, 1992, or (ii) has obtained suitable funding but has not commenced construction of the Higher Education Center within twenty-two (22) years of December 10, 1992, then the College Site shall be conveyed to City. If City shall obtain title from the District or as specified herein, City shall also be able to sell said property, subject to the deed restrictions. City's title shall be subject to a condition that should City sell said property or any portion thereof, that the net proceeds of any sale shall, after expenses of sale, be used to reimburse the District for actual out-of-pocket expenses spent toward the College Site development in an amount not to exceed five hundred thousand dollars (\$500,000). Subject to the prior reimbursement of the District, Developer shall be reimbursed from the net proceeds of any sale after expenses of sale for any unpaid portion of the District's share of the infrastructure cost paid by Developer on the amount for the College Site to be determined at the time the land is sold. If Developer elects to cash out its off-site costs for the College Site, City will reimburse the paying entity. It shall be the responsibility of the paying entity or successor in interest to keep City informed of its then current address. Should said person, entity or successor in interest not be able to be located at the time of payment, then following one year of reasonable effort by City to locate such person, entity or designated successor in interest, said payment obligation of City to repay said amount will terminate and said amount shall be transferred to City's general fund. If Developer elects not to cash out the off-site costs but to distribute said costs to Project Area properties through a community facilities district or other public infrastructure financing mechanism, the funds to be repaid will be earmarked for improvements to the Project Area.

The College Site shall be conveyed to the District in accordance with the terms of the Acquisition Agreement.

D. Commencement of Construction of Phase I Infrastructure. Not later than the eighth (8th) anniversary date of the Effective Date, Developer shall have commenced construction of the public improvements and infrastructure necessary for development of the first phase of the Project, adequate in size to support said first phase of the Project in accordance with the requirements of the Specific Plan (the "Phase I Infrastructure" consisting of sub-phases 1-A, 1-B and 1-C). The items constituting the Phase I Infrastructure are set forth on Exhibit B-1 to this Agreement. Failure to commence the Phase I Infrastructure in accordance with the requirements of this Section shall not constitute a default under this Agreement but shall result in a reduction of the term in accordance with the provisions of Section 1(B) of this Agreement. "Commencement of Construction" shall be determined by City and shall mean a course of conduct by Developer which includes beginning the physical construction of all portions of the Phase I Infrastructure and the provision of bonds, construction contracts or other financial undertakings which support the continuation of said construction to completion.

E. Commencement of College Infrastructure. Installation of public infrastructure necessary to serve the college by second anniversary of College notification to Developer that they have obtained State authorization and funding to proceed with construction of the college.

SECTION 5. – DEVELOPER'S OBLIGATIONS FOR WHICH CITY MUST ALLOW DEVELOPER RIGHT TO CURE DEFAULT.

A. No Obligation to Develop. Developer shall have no obligation to initiate or complete development of any phase of the Project Site within any period of time except that Developer shall undertake and complete (i) the matters identified in Section 4 of this Development Agreement, (ii) the obligations otherwise stated in a separate agreement or undertaking that is part of the Elements or that is entered into in support of any community facilities or assessment district creation or financing, (iii) conditions for commencement of construction stated in any use permit, design review approval or entitlement for construction of specific improvements on a specific parcel, or (iv) as provided in the Subdivision Map Act (Gov't Code §§ 66400 et. seq.) or City's subdivision ordinance as applied to subdivision improvement agreements. Failure to undertake and complete the matters identified in Section 4 of this Development Agreement shall constitute a failure of condition for which this Agreement shall terminate, but not a breach of covenant hereunder for which specific performance can be enforced.

B. General Obligations. In consideration of City entering into this Agreement, Developer agrees that it will comply with all Project Approvals and Subsequent Approvals in conformance with this Agreement. The parties acknowledge that the execution of this Agreement by City is a material consideration for both Developer's acceptance of, and agreement to comply with, the terms and conditions of the Project Approvals and the Subsequent Approvals in conformance with this Agreement.

C. Infrastructure Construction; Dedication of Land, Rights of Way and Easements. Developer shall pay the full costs of all on-site infrastructure for the Project Site and all

its proportionate share of off-site infrastructure necessary to serve the Project Site, subject to any oversizing determined appropriate by City. Any oversizing shall be reimbursed to Developer in accordance with the provisions of City's Benefit District Ordinance; however, the term for any such reimbursement shall be twenty (20) years. Developer may utilize those financing mechanisms to fund such on-site, backbone infrastructure determined appropriate by City as reasonably protecting City's general fund from responsibility for said improvements.

Developer is obligated to dedicate land for parks and the elementary school. The value of said dedications shall be deducted from, or be a credit toward, the portion of the development impact or mitigation fees applicable to elementary schools and neighborhood parks. The amount of such credit will be determined in accordance with the land values established in the Park and School Mitigation Fees studies. Developer will dedicate and construct, without additional credit, street frontage and improvements to street frontages adjacent to the schools and parks.. Further, Developer shall, at its own expense, rough grade and level the land for such school and park facilities and will place utility stubs to serve such school and parks to the parcel/lot line of such school and park sites at such places mutually agreed to by City and Developer during Developer's construction of utility improvements for the Project Site.

Developer shall dedicate, without compensation, road rights-of-way, utility and other easements required for development of the Project Site in accordance with the Vested Elements. City shall cooperate with Developer and use its best efforts to bring about construction of the infrastructure required for the development contemplated in the Vested Elements that is not within Developer's control, including county, state, or federal assistance and ,where appropriate, through exercise of the power of eminent domain so long as the funds are available therefor without cost or expense to City, either from bond sales proceeds, cash payments or any combination thereof.

D. Developer Funding Of Infrastructure Shortfalls. Except as to traffic LOS and DIF funded water and sewer lines, in any case where the relevant public agency lacks sufficient funds to complete necessary area wide infrastructure improvements required to be constructed as part of the Vested Elements, including the school facilities to serve the Project Site, Developer shall be entitled to proceed with development upon procurement of a source of funds, reasonably acceptable to City, that is sufficient to make up the shortfall in funding for such construction.

E. No Mineral Exploitation; Water Rights; Closure and Transfer of Existing Water Wells and Water System. No portion of the surface and no portion of the Property lying within five hundred (500) feet of the surface of the land may be utilized for extraction of oil, gas, hydrocarbon or any other mineral, metal, rock or gravel or any activities associated with or ancillary to any such activities. Nothing herein contained shall be deemed to prevent or restrict exploitation and/or extraction of such minerals and other substances below a plane lying five hundred (500) feet below the surface of the land so long as all such activities conducted within the boundaries of the Project Site are confined to a level below said elevation; and nothing in this Section shall be deemed to prevent

movement or export of rock, gravel or earth as part of grading activity undertaken in connection with development allowed under the Vested Elements.

No portion of the Property may be utilized for placement of water wells or for extraction of water by Developer or any successor in interest. City shall have the sole and exclusive right to all water, rights in water, or the placement of wells and use of water underlying the Project Site, whether above or below five hundred (500) feet of the surface and this provision shall constitute a transfer of all such water rights to City effective upon the effective date of this Agreement.

Prior to issuance of the first building permit for a residential structure, all of the Project Site to be developed for residential uses shall deannex from the Solano Irrigation District and pay to said district the detachment fee applicable thereto. The portions of the Project Site which are not to be developed for residential uses shall remain within the District boundaries.

There exist on the Project Site certain water wells and a water system to supply water to a business park across I-505 from the Project Site. No sooner than December 31, 1995 and, in no event later than the approval of the first tentative map for the Project Site, Developer shall transfer the same to City and pay for closing the existing wells on the property and dedicate two (2) one-acre sites, in addition to the existing well site of City, for City to drill water wells within the Project Site. The site(s) of one or more of the well locations are identified in section 3.4.1 of the Specific Plan for the Project Site.

City will work cooperatively with Developer to locate the well site(s) not identified in the Specific Plan in such a manner as to minimize the impact on development of the Project Site. Should any well-site prove inadequate for a City water well, Developer and City will select a replacement one-acre site and the prior site will revert to Developer. City will accept, in lieu of fee title to an entire well site, an encroachment easement if the well-site is adjacent to an open space that will provide construction and maintenance access to well site.

City will offer to continue provision of water to the business parks under the City applicable regulations and charges for such water service.

F. Processing Charges, Development Impact Fees Applicable To Project Site. Every application for an approval and every approval and issuance of permits and entitlements therefor shall be subject to all application fees, processing fees, development impositions, development impact fees and regulatory fees, set by or within the control of City (including, but without limitation, any other fee or charge levied or imposed in connection with or by reason of the conduct of development or business activity within City), levied upon the Project Site, or any part thereof, charged as a condition to any application for or approval of development or condition thereof, or imposed to mitigate adverse environmental impacts, subject to the following:

- (1) New Development Impact Fees. Nothing herein contained shall be construed to prevent City from enacting new regulatory fees, development impact fees

and/or development impositions that may be imposed on all or portions of the Project Site or development thereof so long as (a) the amount charged has been determined in accordance with all applicable law; and (b) Developer shall be entitled to credit for fees paid, the value of specific duplicative work performed and land dedicated prior to the enactment of such regulatory fee requirements where such fees, work or open space requirement deal with or pertain to the same subject matter and mitigated the same impacts or met the same or similar public needs to which the new fee or imposition requirement is addressed.

(2) Development Impact Fees Etc., Defined. For purposes hereof, "development impact fees" shall include all charges, levies and impositions that are or would be so categorized under applicable California law as of the date of commencement of the Term but do not include, nor does this Development Agreement limit City's ability to impose upon the Project Site, "special taxes," special assessments or maintenance district assessments, zones of benefit, rates or surcharges that are imposed on one or more areas of City to finance area-specific public services, facilities or infrastructure.

(3) Limitation on Development Impact Fees. The Project Site shall not be subject to any Development Impact Fees enacted after the effective date of this Agreement unless: (a) it applies on a City-wide basis (although zones of benefit may be designated with charges allocated based upon such zones); and (b) is not, directly or in practical effect, targeted against or limited to the Project Site, any portion thereof or the areas or region of which the Project Site is a part or the use to which the Project Site is put unless it is imposed and used to mitigate an impact caused solely by the development of the Project Site.

(4) Processing Costs also include such funds as may be necessary to hire consultants and conduct studies required to develop the Project, subject to the Terms of this Section. Prior to engaging the services of any consultant or authorizing the expenditure of any Planning Costs, City shall consult with Developer, to seek mutually agreeable terms regarding (a) the scope of work to be performed; (b) the projected costs associated with such work; and (c) the particular consultants engaged to conduct such work.

G. Impact Mitigation; No Cost To City. All public improvements (including, without limitation, landscaping) necessary for provision of public services in support of development of the Project Site or to be constructed or installed as conditions of development as generally described in the Specific Plan, shall be constructed or installed without cost or expense to City (except as such costs and expenses become part of assessments against all or portions of the Project Site).

H. Developer Procures Financing For Major Infrastructure. Developer shall be responsible to obtain funding for construction of major on-site circulation streets and backbone improvement work without cost to City, and assurance thereof shall be required as a condition of any City supported financing for such construction for some or all of the

Project Site , either in the form of a bonded contract for construction of the facilities or a contract for acquisition of them in form acceptable to City.

I. Assurances Concerning In-Tract Improvements. Developer shall be responsible for the performance of work required to be performed within portions of the Project Site to be subdivided, and assurance thereof shall be required as a condition to filing the final subdivision maps or parcel maps for the portion of the Project Site to be subdivided, such assurance to be in the form of an improvement agreement requiring construction of such improvements, entered into in accordance with procedures established pursuant to City's Subdivision Ordinance (with bond or other surety provided as therein required), or unless a community facilities district has been formed with provision for construction or acquisition of the improvements in which case no further assurance or surety shall be required. All standards for construction of the surface streets, storm drains, sanitary sewers, curbs, gutters, sidewalks and utilities, the terms of contracts for provision thereof and other terms and conditions applicable to the work of construction as well as for dedication of property interests required to be dedicated shall be those standard conditions established by City through the Public Works Department and Community Development Department, as may be adopted from time to time, and as in effect generally in the City when a portion or portions of the Project Site seek to develop.

J. Dedications Of Open Space, Greenbelt, Parks, Trails And Landscaped Areas Lying Within Tracts. Greenbelts, open space areas, parks, landscaped areas, bicycle and other trails and access points as shown on the Policy Plan, lying within each portion of the Project Site (not covered by any of the foregoing sections) shall be dedicated to City by grant or dedication, in form approved by the City Attorney, as a condition of recordation of the final subdivision map or parcel map defining the area within which said areas are located. Greenbelts, buffers and open space areas may include wetlands, storm water detention, landscaping and decorative planting areas that do not interfere with greenbelt, buffer and open space uses.

Prior to dedication and acceptance of such lands, the Developer shall have proposed and implemented a mechanism acceptable to City to maintain said open space, greenbelt, park, trail or landscaped area, such as a Landscape and Lighting Maintenance District or Homeowners Association.

K. Dedicated Property Shall be Unencumbered. All parcels or interests in land dedicated by Developer to City shall be free and clear of all liens and encumbrances other than easements or restrictions that do not interfere with or preclude use of the dedicated property or interest for its intended purpose as reasonably determined by City.

L. Transportation Systems Management Controls. The Property shall be subject to the City's Transportation Systems Management ("TSM") Ordinance and/or Trip Reduction Ordinance ("TRO"), as presently adopted or as later amended.

M. Developer to Provide Projections for Development of the Project. In order to facilitate cooperation among the parties in connection with the timely development of the Project, Developer, or a successor Master Developer, shall provide City with reports of its

projected timetable for design and construction of the Project ("Development Projections") each time there is a material change in Developer's anticipated progress in developing the Project. In addition, Developer shall provide Development Projections with the documentation Developer is required to provide City in conjunction with the "Annual Review," as defined in Section 8.2(1) of this Agreement.

N. Interim College Improvements. As funding for permanent College facilities is beyond the control of City or Developer and may not occur for several years, Developer shall construct a commercial building, of not less than 12,000 nor more than 15,000 square feet, with appropriate parking and landscaping, suitable for use as an interim educational facility for College. Such building shall be built in land use area 14 as shown on the Specific Plan in effect of the effective date of this Agreement, and shall be constructed in time to be occupied on the first anniversary of the annexation of the Project to the City. Construction of the facility shall not be subject to limitations upon developer's right to develop prior to formation of the North East Section Assessment District as stated in section 4.B. Developer agrees to provide such facility, rent free, for a period of five (5) years and, thereafter, for an additional five (5) year period at market rents. Further, Developer shall provide College \$175,000 for equipment and supplies for said facility.

In consideration for Developer constructing said facility and leasing it to College in accordance with the provisions above:

(1) City will increase the number of possible carryover residential units from 100 to 150; and

(2) City will process and consider an amendment to the Specific Plan and to this Agreement of an additional 100 residential units. City retains the discretion to deny such application and any approval of additional units will be subject to the then existing normal and customary fees or dedications and such mitigation measures as environmental evaluation may require, however City shall not require or demand other exactions for this potential amendment of the Development Agreement that are not directly and specifically related to the impacts caused by the additional units, if any.

(3) City shall defer the payment by Developer of all development impact fees relative to the Interim College Facility until said facility is vacated by College. City shall cooperate with Developer to reduce costs of developing the Interim College Facility and shall assist Developer and College to obtain exemption of the Interim College Facility from real and personal property taxes.

O. Odor Issues. The Project Site is located across I-505 from commercial, business park and industrial lands which include two existing food manufacturing and storage facilities and the Project Site is adjacent to a wastewater treatment facility operated by City to the east of Leisure Town Road. In an effort to continue such existing, prior uses, Developer will enter into a recorded document that puts prospective residents of the Project Site on notice of the potential of periodic odors from these facilities. This

provision can be satisfied by including substantially the following language in a covenant recorded against the Project Site, having said language in the Covenants, Conditions and Restrictions recorded against the Project Site, and by noting the same in disclosure documents signed by the purchasers upon the initial sale of a residential unit for occupancy. Further, Developer shall reference said odor issue in the Grant Deed for each initial sale such that said reference will also be included within the Grant Deed for each subsequent sale within the Project Site. The language for the Grant Deeds shall be in a form approved by City. Said covenant shall be that described in Appendix 8.6 of the Policy Plan:

Odor Covenant, Agricultural Processing Facility Disclosure Requirement
and Limitation On Ability to Sue For Damages Relative to the Environs of the
Gibson Canyon Wastewater Treatment Plant, American Stores Properties
and American Home Food Products Plant

The following language will be recorded as a covenant running with the land for the benefit of American Home Food Products, Inc. (AHFP), American Stores Properties, Inc. (Lucky Stores), and the City of Vacaville (Vacaville) and, further, shall be included within the CC&R's of the North Village Development being undertaken by Mission Land Company. Acknowledgment of the covenant shall be signed by each new property owner through development of the land within the North Village Specific Plan area. Subsequent Owners will be on notice through the CC&R's, preliminary and final title reports, and such other disclosure required by law including, but not limited to, California Civil Code §1102.6a.

By acquiring the (Property), (Owner), on behalf of himself, and his successors in interest, assigns, licensees, lessees, or permittees, shall be deemed to have acknowledged and agreed for the benefit of the lands of American Home Food Products, Inc., American Stores Properties, Inc., and the City of Vacaville's Gibson Canyon Wastewater Treatment Facility, and their heirs, assigns and successors in interest, as follows:

A. As the date of recordation of this instrument there is an agricultural processing facility, located west of the Interstate 505 freeway, owned and operated by American Home Food Products, Inc., located in the unincorporated area bounded generally by a P.G. & E. 230 KV transmission corridor, Crocker Drive, a P.G. & E. 115 KV transmission corridor and Eubanks Drive (Assessor's Parcel Numbers 106-260-140, 106-260-650, and 106-270-050). This facility, which has been in operation more than twenty years on a daily basis including periods of twenty-four hour a day operation, operates in such a manner as to cause odors related to food processing which may affect North Village residents, occupants, employees and visitors. These odors may be offensive. In addition, there is another food processing facility adjacent to the American Home Food Products plant owned and operated by American Stores Properties, Inc. (Lucky Stores), located in the area generally bound by Midway Road, I-505, a P.G. & E. 230 KV transmission corridor, and

Eubanks Drive (Assessor's Parcel Numbers 106-240-230 and 106-240-240). In the future, these facilities and/or their operations may be increased. California Civil Code Section 3482.6 provides that agricultural processing facilities shall not be deemed a nuisance provided that they operate as more particularly set forth therein. Further, such facilities must operate in accordance with certain applicable state and federal statutes. Therefore, except as set forth in said provisions of the California Civil Code in effect on the operative date of this Agreement or as set forth in section C below, (Owner) is prevented from bringing any action to abate odors arising from such facilities or to recover damages for nuisance, personal injury or property damage, including damages based on diminution in property value resulting from such odors.

B. The City of Vacaville operates the Gibson Canyon Creek Wastewater Treatment facility located adjacent to North Village on its easterly boundary, located in the area bound by a P.G. & E. 230 KV transmission corridor, the Shellhammer Drain, a P.G. & E. 115 KV transmission corridor, and Leisure Town Road (Assessor's Parcel Number 106-280-020), which facility processes waste water, including wastewater from the facilities described in the foregoing paragraph which processing is an integral part of their processing and storage of food products. This facility shall conclusively be deemed to constitute an agricultural processing facility with the meaning of Civil Code §3482.6, regardless of the actual degree to which it processes effluent from agricultural or food processing operations. Further, this facility may also operate independently of said facilities by treating wastewater from industrial, commercial and residential land uses including, but not limited to, North Village itself, and in such a manner as to cause odors which may affect North Village residents, occupants, employees and visitors. These odors may be offensive. In the future, this facility and/or its operations may be increased. Therefore, except as set forth in section C. below, (Owner) is prevented and barred from bringing, any action, claim, suit or otherwise to abate odors arising from said facility or to recover damages for nuisance, personal injury or property damage, including damages based on diminution in property value resulting from such odors.

C. Except as may be specifically prohibited by §3482.6 above, nothing in sections A and B above, or otherwise contained herein, shall prevent (Owner) from bringing an action based upon or arising from the violation of any law regulating the operation of said facilities.

SECTION 6. PROVISIONS RELATING TO ASSESSMENT PROCEEDINGS.

A. Participation in Area Assessment District. As provided in Section 4-B above, Developer shall join, and take all those actions necessary to participate in the Assessment District commonly referred to as "NESAD".

B. Construction And Acquisition Proceedings. Subject to the right of the Solano Community College District to exclude the College Site therefrom, Developer may propose to initiate assessment and/or community facilities district proceedings to finance payment of all or portions of the design, acquisition and construction costs required to be paid for off-site improvements to be designed and constructed in connection with development of the Project Site (or portions thereof) pursuant to the Vested Elements. City shall diligently process such application so long as (i) the application complies with law, (ii) is otherwise regular in form, (iii) is consistent with City's standards, (iv) provides for a lien-to-value ratio and other financial terms that are reasonably acceptable to City, (v) the person, firm or entity initiating the proceedings advances such amounts as City requires to provide for staff and outside consultants to undertake such processing, and (vi) City has reviewed and approved the proposed consultants to serve such transaction including, but not limited to bond counsel and financial advisory underwriter, which approval shall not be unreasonably withheld. City shall diligently seek to sell any bonds to be issued and secured by such assessments upon the best terms reasonably available in the marketplace; provided, however, that City's duty to market bonds shall be suspended during any period when marketing conditions render the issuance economically infeasible. Developer may initiate improvement and assessment proceedings utilizing assessment mechanisms authorized under the law of the State of California where the property subject to assessment provides primary security for payment of the assessments. Developer (or any successor of Developer as to any portion of the Project Site as to that portion) may initiate such assessment proceedings with respect to a portion of the Project Site to provide financing for design or construction of improvements for such portion. City shall allocate shortfalls or cost overruns in the same manner as the special taxes or assessments for construction of improvements (as opposed to assessments for maintenance) are allocated in the community facilities district or other financing mechanism so that each lot and/or parcel within the benefited area (including the Project Site) shall bear its appropriate share of the burden thereof and construction or acquisition of needed improvements shall not be prevented or delayed.

C. Maintenance District Proceedings. City is authorized to, and presently contemplates, the creation and establishment of maintenance districts to fund maintenance and operating costs for wetlands mitigation areas, storm water drainage and detention areas, landscape medians, parks, landscaping areas, open space maintenance, street lighting and other improvements. In any case where City creates a maintenance district, except for areas of storm water drainage and detention areas and street lighting which City may authorize, City shall allow Developer (or a designated successor, agent or homeowners' association) to perform some or all of the work so long as the work is performed to City standards and during such period will keep the maintenance districts created dormant. If, at anytime, the City, within its sole discretion, determines that the work is not being performed to City standards, then the City will so notify Developer, and if not cured within 30 days activate or create maintenance districts and, thereafter, maintain the areas in question.

City shall also entertain Developer initiated requests for maintenance districts and City shall diligently process such applications that comply with law and are otherwise regular

in form. Developer and/or City shall have the right to form or create such maintenance districts under any mechanism authorized by law where the benefited property may be assessed or charged for payment of such maintenance and operating cost. Developer and/or City may initiate proceedings for formation of such maintenance districts with respect to a portion of the Project Site to provide for maintenance of improvements for such portion without the consent of the owners of any other portion so long as the proceedings are conducted and assessments are levied without cost or expense to or liability imposed upon the owners of the other portions of the Project Site and so long as the formation of such district will not interfere with formation of maintenance districts for other portions of the infrastructure to be maintained in that fashion.

Developer, agent or homeowners' association will pay City the costs of inspection of the area being maintained by them.

D. City's Good Faith In Processing. City shall accept, process and review, in good faith and in a timely manner, (subject to payment of such application fees as may be charged hereunder in connection therewith) all applications required under all applicable laws, ordinances, rules and regulations for use of the Project Site, in accordance with the terms of this Development Agreement and as required to determine the compliance of such application with applicable legal requirements.

E. Right Of Reimbursement From Assessment Proceeds. Developer shall have the right to obtain reimbursement in any such assessment proceeding, special tax proceeding or other financing proceeding undertaken by City, for any costs incurred or fees paid for administration, design and construction of improvements, fulfillment of the requirements of the Vested Elements or implementation of mitigation measures that can properly be included in such assessment proceedings, such reimbursement to be made together with interest thereon at the rate of interest being charged on the principal amount of the assessments from which said reimbursement is made or at such other rate as City determines fairly compensates for the cost of the funds to be reimbursed.

F. Right Of Reimbursement From Others Benefited. In any case where City requires Developer (as otherwise permitted hereunder) or consents to Developer's planning, designing or constructing improvements, in excess of those required for development of the Project Site, or to make dedications, provide mitigation or incur costs in connection with public improvements in excess of those required to service development of the Project Site, City shall require that all other persons not included within the initial boundaries of a financing district, but who are benefited thereby and who utilize the improvements within twenty (20) years after Developer constructs the same, to either seek to add their property to the financing district or otherwise reimburse Developer for their proportionate share of such costs in accordance with the adopted method of spreading assessments for construction of such improvement, such reimbursement to be made together with interest thereon at the rate of interest being charged on the principal amount of the assessments from which said reimbursement is made or at such other rate as City determines fairly compensates for the cost of the funds to be reimbursed and in accordance with the particular reimbursement financing mechanism utilized by City.

SECTION 7. DEFAULT, REMEDIES, TERMINATION OF AGREEMENT.

A. Notice Of Default And Liability. Subject to extensions of time by mutual consent in writing, or as otherwise provided herein, material failure or delay by any party to perform any term or provision of this Development Agreement constitutes a default hereunder. Upon default under this Development Agreement or any of its terms or conditions, the party alleging such default or breach shall give the breaching party written notice thereof, specifically stating that it is a notice of default under this Agreement, specifying in detail the nature of the alleged default and, when appropriate, the manner in which said default may be satisfactorily cured, and giving a reasonable time that shall be not less than thirty (30) days measured from the date of personal service or delivery by certified mail of written notice of default. During any such cure period or during any period prior to notice of default, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

If there is a dispute regarding such default relative to the "Milestone" events set forth in Section 4 above then the parties shall continue to perform under this Agreement during the period of time for cure that City has established and thereafter City shall suspend performance of its obligations under this Agreement for a reasonable period of time, not to exceed 120 days, pending resolution of the dispute after which, if no resolution has occurred, the Agreement shall be of no further force and effect if it is determined that the breach has occurred and not be cured.

If there is a dispute regarding default on any other matter under this Agreement, the parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter. Notwithstanding anything to the contrary herein contained, no default hereunder in performance of a covenant or obligation with respect to a particular lot or parcel shall constitute a default applicable to any other portion of the Project Site, and any remedy arising by reason of such default shall be applicable solely to the lot or parcel where the default has occurred. Any liability arising by reason of such default shall be the liability and obligation solely of the owner or owners of the lot or parcel where or with respect to which the default has occurred.

B. Remedies. After proper notice and expiration of said thirty (30) day cure period (or such longer period as the party claiming default may specify), without cure, or if such cure cannot be accomplished within such cure period, without commencement of cure within such period and diligent effort to effect cure thereafter, the party to this Development Agreement that has given notice of default may, at its option, give notice of intent to terminate this Development Agreement, pursuant to Government Code Section 65868, or pursue such other remedies as may be available to the party giving such notice. All remedies shall be cumulative. Notice of intent to terminate shall be by certified mail, return receipt requested. Upon delivery by City of notice of intent to terminate, the matter shall be scheduled for consideration and review by the City Council within sixty (60) days in accordance with Government Code Sections 65867 and 65868 and Vacaville Municipal Code § 15.60.080. Upon consideration of the evidence presented in said review and a determination by the City Council based thereon, City may give written

notice of termination of this Agreement as to the defaulting party, which said notice shall effectively terminate this Development Agreement as to the defaulting property unless the default has been cured prior thereto. Evidence of default also may arise during regular annual review of this Agreement as described below. Any determination of default (or any determination of failure to demonstrate good faith compliance as a part of annual review) made by City against Developer, or any person who succeeds to Developer with respect to any portion of the Project Site, shall be based upon written findings supported by substantial evidence in the record as provided in Vacaville Municipal Code §§ 15.60.070 and 15.60.080. Notwithstanding any other provision of this Agreement to the contrary, remedies for a default by Developer of any of its obligations hereunder shall not be limited and City shall have the right to institute legal proceedings to enforce the obligations of Developer as set forth herein and in the Vested Elements, including the obligation of Developer to indemnify and save and hold harmless City pursuant to the provisions of this Agreement, in each case only with respect to that portion of the Project Site owned by Developer including, but not limited to, all remedies as may be available at law or in equity by reason of the failure of Developer to pay fees, taxes, monetary exactions or assessments levied against the Project Site to pay for the cost of improvements whether levied pursuant to this Agreement or the obligations otherwise stated in a separate agreement or undertaking under the Vested Elements or which is entered into in support of any community facilities or assessment district financing. City shall have the right to exercise such remedies as may be available at law or in equity to enforce the conditions stated in any use permit, design review approval, zoning approval, entitlements for use or entitlements for construction of specific improvements on a specific parcel, or as are provided in the Subdivision Map Act (Gov't Code §§ 66400 et. seq.) or City's subdivision ordinance as applied to subdivision improvement agreements. In addition to the right to give notice of intent to terminate this Agreement, Developer shall have the right to institute legal proceedings to enforce this Agreement in the event of a default by City.

C. No Waiver. Failure or delay in giving notice of default shall not constitute a waiver of default, nor shall it change the time of default. Except as otherwise expressly provided in this Development Agreement, any failure or delay by a party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies; nor shall it deprive any such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert or enforce any such rights or remedies.

D. Judicial Review. Any purported termination of this Agreement for alleged default shall be subject to review in the Superior Court of the County of Solano pursuant to Code Of Civil Procedure § 1094.5(c).

E. Defaults By City. If City does not accept, review, approve or issue development permits, entitlements or other land use or building approvals, if any, for use in a timely fashion as provided in this Development Agreement or defaults in performance of the obligations on its part to be performed under this Development Agreement, Developer (or the owner of the Project Site to which such default applies) shall have the rights and remedies provided herein or available in law or in equity,

including, but without limitation, the right to seek specific performance in an appropriate case.

F. Obligation and Default Limited To Affected Parcel. Notwithstanding anything to the contrary herein contained, where an obligation or duty hereunder to be performed, or a default has occurred, only with respect to a particular lot or parcel, such obligation or duty and any remedy or right of termination arising hereunder as a result of a failure to perform the same shall apply solely to or with respect to such lot or parcel and affect only the owner thereof and the holders of the interest therein. No obligation, duty or liability will be imposed against or apply to any parcel or portion of the Project Site with respect to which no default has occurred nor shall any obligation or duty be imposed against or applied to the owner thereof.

G. Copies Of Default Notices. The owner of any portion of the Project Site shall have the right to request copies of notice of default given to the owner of any other portion of the Project Site. City and any owners of other portions of the Project Site to whom such request has been made shall honor the same and provide such notice in the manner and to the address specified in the request.

SECTION 9. ANNUAL REVIEW.

Good faith compliance by Developer with the provisions of this Agreement shall be subject to annual review pursuant to Government Code § 65865.1 and Chapter 15.60.70 of the Vacaville Municipal Code, utilizing the following procedures:

A. Submission By Developer; Result of Failure to Submit. Review shall be conducted by the Director upon a submission made by Developer of a draft report, accompanied by the fee therefor, on behalf of all of the Project Site pursuant to Vacaville Municipal Code § 15.60.070B not less than 45 days nor more than 60 days prior to the anniversary of this Agreement. The Director may refer the review to the Planning Commission pursuant to the terms of Vacaville Municipal Code § 15.06.070F. Should there be a failure by Developer to submit a draft report and the City has not notified Developer within 90 days following the anniversary date of Developer's failure to comply, then the Development Agreement shall be deemed to have satisfactorily completed the annual review for, and only for, that year.

B. Showing Required. During review, Developer shall be required to demonstrate good faith compliance with the terms of this Development Agreement and provide such documents in connection with such demonstration as the Director may reasonably request.

(C). Notice Of Staff Reports, Opportunity To Respond. At least ten (10) days prior to the conduct of any such review, Director shall deliver to Developer a copy of any public staff reports and documents to be used or relied upon in conducting the review. Developer shall be permitted an opportunity to respond to Director's evaluation of its

performance by written and oral testimony at a public hearing to be held before Director, if Developer elects.

(D). Director's Findings: Appeal. At the conclusion of the review, Director shall make written findings and determinations on the basis of substantial evidence, whether or not Developer or its successors have complied in good faith with the terms and conditions hereof. Any determination of failure of compliance shall be subject to the notice requirements and cure periods stated in Section 7. Any interested person may appeal the decision of Director directly to the City Council, such appeal to be filed within ten (10) days after Director has rendered his decision in writing or issued a Certificate of Compliance. The appeal shall otherwise be governed by the provisions of Chapter 15.60.070E of the Vacaville Municipal Code, as amended from time to time.

(E). Notice Of Termination. If Director determines that Developer (or any person, firm or entity owning a portion of the Project Site) has not complied with the terms and conditions hereof; and after expiration of any cure period, Director may recommend to City Council that City give notice of termination or modification of this Agreement as provided in Government Code §§ 65867 & 65868 and Vacaville Municipal Code § 15.60.080. If termination is proposed, it shall apply solely with respect to that portion of the Project Site (if less than all) affected by the failure to show good faith compliance and shall be subject to the provisions of Sections 7 hereof. If modification hereof is proposed, the modification shall pertain solely to the provisions hereof as applicable to that portion of the Project Site (if less than all) affected by the condition that has prompted the proposed modification.

(F). Notice Of Compliance. Upon Developer's request, City shall provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by City with respect to any year for which annual review has been conducted or waived and Developer has been found or deemed to be in compliance. Any person owning a portion of the Project Site will have the right to record such notice.

SECTION 10. MITIGATION MONITORING.

Compliance with the various mitigation measures made a part of the Policy Plan and determined to be feasible in the Final Environmental Impact Report certified in connection with the Specific Plan shall be determined as follows:

(A) Permits And Approvals. Compliance with those mitigation measures that are affected by and pertain to any development permit or a proposal for which any approval or variance is requested shall be determined in connection with the processing of the application for the permit, the approval or variance. This provision does not create a requirement of comprehensive monitoring for all mitigation conditions on the occasion of each application; but each application shall provide an occasion for consideration of compliance with those mitigation measures directly germane to the development that is the subject of the application.

(B). Annual Review. Compliance with mitigation measures shall be considered no less often than annually in connection with annual review of the Development Agreement and the report will be initially prepared by Developer.

SECTION 11. APPLICABLE LAWS; ATTORNEYS' FEES; PERMITTED DELAYS; EFFECT OF SUBSEQUENT LAWS.

A. Applicable Law/Attorneys' Fees. This Development Agreement shall be construed and enforced in accordance with the laws of the State of California. Should any legal action be brought by either party because of breach of this Development Agreement or to enforce any provision of this Development Agreement, or to obtain a declaration of rights hereunder, the prevailing party shall be entitled to reasonable attorneys' fees (including reasonable in-house counsel fees of City at private rates prevailing in Solano County), court costs and such other costs as may be fixed by the Court.

B. Permitted Delays. Performance by any party of its obligations hereunder (other than for payment of money) shall be excused during any period of "Excusable Delay" as hereinafter defined. For purposes hereof, Excusable Delay shall include delay beyond the reasonable control of the party claiming the delay (and despite the good faith efforts of such party) including, but not limited to (i) acts of God, (ii) civil commotion, (ii) riots, (iv) strikes, picketing or other labor disputes, (v) shortages of materials or supplies, (vi) damage to work in progress by reason of fire, floods, earthquake or other casualties, (vii) failure, delay or inability of the other party to act, (viii) as to Developer only, the failure, delay or inability of City to provide adequate levels of public services, facilities or infrastructure to the Project Site including, by way of example only, the lack of water to serve the Project Site, or any part thereof due to drought; (ix) delay caused by governmental restrictions imposed or mandated by other governmental entities, (x) enactment of conflicting state or federal laws or regulations, (xi) judicial decisions or similar basis for excused performance; (xii) litigation brought by a third party attacking the validity of this Agreement, any of the approvals, or any permit, ordinance, entitlement or other action necessary for development of the Project Site or any portion thereof, shall constitute an excusable delay as to the Project Site or owner affected; provided, however, that any party claiming delay shall promptly notify the other party (or parties) of any delay hereunder as soon as possible after the same has been ascertained.

C. Effect Of Subsequent Laws. If any governmental or quasi-governmental agency other than City adopts any law, regulation or imposes any condition ("Law"), after the date of this Agreement, that prevents or precludes compliance with one or more provisions of this Agreement, and the provisions hereof are not entitled to the status of vested right as against such Law, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended to the extent necessary to comply with such new Law. Immediately after enactment of any such Law, the parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. Developer shall have the right to contest such Law and seek a

declaration that it does not affect or diminish the provisions hereof. If any such challenge is successful, the Agreement shall remain unmodified and in full force and effect.

SECTION 12. COOPERATION OF CITY; PROCESSING OF PERMITS.

A. Other Governmental Permits. City shall cooperate with Developer in its endeavors to obtain any other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project Site or portions thereof (such as, for example, but not by way of limitation, public utilities or utility districts and agencies having jurisdiction over wetlands and air quality issues) and shall, from time to time, at the request of Developer join with Developer in the execution of such permit applications and agreements as may be required to be entered into with any such other agency, so long as the action of that nature will not require City to be exposed to any unreimbursed cost, liability or expense. Permits and approvals required from other agencies may necessitate amendments to this Agreement and/or to one or more of the approvals or other approvals granted by City. City shall not unreasonably withhold approval of any amendment mandated by conditions of approval imposed by any other governmental agency.

B. Procedure For Review Of Applications By Director Of Community Development. The Specific Plan delegates various implementing decisions for consideration by City's Director of Community Development (or, for any delegated authority of said Director, his or her designee) (the "Director"), in accordance with the General Plan, Specific Plan, and applicable local, state and federal law, including (by way of example, but not by way of limitation) consideration, and following consideration, approval or denial of all entitlements for use, design review and development permits. All such matters shall be considered by Director in accordance with the usual and customary procedures then in effect when an application for such an entitlement is made.

SECTION 13. MORTGAGEE PROTECTION

The parties hereto agree that this Agreement shall not prevent or limit Owner's, right to encumber the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Owner and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any person holding a mortgage or deed of trust on all or any portion of the Project Site made in good faith and for value (a "Mortgagee") shall be entitled to the following rights and privileges:

A. Impairment of Mortgage or Deed of Trust. Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust on the Property made in good faith and for value.

B. Notice of Default to Mortgagee. The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee has submitted a request in writing to City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by Owner in the performance of Owner's obligations under this Agreement.

C. Right of Mortgagee to Cure. If City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Owner under the terms of this Agreement, City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to the Owner. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement, plus an additional 60 days if, in order to cure such default, it is necessary for the Mortgagee to obtain possession of the property such as by seeking the appointment of a receiver or other legal process.

D. Liability for Past Defaults or Obligations. Any Mortgagee, including the successful bidder at a foreclosure sale, who comes into possession of the Property, or any part thereof, pursuant to foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement, provided, however, in no event shall such Mortgagee be liable for any defaults or monetary obligations of Owner arising prior to acquisition of title to the Property by such Mortgagee and provided further in no event shall any such Mortgagee or its successors or assigns be entitled to a building permit or occupancy certificate until all fees and other monetary obligations due under this Agreement have been paid to City.

SECTION 14. TRANSFERS AND ASSIGNMENTS.

A. Right To Assign. Developer shall have the right to sell, assign or transfer its rights to any portion of the Project Site. All of its rights, duties and obligations under this Development Agreement with respect to the portion of the Project Site so transferred or assigned shall pass to the party acquiring fee simple title to the portion of the Project Site, lot or parcel so transferred. "Developer" shall mean the entities so identified herein and such successors thereto as may be identified as being entitled to such designation in a notice of transfer provided for below. Reference to successors from time to time herein shall not imply that the term Developer does not include such designated successors in other instances.

B. Release Upon Transfer. Upon sale, transfer or assignment, in whole or in part, of Developer's rights and interests under this Development Agreement, Developer shall be released from its obligations with respect to the Project Site, lot, parcel, or portion thereof so transferred arising subsequent to the effective date of such transfer (i) if Developer (or the transferring owner) was not in default under this Development Agreement at the time

of the transfer, (ii) Developer has provided to City notice of such transfer, and (iii) with respect to sale or transfer of any lot that has not been fully improved, the transferee executes and delivers to City a written agreement in which (A) the name and address of the transferee is set forth and (B) the transferee expressly assumes the obligations of Developer under this Development Agreement with respect to the Project Site, lot, parcel or portion thereof, transferred; provided, however, that Developer shall not be relieved of any obligation for dedication or conveyance of open space required to be conveyed or dedicated pursuant to the Vested Elements. Failure to deliver a written assumption agreement hereunder shall not negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Development Agreement. Nothing herein contained shall be deemed to grant to City discretion to approve or deny any such transfer except as expressly otherwise provided herein.

C. Approval; Right Of Amendment; Supplements Establishing Specific Rights And Restrictions; Review. The grant of various approvals and consents provided for herein shall not constitute amendment hereof, nor shall ministerial acts of City Staff implementing the provisions hereof, including granting minor modifications to approved plans, the Vested Elements or any approval granted hereunder, including approval of minor modifications to approved plans, constitute such an amendment.

No owner of less than all of the Project Site shall have the right to seek or consent to amendment of the terms hereof, to make an election hereunder, to terminate this Agreement or enter into an agreement to rescind any provisions hereof in a manner that is binding upon, increases the burdens upon or reduces the rights appurtenant to any of the Project Site other than that owned in fee simple by said owner.

The purchaser of any portion of the Project Site may request, and City shall have the right to grant or conditionally grant (as City shall determine in the exercise of its discretion) approval of a supplement hereto by the City Council that is consistent with the Vested Elements and providing for special restrictions or conditions with respect to that portion of the Project Site based upon the proposed use thereof, so long as such action does not increase the burdens upon or reduce the rights appurtenant to any other portion of the Project Site.

City's review of an amendment or supplement to this agreement shall be limited to consideration of the proposed modification solely as it relates to the portion of the Project Site directly impacted by the modification or as it relates to the specific obligations of the person, firm or entity that owns the land affected by such modification, as the case may be. No unrelated amendments or supplements shall be entertained or conditions imposed by City as a condition to approving a proposed amendment. No such amendment or supplement shall extend the benefits of this Development Agreement to any property or parcel on terms more favorable than those provided to Developer hereunder, including, but without limitation, provisions requiring dedication of open space or payment of in-lieu fees as an equivalent thereto.

Any parcel or property that becomes entitled to the benefits of this Development Agreement by amendment or supplement, shall, as a condition to realization of such

benefits, become a part of any community facilities district and assessment districts created to fund design, construction and maintenance of the infrastructure, landscape and other improvements to the same extent as if said parcel or property had been part of the Subject Properties as of the commencement of the term of the Development Agreement. In becoming a part of the properties so assessed, said parcel or property shall be assessed such additional amounts as may be set to compensate for the costs previously borne by other owners of assessed lands (and not reimbursed thereto by said district or districts) to put the newly annexed or benefited parcel or property in the same position as it would have been in had it been part of said districts (and the planning for initiation and formation thereof) from their inception.

D. No Third Parties Benefited. No third party who is not a successor or assign of a party hereto or who has not become a party by duly adopted amendment hereof may claim the benefits of any provision hereof.

E. Covenants Run With The Land. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Development Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons or entity acquiring the Project Site, any lot, parcel or any portion thereof, or any interest therein, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All other provisions of this Development Agreement shall be enforceable during the term hereof as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including, but not limited to Section 1468 of the Civil Code of the State of California. Each covenant to do or refrain from doing some act on the Project Site hereunder, or with respect to any City owned property or property interest, (i) is for the benefit of such properties and is a burden upon such property, (ii) runs with such properties, and (iii) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person or entity having any interest therein derived in any manner through any owner of such properties, or any portion thereof, and shall benefit each party and its property hereunder, and each other person or entity succeeding to an interest in such properties.

SECTION 15. GENERAL PROVISIONS

A. Incorporation of Recitals. The Recitals set forth above, and all defined terms set forth in such Recitals and in the introductory paragraph preceding the Recitals, are incorporated herein as though set forth in full.

B. Limitation on Effect of Agreement. Except as expressly provided for in this Agreement to the contrary, Developer and the Property are subject to all rules, regulations, ordinances, procedures, standards, uniform codes, requirements, costs, exactions and processes of City applicable to development of property within City as the same are in effect at the time Developer seeks any land development approval including,

but not limited to, subdivision of the property, design review, zoning changes, building permits, or construction of on or off-site infrastructure.

C. Covenants. The provisions of this Agreement shall constitute covenants or servitudes which shall run with the land comprising the Property, and the burdens and benefits of this Agreement shall bind and inure to all estates and interests in the Property and all successors in interest to Developer. From and after the date that certificates of occupancy have been issued for all buildings on a parcel, such parcel shall not be burdened with the obligations of Developer under this Agreement. This provision shall not, however, affect any separate covenants, conditions and restrictions which otherwise affect such parcel or any land use regulations affecting such parcel in accordance with this Agreement.

D. Effective Date. This Agreement will be effective on the latter of the thirty-first day following final adoption of an ordinance of City approving the Agreement or upon certification of the results of a valid, sufficient and successful referendum applicable to the Agreement.

E. Amendment of Agreement. This Agreement may be amended from time to time by mutual consent of the Parties or their successors in interest, in accordance with the provisions of Government Code Section 65867 and 65688, and Vacaville Municipal Code Chapter 15.60, provided that:

(i). **Procedural Exemptions.** Any amendment to this Agreement which does not relate to the term of the Agreement, permitted uses of the Property, provisions for the reservation or dedication of land, including the land to be granted by Developer to the College, the conditions, terms, restrictions and requirements relating to subsequent discretionary approvals of City, or monetary exactions of Developer, shall be considered an Administrative Amendment and shall not require notice or public hearing before the Parties may execute an amendment hereto. However, when in the judgment of any member of the City Council or the Director of Community Development, that notice and public hearing on any administrative amendment would be appropriate, then there shall be a noticed public hearing on said Administrative Amendment. The Vested Elements may not be amended except by amendment of this Agreement; provided, however, that in the case of amendments affecting portions of the Project Site, only the consent of the owner of such portion shall be required so long as the amendment does not diminish the rights appurtenant to or increase the burdens upon any other portion of the Project Site.

(ii). **Exemption for Amendments of City Land Use Regulations.** Any Amendment of the City land use regulations including, but not limited to, the General Plan, applicable Specific Plan and Zoning Ordinances, shall not require an amendment to this Agreement. Instead, any such amendment shall be deemed to be incorporated into this Agreement at the time that such amendment is approved so long as such amendment is consistent with this Agreement.

F. Project Is A Private Undertaking. The development proposed to be undertaken by Developer on the Project Site is a private development; except for that portion thereof to be devoted to public improvements to be constructed by Developer in accordance with the Vested Elements, City has no interest in, responsibility for or duty to third persons concerning any of said improvements; and Developer shall exercise full dominion and control over the Project Site, subject only to the limitations and obligations of Developer contained in this Development Agreement.

G. Hold Harmless; Indemnification of City. Developer shall hold and save City, its officers and employees, harmless and indemnify it of and from any and all claims, loss, cost, damage, injury or expense, arising out of or in any way related to injury to or death of persons or damage to property that may arise by reason of the physical development of that portion of the Project Site owned by Developer pursuant to this Development Agreement or by any activity of City, whether caused by joint negligence of the City, its officers or employees; provided, however, that the foregoing hold harmless and indemnity shall not include indemnification against (i) suits and actions brought by Developer by reason of City's default or alleged default hereunder, or (ii) suits and actions arising from the willful misconduct of City, its officers and employees.

H. Cooperation in the Event of Legal Challenge. In the event of any administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any Project Approval or Subsequent Approval, the parties shall cooperate in defending such action or proceeding. City shall promptly notify Developer of any such action against City. If City fails promptly to notify Developer of any legal action against City or if City fails to cooperate in the defense, Developer shall not thereafter be responsible for City's defense. The parties shall use best efforts to select mutually agreeable legal counsel to defend such action, and Developer shall pay the fees and expenses for such legal counsel; provided, however, that such fees and expenses shall include only those paid to counsel not otherwise employed as City staff and shall exclude, without limitation, City Attorney time and overhead costs and other City staff overhead costs and normal day-to-day business expenses incurred by City. Developer's obligation to pay for legal counsel shall not extend to fees incurred on appeal unless otherwise authorized by Developer. In the event City and Developer are unable to select mutually agreeable legal counsel to defend such action or proceeding, each party may select its own legal counsel at its own expense. City shall not reject any reasonable settlement; if City does reject a settlement acceptable to Developer, City may continue to defend such action at its own cost.

I. Notices. Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally or by registered or certified mail (return receipt requested). If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. Any party hereto, and any Subdivider who acquires a

portion of the project site, may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to City, to:

Community Development Director
Gregory J. Werner
City of Vacaville
650 Merchant Street
Vacaville, California 95688

With copies to:

Charles O. Lamoree, Esq.
City of Vacaville
650 Merchant Street
Vacaville, California 95688

Director of Public Works
Dale I. Pfeiffer
City of Vacaville
650 Merchant Street
Vacaville, California 95688

If to Developer, to:

Mission Land Company
Suite 800
18101 Von Karman
Irvine, California 92715-1046
Attention: Charles Johnson

With a copy to:

O'Melveny & Meyers
400 South Hope Street
Los Angeles, California 90071
Attention: F. Thomas Muller, Esq.
Ref: 589,340-021

J. No Joint Venture Or Partnership. Nothing contained in this Development Agreement or in any document executed in connection with this Development Agreement shall be construed as creating a joint venture or partnership between City and Developer.

K. Limitation on Liability. Developer's liability under this Agreement shall be limited to its interest in the Project Site.

L. Severability. If any provision of this Development Agreement is held invalid, void or unenforceable but the remainder of the Development Agreement can be enforced without

failure of material consideration to any party, then the Development Agreement shall not be affected and it shall remain in full force and effect, unless amended or modified by mutual consent of the parties. If any material provision of this agreement is held invalid, void or unenforceable, however, the owner of any portion of the Project Site affected by such holding shall have the right in its sole and absolute discretion to terminate this agreement as it applies to the Project Site so affected, upon providing written notice of such termination to City.

M. Interpretation. To the maximum extent possible, this Development Agreement shall be construed to provide binding effect to the Vested Elements, to facilitate use of the Project Site as therein contemplated and to allow development to proceed upon all of the terms and conditions applicable thereto, including, but without limitation, public improvements to be constructed and public areas to be dedicated.

N. Completion Or Revocation. Upon completion of performance by the parties or revocation of this Development Agreement, a written statement acknowledging such completion or revocation, signed by the appropriate agents of City and Developer shall be recorded in the Office of the Recorder of the County of Solano, California.

O. Estoppel Certificate. Either party may, at any time, and from time to time, deliver written notice to the other party requesting such party to certify in writing that, to the knowledge of the certifying party, (i) this Development Agreement is in full force and effect and a binding obligation of the parties, (ii) this Development Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, and (iii) the requesting party is not in default in the performance of its obligations under this Development Agreement, or if in default, to describe therein the nature and amount of any such defaults. A party receiving a request hereunder shall execute and return such certificate or give a written detailed response explaining why it will not do so within thirty (30) days following the receipt thereof. Each party acknowledges that such a certificate may be relied upon by third parties acting in good faith. A certificate provided by City establishing the status of this Agreement with respect to any lot or parcel shall be in recordable form and may be recorded with respect to the affected lot or parcel at the expense of the recording party.

P. Construction. All parties have been represented by counsel in the preparation of this Development Agreement and no presumption or rule that ambiguity shall be construed against a drafting party shall apply to interpretation or enforcement hereof. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision to which they pertain.

Q. Counterpart Execution. This Agreement may be executed in any number of counterparts and shall be deemed duly executed when each of the parties has executed such a counterpart.

R. Time. Time is of the essence of each and every provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Development Agreement as of the day and year first above written.

"CITY"

CITY OF VACAVILLE, a
Municipal Corporation
By:

D. A. Fleming
Mayor

Approved as to form:

[Signature]
City Attorney

"DEVELOPER"

MISSION LAND COMPANY, a
California Corporation
By:

[Signature]
Executive Officer

Approved as to form:

[Signature]
Attorney for Mission Land Company

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

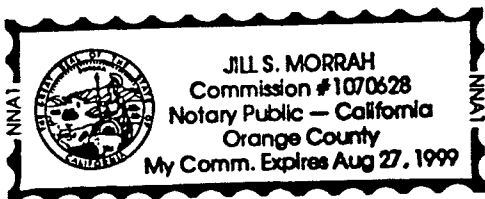
State of California

County of Orange

On November 30, 1995 before me, Jill S. Morrah
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Sunny Lee
Name(s) of Signer(s)

personally known to me – OR – 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.



WITNESS my hand and official seal.

Jill S. Morrah
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Annexation and Development Agreement by and Between the City of Vacaville and Mission Land Company

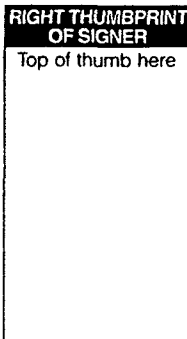
Document Date: 2/14/95 Number of Pages: 39 *excluding exhibits*

Signer(s) Other Than Named Above: Mayor of Vacaville and City Attorney for Vacaville

Capacity(ies) Claimed by Signer(s)

Signer's Name: Sunny Lee

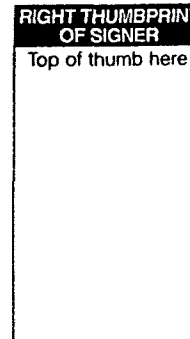
- Individual
- Corporate Officer
Title(s): Executive Officer
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:
Mission Land Company

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

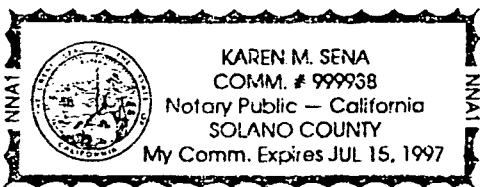
State of California

County of Solano

On November 28, 1995 before me, Karen M. Sena, Notary Public,
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared David A. Fleming,
NAME(S) OF SIGNER(S)

personally known to me - OR - 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.



WITNESS my hand and official seal.

Karen M. Sena
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER

TITLE(S)

- PARTNER(S) LIMITED
- ATTORNEY-IN-FACT GENERAL
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

City of Vacaville

DESCRIPTION OF ATTACHED DOCUMENT

North Village Dev. Agreement
TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

2-14-95

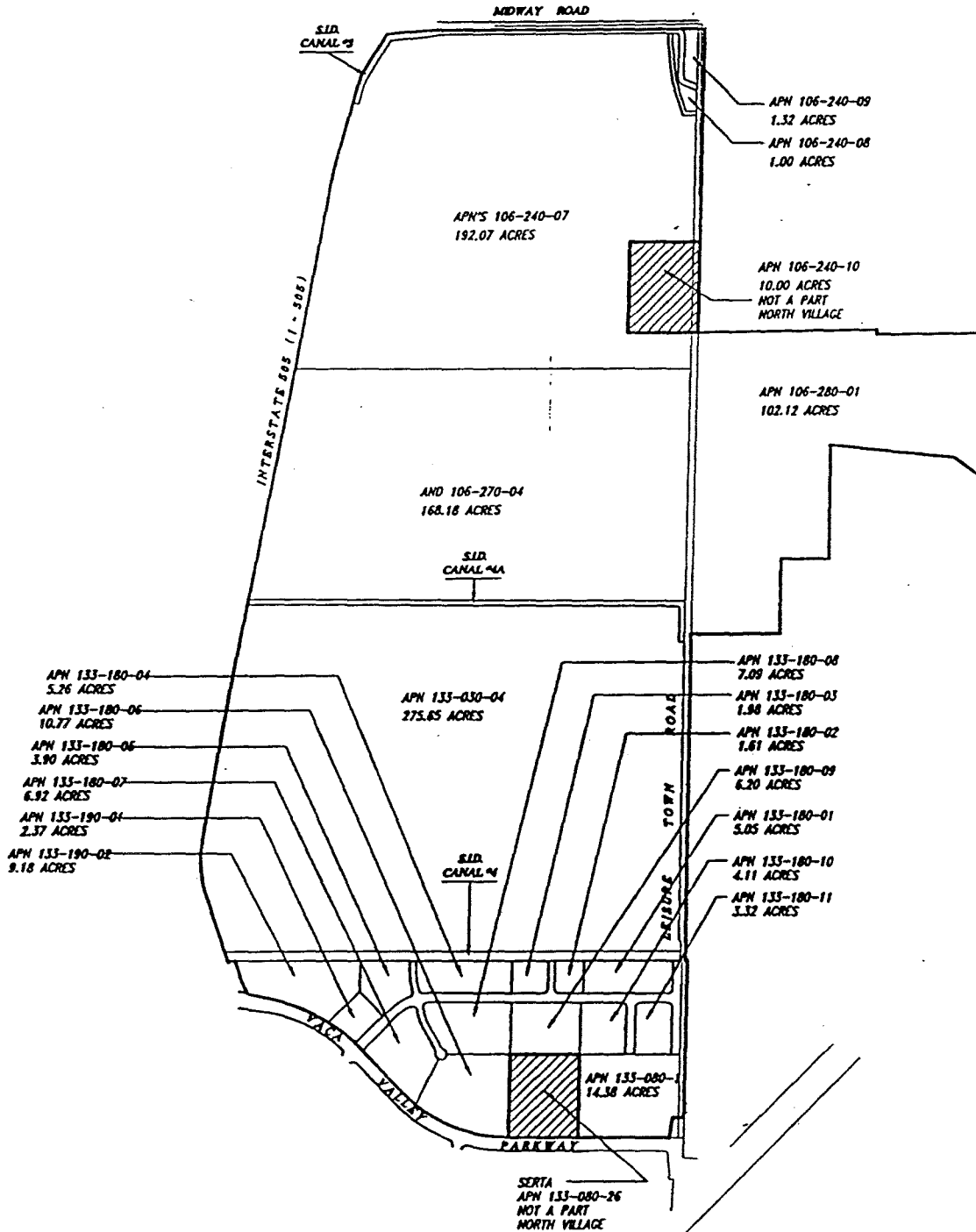
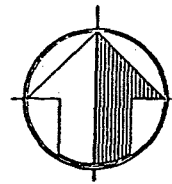
DATE OF DOCUMENT

Mission Land Co.

SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT A-1

(THE PROJECT SITE)



**EXHIBIT B-1
PHASE I INFRASTRUCTURE**

Pursuant to Section 7.5.2 of the North Village Specific Plan, the first phase of development for North Village is expected to occur within Planning Areas 1 through 13. The first phase of development will include up to 819± residential units. The public infrastructure required to service this development and herein referred to as the "Phase 1 Infrastructure" consists of the following improvements:

1. PHASE IA - PLANNING AREAS 1 - 13 (UNIT NOS. 1 TO 300)

	Responsibility
Roads:	
A. Vaca Valley Parkway from Leisure Town Road to I-505 ramps. The improvement includes a 20' roadway section with curb, gutter, sidewalk and parkway landscaping.	NESAD
B. Arterial Parkway "C" from Vaca Valley Parkway to Road "E-1". The improvements include the 2 east lanes with curb, gutter, median, bike path, east side intersection theme landscaping and east side parkway landscaping and median landscaping.	North Village
C. Road "E-1" from Arterial Parkway "C" to Road "E-2". The improvement includes the full 3 to 4 lanes with curb, gutter, sidewalk, bike path and landscaping.	North Village
D. Road "E-2" from Road "E-1" to a cul-de-sac prior to Leisure Town Road including 2 lanes, curb, gutter, sidewalk and landscaping.	North Village
Storm Drainage:	
A. The storm system within that portion of Vaca Valley Parkway, North Village Parkway, Road "E-1" and Road "E-2" being built under Phase IA Roads.	North Village
B. The detention Pond #1 at the southeast corner of the site (including fencing and landscaping and outlet piping from pond #1 to a ditch on the south side of Vaca Valley Parkway).	North Village
C. Minor ditch grading, berming and field inlets to control drainage from undeveloped areas north and west of the Phase IA planning area.	North Village

Potable Water:

- | | | |
|----|---|---------------|
| A. | The water system within that portion of Arterial Parkway "C" and Road "E-2" being built under Phase IA Roads. | North Village |
| B. | The water system within Road "E-1" from Vaca Valley Parkway to Arterial Parkway "E". | North Village |

Nonpotable Water:

- | | | |
|----|--|---------------------|
| A. | Underground Kilkenny Canal #4-A (the central canal) from Putah South Canal to Arterial Parkway "C". | NESAD |
| B. | Construct pump station. | NESAD/North Village |
| C. | Abandon Kilkenny Canal #4 (the south canal) from intersection with Kilkenny Canal #4-A to Leisure Town Road. | North Village |
| D. | Underground Kilkenny Canal #4-A from Arterial Parkway "C" to Leisure Town Road | North Village |
| E. | Construct nonpotable water system within Arterial Parkway "C" from the pump station to Vaca Valley Parkway. | NESAD |
| F. | Construct nonpotable water system within Vaca Valley Parkway from Arterial Parkway "C" to Road "E-1". | NESAD |
| G. | Construct nonpotable water system within Road "E-1" from Arterial Parkway "C" to Vaca Valley Parkway. | North Village |
| H. | Construct nonpotable water system within Road "E-2" from Road "E-1" to Leisure Town Road. | NESAD |

Sewer:

- | | | |
|----|---|---------------|
| A. | The sewer system within that portion of Arterial Parkway "C" Parkway and Road "E-2" being built under Phase IA Roads. | North Village |
| B. | The sewer system within Road "E-1" from Vaca Valley Parkway to Arterial Parkway "C". | North Village |
| C. | Sewer system from Vaca Valley Parkway to the Golden West Pump Station. | North Village |
| D. | Golden West Pump Station Modifications (DIF #44) | NESAD |
| E. | Force Main cross at I-80 (DIF #43) | NESAD |

Parks and Open Space:

- A. Area 34, the wastewater treatment plant buffers (including security fencing and buffer tree planting with first residential final map). North Village

2. PHASE IB - PLANNING AREAS 1 - 13 (UNIT NOS. 301 TO 600):

Storm Drainage:

- A. Minor ditch grading, berming and field inlets to control drainage from undeveloped areas north and west of the Phase IB planning area. North Village

3. PHASE IC - PLANNING AREAS 1 - 13 (UNIT NOS. 601 TO 819):

Roads:

- A. Road "E-2" from cul-de-sac to Leisure Town Road including 2 lanes, curb, gutter, sidewalk and landscaping. North Village
- B. Leisure Town Road (from the future intersection of Road "E-2" to the south side of the lower PG&E easement) including 2 lanes, curb, gutter, bike path and landscaping. North Village

Storm Drainage:

- A. The storm system within that portion of Road "E-2" and Leisure Town Road being built under Phase IC Roads. North Village
- B. Minor ditch grading, berming and field inlets to control drainage from undeveloped areas north and west of the Phase IC planning area. North Village

Nonpotable Water:

- A. Construct nonpotable water system within Leisure Town Road being built under Phase IC Roads, including connecting to the nonpotable water line in Road "E-2". NESAD
- B. Construct nonpotable water system within Area 35 east of Arterial Parkway "C". North Village

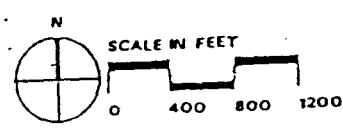
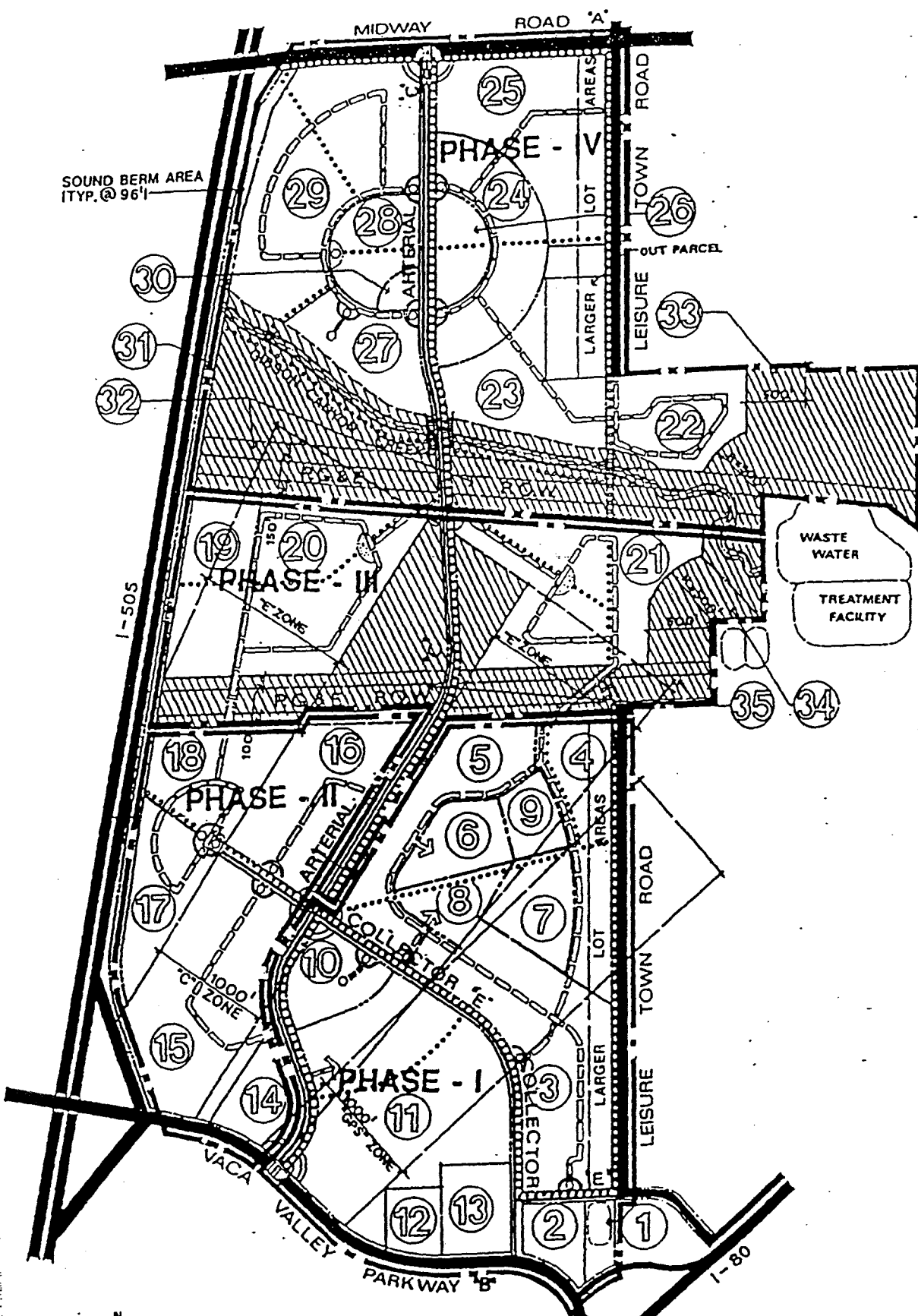
Sewer:

- A. Sewer line in Walnut Road (DIF #27) NESAD
- B. Sewer line in Leisure Town Road (DIF #28) NESAD

- | | | |
|----|--|-------|
| C. | Leisure Town Road Pump Station (DIF #31) | NESAD |
| D. | Leisure Town Road Force Main (DIF #32) | City |
| E. | Sewer line in Fallen Leaf/Stonegate | City |

Parks and Open Space:

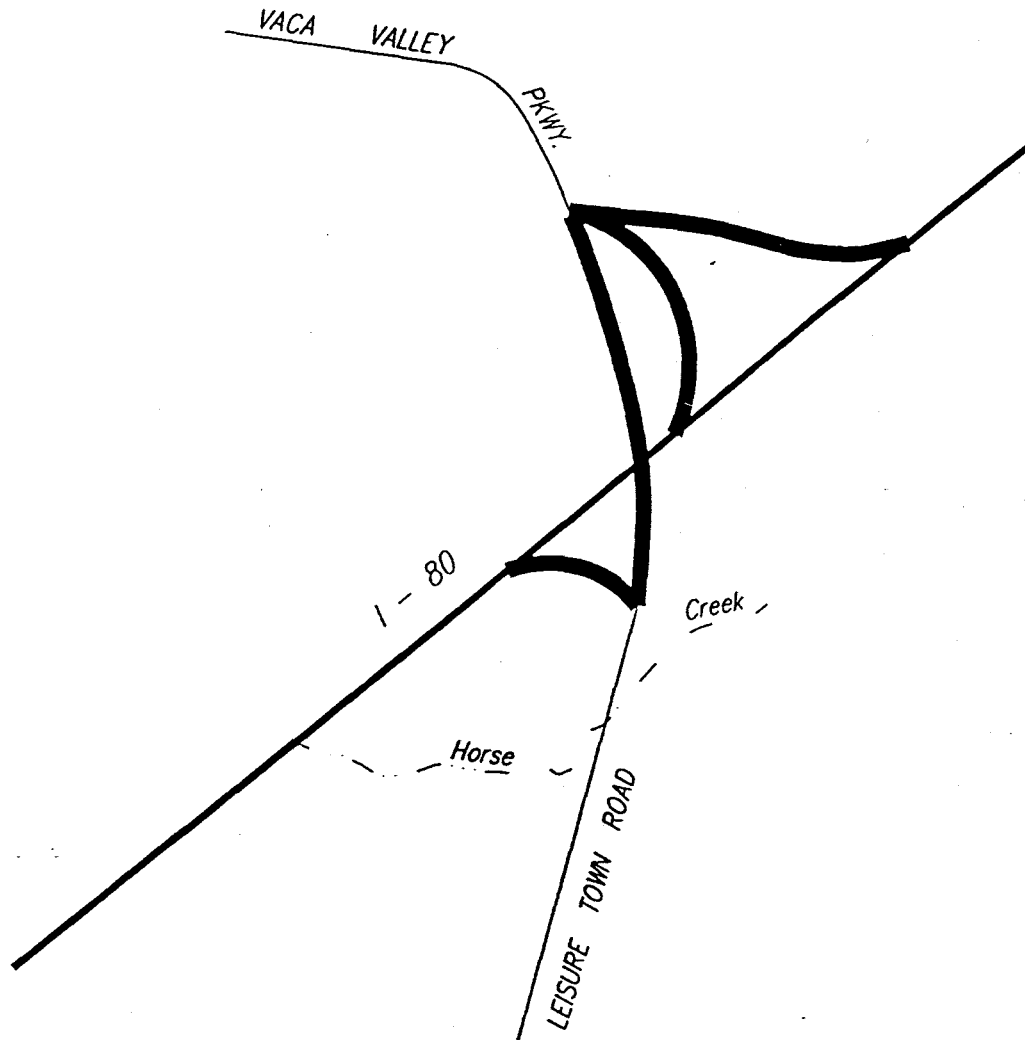
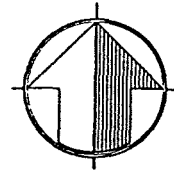
- | | | |
|----|--|---------------|
| A. | The 6.0 acre park site within Phase I. | North Village |
| B. | Landscaping within Area 35 east of the Arterial Parkway "C". | North Village |



PHASING PLAN

EXHIBIT C-1

LTI IMPROVEMENTS



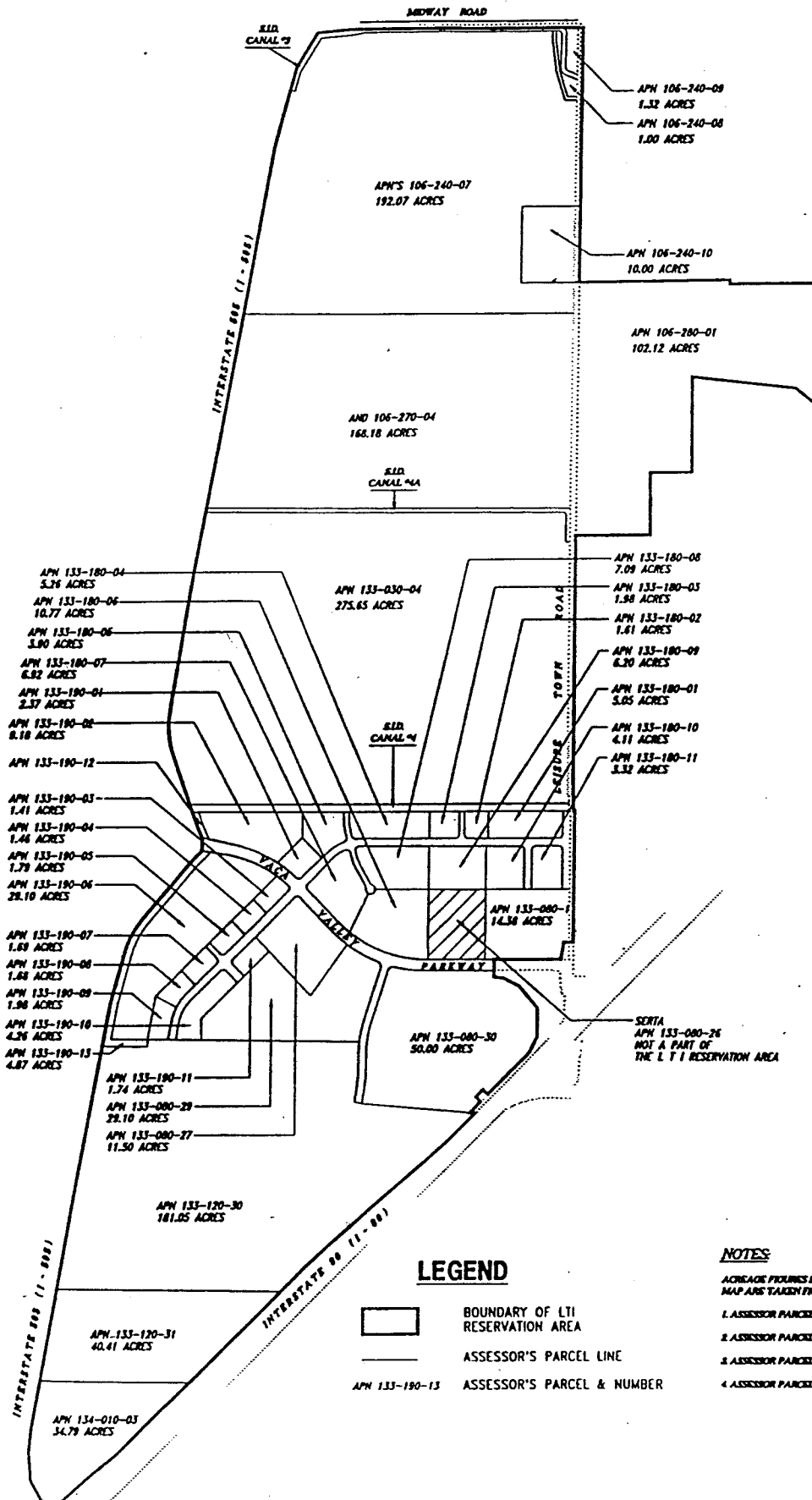
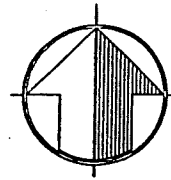
General Description of Scope of Work:

The realignment and widening of the Leisure Town Road overcrossing at I-80 to 6 lanes and the reconstruction of/reconfiguration of the I-80 on and off ramps. The Leisure Town Road/I-80 Interchange Overcrossing improvements begin at the intersection of Vaca Valley Parkway, the relocated Leisure Town Road and Kaiser's driveway and extend southerly across I-80 to the intersection of Leisure Town Road and Orange Drive. The construction of said overcrossing and on/off ramps consists of the work auxiliary thereto, including grading, paving, bridge structure, storm drainage, roadway lighting, traffic signals, signage and landscaping.

For a more comprehensive list of improvements, refer to the Northeast Sector Assessment District (Area 1) Final Engineer's Report dated June 27, 1995, Figure 1, the Engineer's Cost Estimate for Project No. 1.

EXHIBIT D-1

LTI RESERVATION AREA



LEGEND

- BOUNDARY OF LTI RESERVATION AREA
- ASSESSOR'S PARCEL LINE
- APN 133-190-13 ASSESSOR'S PARCEL & NUMBER

NOTES

- ACREAGE FIGURES SHOWN ON THIS MAP ARE TAKEN FROM:
1. ASSESSOR PARCEL MAP BOOK 188
 2. ASSESSOR PARCEL MAP BOOK 189
 3. ASSESSOR PARCEL MAP BOOK 194
 4. ASSESSOR PARCEL MAP BOOK 195

**EXHIBIT E-1
NESAD IMPROVEMENTS**

The Northeast Sector Assessment District improvements consist of the construction and acquisition of the following public improvements, including the acquisition of all lands, easements, rights-of-way, licenses, franchises, and permits and the construction of all auxiliary work and the acquisition of all required plans, specifications, surveys, studies and the payment of all costs incidental thereto, all of which are necessary and/or convenient to the accomplishment thereof in accordance with plans and specifications to be approved by the City of Vacaville. The projects are as follows:

The following descriptions of improvements are preliminary as to sizes of pipes, capacities of pumps, components of the lift station and materials. The descriptions are subject to subsequent refinement based on final facility design and approval.

Project No. 1: Leisure Town Road/I-80 Interchange Overcrossing

The realignment and widening of the Leisure Town Road overcrossing at I-80 to 6 lanes and the reconstruction of/reconfiguration of the I-80 on and off ramps. The Leisure Town Road/I-80 Interchange Overcrossing improvements begin at the intersection of Vaca Valley Parkway, the relocated Leisure Town Road and Kaiser's driveway and extend southerly across I-80 to the intersection of Leisure Town Road and Orange Drive. The construction of said overcrossing and on/off ramps consists of the work auxiliary thereto, including grading, paving, bridge structure, storm drainage, roadway lighting, traffic signals, signage and landscaping.

Project No. 2: Vaca Valley Parkway\I-505 Northbound Off-Ramp and Southbound On-Ramp

A. Vaca Valley Parkway/I-505 Northbound Ramp

The construction of a separate 320-foot long northbound left turn lane and 90-foot bay taper on the northbound I-505 off ramp at Vaca Valley Parkway. Work will include grading, paving and storm drainage improvements.

B. Vaca Valley Parkway/I-505 Southbound Ramp

The construction of a separate 220-foot long eastbound right turn lane and 90-foot bay taper for the eastbound traffic on Vaca Valley Parkway to the southbound I-505 ramp. Work will include grading, paving and storm drainage improvements.

Project No. 3: Vaca Valley Parkway Traffic Signals

The construction of four traffic signals on Vaca Valley Parkway. These four locations on Vaca Valley Parkway are at the intersections of:

- a. The southbound I-505 on ramp
- b. The northbound I-505 off ramp
- c. East Akerly Drive/Vaca Valley Parkway
- d. Kaiser Driveway/Future Leisure Town Road

The traffic signalization improvements will include the vehicle signal faces, signal heads, pedestals, posts, foundations, pull boxes, conduit, conductors, wiring detectors, controllers, interconnects and auxiliary equipment required to construct a fully functioning traffic signal.

Project No. 4: Vaca Valley Parkway (3rd Lane Phase 1)

The improving of Vaca Valley Parkway for the widening of a 3rd lane, addition of a raised median and repaving of the existing roadway from Kaiser's Driveway/Future Leisure Town Road to a location approximately 420 feet east of the centerline intersection of West Akerly Drive. The project will consist of 18 feet of pavement widening and a 16-foot wide median north of the existing road; 45-foot wide shoulder, 5 feet of pavement replacement, curb, gutter, 10-foot wide sidewalk and fire hydrants along the south side of the existing road; pavement overlay, storm drainage, and street lights within the existing road. The project will also reduce the existing superelevation from a maximum of 8% to 4% within the area of work on Vaca Valley Parkway.

Project No. 5: Vaca Valley Parkway (3rd Lane Phase 2)

The improving of Vaca Valley Parkway to complete the widening of a 3rd lane, addition of a raised median and repaving of a portion of the existing roadway commencing at the end of the 3rd Lane - Phase 1 improvement (approximately 420 feet east of West Akerly Drive), westerly to the intersection of the northbound I-505 on/off ramps. The project will consist of 18 to 24 feet of pavement widening, 18 to 24 feet of pavement overlay and a 16-foot wide median along the north side of the existing road; 45-foot wide shoulder, 5 feet of pavement replacement, curb, gutter, 10-foot sidewalk and fire hydrants along the south side of the existing road, and street lights within the existing road. The project does not intend to modify the existing superelevation within the area of work on Vaca Valley Parkway.

Project No. 6: Vaca Valley Parkway (4th Lane)

The improving of Vaca Valley Parkway for the widening of a 4th lane from Kaiser's Driveway/Future Leisure Town Road to the intersection of the I-505 northbound on ramp. The project will consist of 12.5 feet of pavement widening, curb, gutter, 6-foot wide sidewalk, fire hydrants, and storm drainage along the north side of the existing road.

Project No. 7: Vaca Valley Parkway (Median Landscaping)

The addition of landscaping within the median islands of Vaca Valley Parkway from the intersection of Kaiser's Driveway/Future Leisure Town Road to the I-505 northbound on/off ramps. The project will consist of cobblestone treatment of the 4-foot wide median nose, turf and shrubs in the 4-foot to 16-foot wide median areas; irrigation, soil preparation and finish grading for the entire median.

Project No. 8: Non-Potable Water System

The construction of a non-potable water system for the purpose of supplying irrigation water for non-residential uses to North Village, Vaca Valley Business Park, Kaiser and the Quinn Road commercial area; and the operational uses for Vaca Valley Business Park Manufacturing. The preliminary facility sizing indicates that the project will consist of 48 inch gravity pipe line from the Putah South Canal at approximately Station 511+54, thence along SID Canal 4 to the intersection of SID Canal 4 and 4A, thence along Canal 4A, and continuing along Canal 4A under I-505 (utilizing the existing piping under I-505) to the intersection with the proposed Arterial Parkway "C". A 1425 gpm pump station will be constructed near Arterial Parkway "C". The non-potable system will continue as a pressure line south on Arterial Parkway "C" to Vaca Valley Parkway, thence east on Vaca Valley Parkway to Future Leisure Town Road, thence north on Future Leisure Town Road to the existing Leisure Town Road. The pressure line size will range from 8 inches to 20 inches. The section of gravity pipe line between the Putah South Canal and the on-site pump station will be sized to accommodate the NESAD non-potable water demands and existing SID irrigation demands requirements within SID Canals 4 and 4A east of the NESAD boundaries.

Project No. 9: Golden West Pump Station (DIF No. 44)

Replace the existing Golden West lift station with a new 6.0 mgd submersible variable speed lift station, including a new wet well and standby power. The project work scope will include pumps, valves, pipes, wet well and valve pit, odor control system, electrical, control building, outdoor lighting, pavement and landscaping.

Project No. 10: Force Main under I-80 (DIF No. 43)

The construction of a replacement 18 inch bore and jack force main under I-80 from the new Golden West Pump Station to Walnut Road.

Project No. 11: Gravity Line in Walnut Road (DIF No. 27)

The construction of a 24 inch sewer line to replace the existing 12 inch sewer line in Walnut Road, from I-80 to Leisure Town Road. The project will consist of trenching and backfill, installation of a 24 inch sewer pipe, manholes and pavement repairs.

Project No. 12: Gravity Line in Leisure Town Road

The construction of a 24 inch sewer line to replace the existing 12 inch sewer line in Leisure Town Road, from Walnut Road to the Leisure Town Road pump station at Sequoia Drive. The project work scope will include trenching and backfill, installation of a 24 inch sewer pipe, manholes and pavement repairs.

Project No. 13: Leisure Town Road Pump Station

Replace the existing Leisure Town Road pump station located at Sequoia Drive with a new 8.3 mgd submersible variable speed lift station, including a new wet well and standby power. The project work scope will include pumps, valves, pipes, wet well and valve pit, odor control system, electrical, control building, outdoor lighting, pavement and landscaping.

For a more comprehensive list of the above improvements, refer to the Northeast Sector Assessment District (Area 1) Final Engineer's Report dated June 27, 1995, Figures 1 through 13 and Exhibits 1 through 9.

