RECORDING FEES
EXEMPT PURSUANT TO
GOVERNMENT CODE §27383

Recorded in Official Records,
Solano County
Doc#: 201400035642
5/14/2014 8:40 AM

RECORDING REQUESTED BY:
City of Vacaville

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

APN 137-050-140

DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF VACAVILLE AND VACAVILLE LAND INVESTORS, LLC REGARDING THE DEVELOPMENT OF REAL PROPERTY COMMONLY REFERRED TO AS PARKSIDE (PAPIN) AT VANDEN MEADOWS

March 25, 2014
DATE

MARC TONNESEN
Solano County
Assessor/Recorder
675 Texas Street, Suite 2700
Fairfield, CA 94533-6338
(707) 784-6290 / Vitals 784-6294

P City of Vacavil

Rcpt # 598620 05/14/14 08:40AM

Description	Fee
DOC# 201400035642 AGREEMENT	$0.00
No Fee	$0.00
DOC# 201400035643 AGREEMENT	$0.00
No Fee	$0.00
DOC# 201400035644 AMEND AGREEMENT	$0.00
No Fee	$0.00
Total Amount Due	$0.00
Total Paid	

NAT'L. STRAWBERRY MONTH
PLEASE KEEP FOR YOUR REFERENCE

RECORDING FEES
EXEMPT PURSUANT TO
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March 25, 2014
DATE

DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF VACAVILLE
AND VACAVILLE LAND INVESTORS, LLC
REGARDING THE DEVELOPMENT OF REAL PROPERTY COMMONLY REFERRED TO AS PARKSIDE (PAPIN) AT VANDEN MEADOWS

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into this 25th day of March, 2014, by and between **VACAVILLE LAND INVESTORS, LLC,** a California limited liability company (the "Developer") and the **CITY OF VACAVILLE**, a municipal corporation (the "City"), pursuant to the authority of Sections 65864 through 65869.5 of the California Government Code, and Division 14.17 of the Vacaville Municipal Code. 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 has established procedures for entering into development agreements through the adoption of Division 14.17 of the Vacaville Municipal Code.

B. Developer has a legal and/or equitable interest in certain real property consisting of approximately 11.46 acres commonly referred to as Parkside at Vanden Meadows or the Papin site, located in Vacaville, California, east of Nut Tree Road, west of Leisure Town Road and south of the Southtown Development, as generally shown in Exhibit A, entitled "Project Site", attached hereto and incorporated herein by reference, and more particularly described in Exhibit A-1, entitled "Legal Description of Project Site", attached hereto and incorporated herein by reference ("Project Site").

C. Developer intends to develop the Project Site as a master planned community, consisting of approximately fifty single-family dwelling units, together with, a trail system, and other uses all as more specially described in the Project Approvals (as hereinafter defined) and in the Subsequent Approvals (as hereinafter defined) as and when they are adopted, approved or issued, and certain off-site improvements to be constructed in connection therewith (the "Project").

D. The parties now desire to set forth their understandings and agreement concerning the vesting of certain rights including the Vacaville General Plan (the "General Plan") and the Vanden Meadows Specific Plan (the "Specific Plan") for the Project. In executing this Agreement, Developer recognizes that the use and development of the Project Site are subject to the grant of certain Subsequent Approvals, which are hereinafter defined and identified. Developer recognizes that the Subsequent Approvals are subject to review by City's planning

staff, public hearings and discretionary approvals by the appropriate decision-making body(ies) in accordance with the terms and conditions of this Agreement, and are further 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 regulations, policies and guidelines (collectively referred to as "CEQA") to the degree that the environmental impacts of the Subsequent Approvals have not already been reviewed in accordance with CEQA such as the environmental impact report developed for this Agreement and the Project Approvals. City has also adopted a mitigation monitoring and reporting program (the "MMRP") to ensure that those mitigation measures incorporated as part of, or imposed on, the Project are enforced and completed. Those mitigation measures for which Developer is responsible are incorporated into, and required by, the Project Approvals. City has also adopted findings of fact and statements of overriding considerations for those adverse environmental impacts of the Project that may not or cannot be mitigated to an acceptable level.

E. City acknowledges that Developer's agreement to make the commitments herein furthers the City's efforts for development of the Project Site and that 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, increased tax revenues, coordinated planning of development, installation of both on and off-site public infrastructure, creation of additional needed local employment opportunities, creation of additional housing opportunities, the economic and social benefits associated with development of City's roadway network within the Project area, and funding for community benefits and public safety (collectively referred to as the "Public Benefits").

F. In exchange for the Public Benefits to City, together with other benefits that will result from the development of the Project Site, the parties now desire to set forth their understandings and agreement concerning the vesting of Developer's right to develop the Project Site in accordance with the Project Approvals (as hereinafter defined). Developer will receive by this Agreement certain assurances concerning the conditions under which Developer may proceed with the Project and, therefore, desires to enter into this Agreement.

G. City has given the required notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to Government Code Section 65867. As required by Government Code Section 65867.5, City has found that the provisions of this Agreement and its purposes are consistent with the goals, policies, standards and land use designations specified in City's General Plan.

H. On February 18, 2014, City's Planning Commission (the "Planning Commission"), the initial hearing body for purposes of development agreement review, recommended approval of this Agreement pursuant to Resolution No. 2013-082. On March 25, 2014, City's City Council (the "City Council") adopted its Ordinance No. 1864 approving this Agreement and authorizing its execution.

I. 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 Environmental Impact Report (State Clearinghouse No. 2011022008), which was prepared pursuant to CEQA, was recommended for certification by the Planning Commission on August 20, 2013, and certified with findings by the City Council on September 24, 2013, by Resolution No.2013-073 (the "EIR").

(2) Specific Plan. On September 24, 2013, following Planning Commission review and recommendation, and after a duly-noticed public hearing, the City Council, by Resolution No. 2013-075, approved the Vanden Meadows Specific Plan (the "Specific Plan").

(3) Zone Change. On March 11, 2014, following Planning Commission review and recommendation, and after a duly-noticed public hearing, the City Council, by Ordinance No. 1863 approved the rezoning of the Project Site (the "Zone Change").

(4) Annexation Request. On September 24, 2013, following Planning Commission review and recommendation, and after a duly-noticed public hearing, the City Council, by Resolution No. 2013-074, approved Developer's request to annex the Project Site to the city (the "Annexation Request").

J. Immediately prior to the approval 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 Division 14.17 of the Vacaville Municipal Code that the provisions of this Agreement are consistent with the General Plan.

K. 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 Site and that 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; conditional 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; re-zonings; encroachment permits; re-subdivisions; and any amendments to, or repealing of, any of the foregoing. At such time as any Subsequent Approval applicable to the Project Site is approved by City, then such Subsequent Approval shall be treated as a "Project Approval" under this Agreement and shall become subject to all the terms and conditions of this Agreement applicable to Project Approvals.

L. Developer and City agree that phased final maps may be recorded in substantial conformance with the Tentative Map. These final maps will trigger the installation of public improvements by Developer to serve the Project based on the Specific Plan's phasing plan.

M. For the reasons recited herein, City and Developer have determined that the Project is a development for which this Agreement is appropriate. This Agreement will eliminate uncertainty regarding Project Approvals (including the Subsequent Approvals), thereby encouraging planning for, investment in and commitment to use and develop the Project Site. Continued use and development of the Project Site will in turn provide substantial housing, employment, and property and sales tax benefits as well as other benefits to City, and contribute to the provision of needed infrastructure for area growth, thereby achieving the goals and purposes for which the Development Agreement Legislation was enacted.

N. The terms and conditions of this Agreement have undergone extensive review by City's staff, Planning Commission and City Council at publicly-noticed meetings and have been found to be fair, just and reasonable and in conformance with the General Plan, the Development Agreement Legislation, and Division 14.17 of the Vacaville Municipal Code and, further, the City Council finds that the economic interests of City's residents and the public health, safety and welfare will be served by entering into this Agreement.

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

AGREEMENT

SECTION 1. EFFECTIVE DATE AND TERM

A. Effective Date

This Agreement shall become effective on the thirty-first day following the later of: (i) the adoption by the City Council of the ordinance approving this Agreement; or (ii) receipt of the certified results of a referendum election challenging such ordinance or approval of this Agreement (the "Effective Date").

B. Term

This Agreement shall commence upon the Effective Date and shall remain in effect for a term of ten years after the Effective Date (the "Term"), unless said Term is terminated, modified, or extended as expressly set forth in this Agreement, or by the mutual written agreement of the parties.

C. Termination Of Agreement

(1) Expiration of Term. Except as otherwise provided in this Agreement, this Agreement shall be deemed terminated and of no further effect upon the expiration of the Term of this Agreement as set forth in Subsection 1.B of this Agreement.

(2) **Survival of Obligations.** Upon the termination or expiration of this Agreement as provided herein, neither party shall have any further right or obligation with respect to the Project Site under this Agreement except with respect to any obligation that is specifically set forth in this Subsection as surviving the termination or expiration of this Agreement. The termination or expiration of this Agreement shall not affect the validity of the Project Approvals (other than this Agreement) for the Project, except that Developer shall continue to comply with the following obligations of this Agreement until Developer's implementation of the Project Approvals is complete: Sections 5.F., "Processing Charges, Development Impact Fees Applicable To Project Site"; 5.G, "No Cost to City for Specific Plan Improvements"; 5.H., "Developer Procures Financing for Major Infrastructure"; 5.M., "Project Timing & Fire Station Completion"; 5.N., "Developer Neighborhood Park Obligations"; 5.O., "Community Benefit Contribution"; 5.P., "Participation in General Plan Cost Recovery"; 5.Q., "Water Annexation Fee"; and 5.R., "Roadway Improvements".

(3) **Termination by City.** Notwithstanding any other provision of this Agreement, City shall not have the right to terminate this Agreement as it applies to all or any portion of the Project Site before the expiration of the Term hereof unless:

a. City complies with all termination procedures set forth in the Development Agreement Legislation,

b. there is an alleged default by Developer and such default is not cured pursuant to Section 7 of this Agreement,

c. Developer has first been afforded an opportunity to be heard regarding the alleged default before the City Council, and

d. this Agreement is terminated only with respect to that portion of the Project Site to which the default applies.

SECTION 2. OBLIGATIONS OF CITY

A. No Conflicting Enactments; Protection From Moratoria; 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 provisions set forth in Division 14.17 of the Vacaville Municipal Code, and in consideration of the benefits derived by City as recited herein, no future modification of City's codes 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 Subsection shall not limit City's right to ensure that Developer timely constructs and provides all necessary infrastructure to serve the proposed development as a condition of

issuance of any City permit, approval or other land use entitlement sought by Developer for the Project Site. Subject to the provisions of Section 2.J.(1) of this Agreement, Developer shall install public infrastructure consistent with the Specific Plan phasing plan (called the Phasing Matrix in the Specific Plan), as approved by City, which plan is, or shall be, attached to the conditions of approval of the Tentative Map. City's Director of Public Works shall have the authority to approve revisions to the public infrastructure phasing plan as future circumstances may warrant in his or her sole judgment, including deviations in the actual phasing of the Project infrastructure from the phasing contemplated at the time of City's approval of this Agreement.

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 desire of the parties hereto 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 (as defined in Subsection 5.L, below) to ensure that City will have information necessary to comply with its obligations set forth in this Agreement. However, this Subsection shall not limit City's right to impose or modify requirements concerning the timing or commencement of construction based upon the timing or need for such infrastructure or utilities as a condition of approval of permits or other 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 elsewhere in this Agreement. Such actions are hereinafter referred to herein as the "Vested Elements."

No part of the Vested Elements may be revised or changed during the Term hereof 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 reduction or decrease in rights or increase in burdens caused by such change), unless expressly stated to the contrary elsewhere in this Agreement. The foregoing notwithstanding, applications for permits, entitlements, and other approvals shall be subject to such changes in the General Plan, the Vacaville Municipal Code, City's zoning code, 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 materially 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 General Plan, approved by the City Council on August 21, 1990, including any amendment thereto enacted prior to the execution of this Agreement.

(2) The Specific Plan.

(3) The Zone Change.

(4) Mitigation measures proposed (and not rejected by City as infeasible) in the EIR with respect to the Specific Plan and related development project actions for the Project Site.

(5) Parcel map waivers, tentative parcel maps, tentative subdivision maps, vesting tentative parcel maps, vesting tentative subdivision maps, planned developments, conditional use permits, design review approvals and other zoning entitlements or discretionary approvals by City with respect to portions of the Project Site, subject to the provisions of Subsections 2.C and 2.D, below.

(6) The Annexation Request.

C. Subdivision And Parcel Maps

Developer shall have the right from time to time to file applications for subdivision maps, parcel map waivers and/or parcel maps with respect to some or all of the Project Site in order to re-configure the parcels comprising the Project Site as may be necessary or desirable to develop a particular phase of the Project Site or to lease, mortgage or sell a portion of the Project Site. Nothing herein contained shall be deemed to authorize Developer to subdivide or use the Project Site, or any portion thereof, for purposes of sale, lease or financing in any manner that conflicts with the provisions of the Subdivision Map Act, Government Code §§ 66410 *et seq.*, or with the Vacaville Municipal Code; nor shall this 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 Vested Elements.

D. Applicable Subdivision And Safety Regulations; No Conflicting Enactments

Nothing herein contained shall be deemed to prevent City from amending the laws, ordinances, uniform codes, rules or regulations pertaining to or imposing health and safety, fire protection, mechanical, electrical, plumbing, grading and/or building requirements or other requirements that would be defined as "ministerial" under CEQA pertaining to new construction or development in the city, including the Project, when such amendments are enacted or adopted prior to the issuance of a building permit for the Project (or portion thereof), in which case such amendments shall apply to the Project (or portion thereof).

Except as set forth above, any ordinance, resolution, rule, regulation, standard, directive, condition or other measure adopted or amended subsequently to the Effective Date (each individually referred to as a "City Law"), whether approved by Subsequent Approval or other action by City or by initiative, referendum or other means, that reduces the development rights granted to Developer by this Agreement shall not apply to the Project Site. For the purpose of this Agreement, any City Law shall be deemed to reduce the development rights provided hereby if such City Law would accomplish one or more of the following either by specific reference to

the Project or as part of a general enactment that applies to or affects construction or development in the city:

(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 of allowable development on the Project Site to offset or compensate for a reduction in density resulting from state or federal laws including, but not limited to, laws relating to airport safety or wetlands, species or habitat protection, preservation or restoration. The foregoing provision is not intended to limit Developer's legal rights against state or federal authorities imposing such laws, but is intended to disallow suit against City due to the impact of such laws upon the Project and to free 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. City, however, agrees to cooperate with Developer in Developer's attempt to mitigate or minimize the impacts from such reductions in density on the overall development of the Project Site. As used in the preceding sentence, City's duty to "cooperate" with Developer does not include the obligation to contribute financially to such attempts by Developer.

(2) Change any land uses or other permitted uses of the Project Site until the Project, or portion thereof, has been completed as evidenced by issuance of a certificate of occupancy by City's Building Division (or completion of final inspection if no certificate of occupancy is required).

(3) Limits or controls 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 adequate to serve such development or construction is constructed or provided by Developer, unless otherwise expressly provided for in this Agreement.

(4) Except as otherwise permitted by this Agreement, enforce or apply any City Law to the Project that is not uniformly applied on a city-wide basis to substantially similar types of development projects and project sites with similar land use designations. The foregoing notwithstanding, City shall be allowed to establish zones of benefit, rate zones, benefit districts, assessment districts or similar financing mechanisms, which may apply to the Project Site, so long as the costs associated with such zones, districts or mechanisms are: (i) uniformly applied to all similar uses within the affected zone, district or area, and (ii) not exclusively imposed upon or assessed against the Project.

(5) Require the obtainment of additional discretionary 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 and whose jurisdiction extends to the Project Site.

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

E. Processing Of Project Applications

Subject to staffing availability, 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 applications for entitlements needed for the Project.

(1) **Due Diligence by City.** City will accept, make completeness determinations, and process, promptly and diligently, to completion all applications for Subsequent Approvals for the Project, in accordance with the terms of this Agreement, including, but not limited to, the following:

a. the processing of applications for and issuance of all discretionary approvals requiring the exercise of judgment and deliberation by City, including without limitation, the Subsequent Approvals;

b. the holding of any required public hearings; and

c. the processing of applications for and issuing of all ministerial approvals.

(2) **Fast Track Processing.** City has a Customer Service Plan with timelines for the processing of project applications. Subject to staffing availability, City will use its best efforts to process plan checks and permitting requests for the Project in accordance with such Plan, as may be amended from time to time.

(3) **Relocation of Easements.** Upon Developer's request, City shall use its best efforts to assist Developer in:

a. locating any new public easements required for the Project so as to minimize interference with development of the Project; and

b. Developer's efforts to relocate or remove easements to facilitate development of the Project.

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

This Subsection shall be considered an approved "Phasing Plan" that satisfies Vacaville Municipal Code § 14.05.030.A.5. City hereby exempts fifty residential building permits for the Project from the building permit allocation process of City's Planned Growth Ordinance (Vacaville Municipal Code, Division 14.05), as follows:

(1) Commencing in the calendar year in which the first tentative subdivision map for the Project, or any portion thereof, is approved by City and for each calendar year thereafter (effective on January 1 of each such year) during the Term of this Agreement,

City shall allocate fifty assignable residential building permits for the Project to Developer. If, in any calendar year, Developer fails to use the total allocation of permits for that year, the unused portion of such annual allocation shall be carried over and added to Developer's succeeding year's allocation. Such "carry-over" shall apply to that succeeding year only and shall not be carried over to any year thereafter. The allocations provided for in this Subsection shall automatically apply and shall not require any formal application or request by Developer for such annual reservation of building permits.

(2) Should Developer propose to assign the annual allocation, or any portion thereof, to a Project builder other than Developer, Developer shall submit to City's Director of Community Development an application for assignment identifying such other builder(s) and the number(s) of permits proposed to be allocated. The application shall be submitted to the Director within the time period specified by and approved by the Director.

(3) In the event there is no assignment of the annual building permit allocation by City and subject to the limits set forth in Subsection (1) of this Subsection, City shall issue building permits under the Phasing Plan on a first-come first-served basis.

G. Undergrounding Of Public Utilities

City will, to the extent reasonably possible, and at no cost to City, exercise its authority with P.G. & E. and PACTEL in undergrounding power and telephone lines in order to minimize or reduce Developer's cost of undergrounding these utility lines.

H. Coordination Of Construction Of Offsite Improvements

Developer acknowledges that certain offsite improvements may be necessary and required by City in order to develop the Project Site or mitigate the environmental impacts of the Project Site.

I. Environmental Mitigation

To the extent permitted by law, City shall not impose upon the Project any mitigation measures other than those specifically imposed by the Project Approvals or the MMRP adopted concurrently with the Project Approvals, as authorized by the Vacaville Municipal Code or the Specific Plan. City shall not impose additional mitigation measures on the basis that the EIR fully analyzes the environmental impacts of the Project, thereby alleviating the need for additional environmental review except under the circumstances described in Section 21166 of the Public Resources Code. To the extent permitted 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.

J. Infrastructure

(1) Infrastructure Phasing Flexibility. Notwithstanding the provisions of any phasing requirements in the Project Approvals, Developer and City recognize that economic and market conditions may necessitate changing the order in which the

infrastructure of the Project is constructed. For this reason, City and Developer hereby agree that should it become necessary or desirable to develop any portion of the Project's infrastructure in an order that differs from the order set forth in the Project Approvals, Developer and City shall collaborate and City shall permit any modification requested by Developer so long as such infrastructure is adequate to serve that portion of the Project being developed and there are no adverse impacts to existing infrastructure or proposed infrastructure for future portions of the Project, the determination of which shall be made solely by City's Director of Community Development and City's City Engineer.

(2) **Infrastructure Capacity.** Subject to Developer's installation of infrastructure in accordance with the requirements of the Project Approvals and payment to City of the appropriate development impact fees and service fees, City hereby acknowledges that it will have, and shall reserve, sufficient capacity in its infrastructure, services and utility systems, including, without limitation, traffic circulation, storm drainage, flood control, sewer collection, sewer treatment, sanitation service and, except for reasons beyond City's reasonable control, water supply, treatment, distribution and service, as and when necessary to serve the Project as it is developed. To the extent that City renders such services or provides such utilities, City hereby agrees that it will serve the Project and that there shall be no restriction on hookups or service for the Project except for reasons beyond City's reasonable control.

K. Model Homes

Prior to recordation of any small-lot final map (as defined below in this Subsection) that creates individual single-family residential lots or parcels, City agrees to issue, to the extent permissible by any relevant laws, building permits and certificates of occupancy (or completion of final inspection if no certificate of occupancy is required) for the construction of model homes (and related model home complex structures) that Developer shall use for the purpose of promoting the sale of single-family residential units within the Project, subject to Developer's compliance with City's standard specifications and standard drawings, standard design review and building permit procedures; provided, however, in no event shall City be required to issue more than five building permits for the construction of such model homes and in no event shall Developer be permitted to sell, transfer or convey any interest in any model home until and unless a small-lot final map has been recorded on that portion of the Project where the model home is located. As used in this Agreement, "small-lot final map" shall mean a final subdivision map that subdivides property in to individual lots or parcels for single-family residences.

SECTION 3. PROPERTY SUBJECT TO THIS DEVELOPMENT AGREEMENT

A. Property Subject To This Agreement

All of the property described in Exhibit A-1 shall be subject to this Agreement.

B. Term Of Subdivision Maps And Other Project Approvals

(1) The term of any, 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 coincide with the Term of this Agreement. Upon the termination or expiration of this Agreement. the term of such map shall expire. However, should the Term of this Agreement, be extended, the term of such map shall likewise be extended to coincide with the extended Term of this Agreement subject to any processing requirements required therefore. In no event, however, shall the term of such maps be for a term longer than ten years unless otherwise agreed to by the parties by amendment of this Agreement.

(2) The term of any conditional use permit, design review approval, planned development or other zoning entitlement or discretionary approval for development of any portion of the Project Site shall be one year, which period of time may be extended for two additional one-year terms by the decision maker having decision–making authority over such time extension. However, any such permit, approval, or entitlement shall continue in effect and shall not require a time extension if: (i) in the case of a residential use (i.e. single-family residences), the building foundation for at least one residential structure is installed and completed and, thereafter, Developer diligently continues construction towards completion or, (ii) in the case of a non-residential use (i.e. commercial, industrial and other non-residential uses), Developer obtains a building permit and diligently continues construction towards completion.

SECTION 4. MATERIAL OBLIGATIONS OF DEVELOPER; TERMINATION FOR BREACH OF SUCH OBLIGATIONS

Notwithstanding anything to the contrary in this Agreement, the Term of this Agreement 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 Agreement relating to permitted delays and delaying causes. Developer's performance in achieving these objectives shall be considered and evaluated as part of the Annual Review as provided in Section 8 of this Agreement. The objectives to be achieved by Developer are:

A. Community Facilities District Formation

Developer shall annex the Project Site to the Southtown Community Facilities District ("CFD-11") prior to and as a condition of approval of the first small-lot final map creating single-family residential lots or parcels on the Project Site. The purpose of the CFD-11 is to pay for City fire and law enforcement services. City shall complete the annexation before the recordation of the first small-lot final map creating individual single-family residential lots or parcels on the Project Site.

B. Landscaping and Lighting Assessment Districts

Developer shall apply for and procure adoption by City of such resolutions and actions as may be required to annex the Project Site to the existing Southtown Lighting and Landscaping District (the "LLD") prior to the recording of the first small lot final map creating individual residential lots or parcels on the Project Site. The purpose of the LLD is to pay City for the cost to maintain improvements on or about the Project Site to be dedicated to City including, but not limited to: (i) the neighborhood park, (ii) the setback landscaping, (iii) the street lighting, and (iv) the

detention basin. City shall complete the annexation before the recordation of the first small-lot final map creating residential lots or parcels on the Project Site.

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 within any period of time except: (i) as provided in Subsection 2.A of this Agreement; (ii) the obligations otherwise stated in a separate agreement or undertaking that is part of the Vested Elements or that is entered into in connection with any community facilities or assessment district creation or financing; (iii) the conditions for commencement of construction stated in any conditional use permit, design review approval or other entitlement or approval 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 Divisions 14.11 ("Subdivisions") or 14.12 ("Dedications and Improvements") of the Vacaville Municipal Code, as applied to subdivision improvement agreements. Failure to undertake and complete the matters identified in this Section shall constitute a material breach of this Agreement for which this Agreement may be terminated by City if such breach is not cured as provided in this Agreement.

B. General Obligations

As consideration for City entering into this Agreement, Developer agrees that it will comply with all Project Approvals and Subsequent Approvals. 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 Subsequent Approvals.

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 its proportionate share of off-site infrastructure necessary to serve the Project, subject to any over-sizing requirements deemed appropriate by City. Any over-sizing shall be reimbursed to Developer in accordance with the provisions of City's benefit district ordinance (Division 14.15 of the Vacaville Municipal Code). In order to fund the construction of on-site "backbone" infrastructure, such as sewer and drainage improvements, Developer may utilize those financing mechanisms deemed appropriate by City, which shall not involve or require the payment of any City funds for such improvements.

Developer shall also construct and dedicate to City, without compensation, deduction, or credit, street frontage and improvements to street frontages adjacent to any schools and park sites within or abutting the Project Site. Further, Developer shall, without compensation, deduction, or credit, rough grade and level the land for any such school and park sites within the Project Site and will place adequate utility stubs to serve such school and park sites 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. Developer shall dedicate, without compensation, deduction, or credit, road rights-of-way, utility and other easements

required for development of the Project 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 beyond Developer's control, including county, state, or federal participation in such construction and, when appropriate, as determined by City in its sole discretion, through the exercise of the power of eminent domain so long as funds are available therefore without cost or expense to City, either from bond sales proceeds, cash payments, or a combination thereof.

D. Developer Funding Of Infrastructure Shortfalls

In the event a public agency responsible for making certain area-wide infrastructure improvements lacks sufficient funds to complete such improvements that are required to be constructed as part of the Vested Elements, including, but not limited to, school facilities needed to serve the Project, Developer shall have the option of proceeding with the development of such improvements at Developer's cost upon Developer's procurement of a source of funds, reasonably acceptable to City, that is sufficient to pay for or make up the shortfall in funding for such improvements.

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 Project Site lying within five hundred 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 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. Further, nothing in this Subsection 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 Project Site may be utilized for the placement of water wells or the 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 feet of the surface and this provision shall constitute a transfer of all such rights to City effective upon the Effective Date of this Agreement.

F. Processing Charges, Development Impact Fees Applicable To Project Site

Every application for an approval and every approval and issuance of permits or entitlements thereafter 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 not limited to, 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 portion thereof, as a condition of approval of such development, including fees imposed to mitigate the Project's environmental impacts, subject to the following:

(1) **New Regulatory or Development Impact Fees.** Nothing herein contained shall be construed to prevent City from enacting new regulatory fees or development impact fees that may be imposed on all or portions of the Project Site or development thereof provided: (i) the amount charged has been determined in accordance with all applicable law; and (ii) Developer is given credit for: (a) fees previously paid, and (b) the fair value of improvements and land previously dedicated by Developer prior to the enactment of such regulatory or development impact fee requirements where such fees, improvements or land dedications relate to or pertain to the same mitigation measures addressed by the new regulatory or impact fee requirement.

(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 of this Agreement but do not include, nor does this 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 the 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 fee enacted after the Effective Date of this Agreement unless it applies on a city-wide basis (although zones of benefit may be designated by City with charges allocated among the properties within such zones based upon the benefit received by such properties). Any development impact fees levied against or applied to the Project must be consistent with the provisions of applicable California law, including the provisions of Government Code Section 66000 *et seq.* ("AB 1600"). Nothing in this Agreement shall diminish or eliminate any of Developer's rights set forth in Government Code Section 66020, including Developer's right to protest an imposition, fee, dedication, reservation, or other exaction.

(4) **Processing Costs.** Nothing herein contained shall exempt Developer from paying processing costs imposed by City for the processing of Developer's applications, including such costs as may be necessary to hire consultants and conduct studies required to develop the Project. Prior to engaging the services of any consultant or authorizing the expenditure of any funds for such consultant, City shall consult with Developer, to seek mutually agreeable terms regarding: (i) the scope of work to be performed by such consultant; (ii) the projected costs associated with such work; and (iii) the particular consultant engaged to conduct such work.

G. No Cost To City For Specific Plan Improvements

All public improvements (including, without limitation, landscaping) that are constructed or installed as conditions of development as generally described in the Specific Plan, shall be constructed or installed by Developer without cost to City.

H. Developer Procures Financing For Major Infrastructure

Developer shall obtain any and all funding needed to construct on-site streets and "backbone improvement work" (e.g. sewer and drainage improvements) on the Project Site without cost to City, and Developer's assurance thereof shall be required as a condition of construction of some or all of the improvements on the Project Site, either in the form of a bonded contract for construction of such streets and backbone improvement work or a contract for the acquisition thereof in a form acceptable to City.

I. Assurances Concerning On-Site Improvements

Developer shall be responsible for the construction of improvements required within those portions of the Project Site to be subdivided and shall provide written assurance thereof in a form acceptable to City as a condition of filing the final subdivision maps or parcel maps for such portions of the Project Site. Such assurance shall be in the form of a written improvement agreement entered into in accordance with procedures established pursuant to City ordinance, resolution or written policy (which shall include the posting of a bond or other surety acceptable to City), unless a community facilities district has been formed for the purpose of constructing or acquiring such 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 the 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 its Public Works Department and Community Development Department, as may be adopted and amended from time to time, that are in effect generally throughout the city when Developer seeks to develop a portion or portions of the Project Site.

J. Dedications Of Greenbelts, Buffers, Open Space Areas, Parks, Landscaped Areas, And Trails Lying Within The Project Site

Greenbelts, buffers, agricultural buffers, open space areas, parks, landscaped areas, bicycle trails, and other trails and access points as shown on the Specific Plan or Tentative Map lying within the Project Site shall be dedicated to City by grant or dedication, in a form and manner acceptable to the City Attorney, as a condition precedent to the recording of the final map or parcel map, as the case may be. Greenbelts, buffers and open space areas may include wetlands, storm water detention basins, landscaping and decorative planting areas that do not interfere with greenbelt, buffer and open space uses.

As a condition of acceptance of such dedications by City, Developer shall propose and demonstrate to City's satisfaction a method or mechanism acceptable to City to maintain said greenbelts, buffers, open space areas, parks, landscaped area, and trails such as, by way of example, a landscaping and lighting district pursuant to Streets and Highways Code§§ 22500 *et seq*.

K. Dedicated Property Shall Be Free Of Hazardous Wastes and Encumbrances

All real property or interests in land offered for dedication by Developer to City shall be free and clear of: (i) hazardous waste and materials, and (ii) all liens, encumbrances, and clouds on title

other than recorded easements or restrictions that do not interfere with or preclude the use of such property for its intended purpose as reasonably determined by City.

L. Developer To Provide Projections For Development Of The Project

In order to facilitate the timely development of the Project Site, Developer, or the "Master Developer" designated by Developer, shall provide City with reports of its projected timetable for the design and construction of the Project ("Development Projections") each time there is a material change in Developer's or the Master Developer's anticipated progress in developing the Project. In addition, Developer or the Master Developer shall provide Development Projections with the documentation Developer is required to provide City in conjunction with the Annual Review, as provided in Section 8 of this Agreement.

M. Project Timing & Fire Station Completion

The MMRP requires that City's new fire station (Southtown Fire Station #75) be operational prior to the issuance of any building permits for any homes within the Project area that are beyond City's emergency response time area. For this reason, no residential building permit will be issued within the Specific Plan area for any dwelling unit that is located outside of City's adopted response time area until the Southtown Fire Station #75 is operational, which City shall construct pursuant to the First Amendment to the Southtown Development Agreement. As used herein, the First Amendment to the Southtown Development Agreement is that certain agreement dated September 19, 2013 and recorded on September 26, 2013 as document number 201300093707 in the Official Records of the County of Solano, State of California.

N. Developer Neighborhood Park Obligations

(1) Dedication of Park Land. The Project Site is adjacent to property on which another residential subdivision is proposed, commonly referred to as "The Estates at Vanden Meadows" subdivision, as more particularly shown in Exhibit B of this Agreement (the "Estates Subdivision"). The developer of the Estates Subdivision proposes to include a six-acre neighborhood park within the Estates Subdivision to serve the needs of future residents of both the Estates Subdivision and the Project (the "Park Land"). The proposed location of the neighborhood park is adjacent to a future elementary school site, which is consistent with City's General Plan Policy 4.6 G-12 that provides that new neighborhood parks should be located adjacent to elementary schools whenever possible. There is no existing or future school site proposed on the Project Site. Hence, the proposed site in the Estates Subdivision is the preferred location for the neighborhood park. At this time it is uncertain which of the two proposed subdivisions (the Project and the Estates Subdivision) may develop first.

(2) Reimbursement for Dedication. Developer agrees not to protest a Park Land benefit district (the "Park Land Benefit District"), if one is formed, that reimburses the developer of The Estates at Vanden subdivision within the Specific Plan area for the value of the excess Park Land dedicated by such developer in excess of developer's proportionate share of the Park Land for the neighborhood park. In addition to the Park Land, the Park Land Benefit District may include other public improvements related to

the Project. The Engineer's Report for the Park Land Benefit District shall set forth the formulas for reimbursement for the value of the excess Park Land dedication and for Developer's proportionate share of the Park Land dedication. Developer shall receive no credit towards Developer's obligation to pay park and recreation development impact fees to City for the value of the Park Land dedication.

(3) Park Planning and Construction.

a. City shall prepare and complete a master plan for the neighborhood park through City's normal park planning process. City may fund the development and approval of the park master plan by using the park and recreation development impact fees paid by Developer or other developers within the Specific Plan area (the "Specific Plan area" or "Specific Plan Project" is defined as the Vanden Meadows Specific Plan). City shall not expend more than $25,000 from such fees for such purpose. Fees in excess of this amount for such purpose may, at City's option, be paid by City with City funds. City shall commence the park master planning process after Developer, or other developers within the Specific Plan area, has paid the park and recreation development impact fees for the seventh (7^{th}) residential unit of the Specific Plan area. Developer shall work in good faith with City in the master planning process so that final approval of the master plan, approval of a name for the new park, and any necessary environmental analysis and documentation are completed in a timely manner.

b. City shall complete preparation of construction drawings for the neighborhood park, based on the approved park master plan, after a total of $150,000 in park and recreation development impact fees has been collected from Developer or other developers within the Specific Plan area.

c. The construction drawings shall substantially reflect the design elements of the approved park master plan. However, the entire park development project, including design and related construction costs, shall not exceed 48.3% (the "neighborhood park portion") of the total park and recreation development impact fees ultimately to be collected for the Specific Plan Project. The balance of such fees shall be used by City to fund other park and recreation improvements and activities within the city, which may not specific to the Project or Project Site.

d. By way of example, based on City's current development impact fee of $3,995 per single-family unit, the "neighborhood park portion" for the Specific Plan Project would be approximately $1,550,000, as more particularly described in Exhibit C of this Agreement. The amount of park and recreation development impact fees available for construction of the neighborhood park may be estimated by taking the total amount of the fees collected and subtracting therefrom the costs to develop the park master plan (up to $25,000), to name the park, to comply with CEQA, to prepare the construction drawings (up to $125,000), to issue the permits and to pay City's plan check and inspection fees.

e. City would normally calculate the "neighborhood park portion" at 34.5% of the total park and recreation development impact fees collected. In this case, however, because the proposed neighborhood park site (6.0 acres) is 40% larger than the minimum size ordinarily required for a residential development of this size (4.31 acres), the "neighborhood park portion" is, instead, calculated at 48.3% of the total park and recreation development impact fees anticipated to be collected for this Project. Hence, the "neighborhood park portion" for the Project shall be 48.3% of the total park and recreation development impact fees collected from Developer for the Project.

f. City shall not commence construction of the neighborhood park until 48.3% of the total amount of the park and recreation development impact fees has been collected by City from developers within the Specific Plan area. City shall complete the neighborhood park and have it available for public use within two years from the commencement of construction.

g. Should Developer wish to complete the neighborhood park sooner, Developer (henceforth the "Park Developer") shall have the option of constructing the park by entering into a park development agreement (the "Park Agreement") with City in which Developer agrees to construct the park, which shall include the posting of surety bonds for the full completion thereof. The Park Agreement shall provide that the Park Developer shall construct the neighborhood park in conformance with the drawings and plans previously approved by City. Should the Park Developer wish to improve upon or enhance the neighborhood park from that shown on such drawings and plans, such improvements and enhancements shall conform to the park master plan previously approved by City and be reviewed and approved by City. If approved, the Park Developer shall be responsible for modifying the drawings and plans at Park Developer's expense and for the cost of constructing such improvements and enhancements. Any proposed improvements, enhancements, and their funding shall be fully described in the Park Agreement. The Park Agreement shall further require the Park Developer to complete the park and have it available for public use within two years from the date of execution of the Park Agreement. The Park Agreement shall also require the Park Developer to maintain the neighborhood at Park Developer's expense until the four hundredth (400^{th}) residential unit has been completed within the Specific Plan area and approved for occupancy by City through issuance of an occupancy permit or final inspection by City's Building Division, at which time the obligation to maintain the neighborhood park shall pass to City.

h. City shall fund the maintenance of the neighborhood park through the creation of a landscape and lighting district (the "LLD") after the four hundredth (400^{th}) residential unit within the Specific Plan area has been issued an occupancy permit or final inspection by City's Building Division. Developer shall cooperate with City in creating the LLD, which shall be a condition of City's obligation to construct and maintain the neighborhood park. The LLD shall be created prior to the issuance of an occupancy permit or final inspection by City's Building

Division for the four hundredth (400th) residential unit within the Specific Plan area. The LLD shall be used to fund City's cost of maintenance of the neighborhood park. The LLD shall not be used to fund Developer's cost of maintenance of the neighborhood park in the event Developer elects to construct the neighborhood park as provided in Subsection 5.N(3)g, above.

i. Developer shall notify all prospective home purchasers of property within the Project Site of the construction schedule for the neighborhood park. At a minimum, this shall include, but not be limited to:

(i) providing a written disclosure signed by each purchaser of a residence or lot within the Project Site acknowledging the receipt thereof prior to or at the time escrow opens;

(ii) placing and maintaining a prominent display at each model home notifying prospective buyers of the neighborhood park's construction schedule; and

(iii) placing and maintaining one or more informational signs on each street frontage adjacent to the neighborhood park site notifying prospective buyers of the park construction schedule. The size, location, and content of such signs shall be determined at the time of, and as part of, City's design review of the model home complexes.

City shall fund maintenance of the neighborhood park through the creation of a landscape and lighting district (the "LLD") after the four hundredth (400th) residential unit within the Specific Plan area has been issued an occupancy permit or final inspection by City's Building Division. Should Developer elect to construct the neighborhood park as provided in Subsection 5.N.(4)g, above, Developer shall be responsible for all maintenance of the neighborhood park until City's Building Division has issued such occupancy permit or final inspection for the four hundredth (400th) residential unit within the Specific Plan area, at which time the obligation to maintain the neighborhood park shall transfer to City. Developer shall cooperate with City in creating the LLD, which shall be a condition of City's obligation to construct and maintain the neighborhood park. The LLD shall be created prior to the issuance of an occupancy permit or final inspection by City's Building Division for the four hundredth (400th) residential unit within the Specific Plan area.

(4) Park and Recreation Development Impact Fee Credits and Reimbursements. Should Developer elect to construct the neighborhood park as provided in Subsection 5.N.(4)g, above, City shall:

a. pay to the Park Developer the park and recreation development impact fees previously collected by City in connection with the Project as agreed to in the Park Agreement, excluding those fees expended by City to develop the park master plan, to name the park, to comply with CEQA, to prepare the construction drawings and plans, to issue the necessary permits to Developer for such construction, and to pay City's plan check and inspection fees; and

b. provide the Park Developer with park and recreation development impact fee credits as agreed to in the Park Agreement. The Park Agreement shall include terms that require City to provide Park Developer a credit for the Project's future park and recreation development impact fees up to the total "neighborhood park portion" of the fees (currently estimated at $1,500,000), less City's design and construction related costs as described in Subsection 5.N(4)a above. Credits and reimbursements as described above shall not exceed the total cost of construction of the neighborhood park.

O. Community Benefit Contribution

Notwithstanding any other term of this Agreement, Developer agrees to pay City a "Community Benefit Contribution" of $7,224 for each single-family residence at the time a building permit is issued for such residence within the Project Site. The parties agree that there may be an adjustment to the Community Benefit Contribution per unit, resulting from the City Council's review and determination of what improvements or programs should be funded by the Community Benefit Contribution versus an impact fee, meaning that the amount of the Community Benefit Contribution may change. In addition, City agrees that at no time shall the Community Benefit Contribution imposed on the Project Site during any calendar year be higher than any other community benefit contribution, or other similar contribution that funds the same types of improvements or programs, imposed on any future development project that includes single-family homes in the same calendar year that is located: (i) east of Leisure Town Road; (ii) in a growth area identified in City's future General Plan Update (including, but not limited to, the East of Leisure Town Road Growth Area and the Northeast Growth Area identified as part of the approval of the City's 2008 Urban Growth Boundary); or (iii) in any part of the Specific Plan area. Developer shall have a right to a reduction in the Community Benefit Contribution if the Community Benefit Contribution is higher than the amount imposed on other development projects in these areas that include single-family homes. The Community Benefit Contribution shall be automatically adjusted by the percentage change, if any, in the Engineering News Record San Francisco Bay Area Construction Cost Index on January 1 of each year for the Term of this Agreement. The Community Benefit Contribution funds shall be used by City for construction of the Southtown Fire Station and/or equipment for that station, and then for other capital improvements and/or acquisition of lands that the City Council considers to be of community-wide benefit.

P. Participation In General Plan Cost Recovery

Notwithstanding any other provision of this Agreement, Developer agrees that Developer shall participate in a future "General Plan Update Cost Recovery Fee" program for the Project if such program is adopted by the City Council following adoption of the current General Plan Update. Such Fee shall be assessed in accordance with the terms of the future General Plan Update Cost Recovery Fee program and shall be paid at the time of recordation of a final map. If the Fee has not been adopted by the time of recordation of a final map for the Project, then the Fee shall be paid at the time of and as a condition of building permit issuance. If the Fee has not been adopted by the time of building permit issuance, then the Fee shall not be required for that particular building permit.

Q. Water Annexation Fee

Notwithstanding any other provision of this Agreement, Developer agrees to pay City $2,402 per single-family residence as payment for the cost of acquiring additional domestic water to serve the residential uses contemplated for the Project (the "Water Annexation Fee"). This fee shall be in addition to the standard water service connection fee and shall be paid at the time of issuance of a building permit for each residence. This Fee will be adjusted on March 1 of every year, beginning in 2013, based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), U.S. City Average, not seasonally adjusted, with a reference base of 1967 = 100, as published by the U.S. Department of Labor, Bureau of Labor Statistics, for the prior year (hereinafter referred to as the "Cost of Living Index" or "Index"). The base Index for water rate adjustments shall be the CPI-W for December 31, 2009, which was 630.600, and adjustments for the change in the Index shall be measured by the Index on subsequent dates of December 31 and applied to the payments for the following water year. This cost shall be in addition to the standard water service connection fee assessed by City at building permit issuance.

R. Roadway Improvements

Construction of the Project will necessitate the construction of certain roadway improvements necessary to facilitate the circulation and flow of traffic within and about the Project Site. For this reason, in addition to the roadway improvements necessary to provide access to residents within the Project Site, Developer shall make certain other roadway improvements are completed as more particularly described in this Subsection R.

(1) **Foxboro Parkway.** Foxboro Parkway is a four-lane arterial roadway located in the southern portion of the city, which currently begins at Peabody Road and terminates at Nut Tree Road. City's current General Plan shows Foxboro Parkway extending from Nut Tree Road through property owned by Montgomery (the "Montgomery Property") and the Estates at Vanden Meadows subdivision (the "Estates Property") located to the south of the Project Site to Vanden Road, forming an intersection with Leisure Town Road (the "Foxboro Parkway Extension" or "Extension"). The Montgomery Property, the Estates Property, and the alignment of the Extension are more particularly shown in Exhibit D, attached hereto and incorporated herein by reference.

In order to construct the Extension , two roadway segments must be constructed: (i) an extension of Foxboro Parkway across the Estates Property (the "Estates Portion"); and (ii) an extension of Foxboro Parkway from the western edge of the Estates Property across the Montgomery Property (the "Montgomery Portion"). In 2012, City added a portion of the Extension's roadway width (32-foot wide roadway, 4-foot wide shoulders, roadside ditches, and other appurtenances) as a traffic impact fee funded project (the "City's Share"). However the ultimate Extension width shall be a four-lane, divided arterial roadway wherein the project developers are responsible for providing the additional width to 64 feet.

a. **Right of Way Dedication.** As a condition of obtaining its first final map for the Project outside of Specific Plan Subareas I-1, I-2, or H-1, Developer shall acquire and dedicate to City the land needed to construct

either: (a) City's Share of the Extension; or (b) City's Share of the Estates Portion and an interim alignment to the Montgomery Portion, as more particularly described below.

i. Developer shall enter into an agreement with City in which Developer agrees to construct City's Share of the Extension from Vanden Road to Nut Tree Road, which shall include the posting of surety bonds for the full completion thereof and the construction of a 32-foot wide roadway, 4-foot wide roadway shoulders, roadside ditches, signal modification, and other appurtenances constructed to City Standards.

ii. Developer shall be entitled to receive reimbursement from City for the above right-of-way dedications in the form of traffic impact fee credits at the fair market value of the dedications when acquired and for the cost to construct City's Share of the Extension.

b. Developer's Option to Construct an Interim Alignment.

i. Developer shall have the option of constructing and dedicating an alternate, interim alignment to the Montgomery Portion, as more particularly described below and as depicted in Exhibit D (the "Interim Alignment").

ii. The Interim Alignment shall be located on the Estates Property and shall consist of collector roadways proposed for the Estates Subdivision, commencing from the new Vanden Road/Foxboro Parkway intersection (depicted in Exhibit D) to an intersection with Nut Tree Road on the west side of the Estates Property.

iii. If Developer chooses to construct the Interim Alignment, Developer shall enter into an agreement with City in which Developer agrees to construct: (1) City's Share of the Estates Portion of the Extension, including the construction of a 32-foot wide roadway, 4-foot wide roadway shoulders, roadside ditches, signal modification, and other appurtenances constructed to City Standards; (2) a realigned Vanden Road (as described below) including full street width with curb, gutter and sidewalk; and (3) a collector road from Nut Tree Road to the realigned Vanden Road including full street width with curb, gutter and sidewalk.

iv. Developer shall be entitled to receive reimbursement: (1) from City for the fair market value to construct the City's Share of the Estates Portion of the Extension in the form of traffic impact fee credits, and (2) for the fair market value of the remaining Interim Alignment by the developer of the Estates Subdivision by way of a benefit district created in accordance with Division 14.15 of the Vacaville Municipal Code.

c. **Construction Completion.** Developer shall complete the Estates Portion and the Montgomery Portion or the Interim Alignment, prior to the occupancy of any residence on the Project Site outside of Specific Plan Subareas I-1, I-2, or H-1. As used herein, "complete" means that the roadway improvements have been constructed in accordance with City standards, have been approved by City's Director of Public Works, and are open for public use.

d. **Environmental Permitting.** Developer acknowledges that environmental permitting (e.g. permits from state and federal agencies such as the U.S. Army Corps of Engineers) may be required as a condition of constructing the Extension. Such permits may require measures to mitigate the Extension's impacts on biological resources (e.g. wetlands), including the impacts of City's Share of the Extension. The cost of such mitigation measures is not presently known. In order to fund such mitigation measures with respect to City's Share of the Extension, the parties agree to share in the costs thereof as follows:

(i) For each single-family dwelling constructed on the Project Site, Developer shall pay to City $4,000 as a condition of building permit issuance. The payments shall be used to pay Developer's share of the cost of mitigation as provided in Subsections (iii) and (iv), below, and shall be in addition to the cost of other mitigation measures that such state and federal agencies may require of Developer.

(ii) City shall pay with City funds the first $300,000 for such mitigation measures related to City's Share of the Extension

(iii) City and Developer shall share equally the costs of such mitigation measures when such costs total $300,001 to $600,000; and

(iv) Developer shall pay the cost of such mitigation measures when such costs $600,001 or more, up to a maximum of $2,890,000.

(v) Developer's share of the costs under Subsections (iii) and (iv), above, shall be paid from the payments deposited with City pursuant to Subsection (i), above. If such funds are insufficient to pay Developer's share of the mitigation measures for City's share of the Estates Portion and Montgomery Portion, Developer shall pay the balance with other funds of Developer.

(vi) Upon written confirmation by the appropriate state or federal agency that the mitigation measures have been completed, City shall cease to collect the deposit required under Subsection (i), above, and shall return to Developer any unused portion of such funds on deposit with City.

In order to recover a portion of the cost of the mitigation measures paid for by Developer, Developer may form or annex to an existing benefit district to apportion such cost among other developers within the Specific Plan area that may benefit from the Extension project.

(2) **Vanden Road Realignment.** If Developer constructs the Interim Alignment, Developer shall also construct the Vanden Road realignment as described below.

a. Vanden Road currently runs along the Project Site's east boundary and intersects Leisure Town Road at a point south of the Project Site. In order to facilitate traffic circulation within and about the Project Site, Vanden Road must be realigned from its current north-south alignment to a north-southwest alignment on the Estates Property at a point north of Leisure Town Road, as more particularly shown in Exhibit D.

b. Developer shall acquire and dedicate the land needed for the Vanden Road realignment. The realignment will be constructed at Developer's expense and shall be completed and dedicated to City prior to occupancy of any residence outside of Specific Plan Subareas I-1, I-2 and H-1on the Project Site. Further, no final map for single-family lots or parcels abutting the realigned Vanden Road shall be filed or recorded until the Vanden Road realignment has been constructed and accepted by City.

c. Approximately 1/6th of a mile of Vanden Road (south of the Project Site) is not currently in the Vacaville city limits, as more particularly shown in Exhibit D, attached hereto. Developer shall be responsible for annexing this portion of Vanden Road into the city limits when Developer seeks to annex the Project Site to the city.

SECTION 6. PROVISIONS RELATING TO ASSESSMENT PROCEEDINGS

A. Construction And Acquisition Proceedings

Developer may propose or initiate proceedings for the formation of an assessment and/or community facilities district for the purpose of financing the payment of all or a portion of the design, acquisition and construction costs required for any on-site or off-site improvements that are designed and constructed by Developer in connection with its development of the Project Site (or portions thereof) pursuant to the Vested Elements. City shall diligently process such formation proceedings provided: (i) the proposal complies with law, (ii) it is otherwise regular in form, (iii) it is consistent with City's standards, (iv) it 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 formation proceedings advances such funds as City requires to provide staffing and outside consultants to undertake such proceedings, and (vi) City has reviewed and approved the consultants proposed by Developer for such undertaking including, but not limited to, bond counsel and the 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 such bonds shall be suspended during any period when marketing conditions render the issuance of such bonds 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 that portion of the Project Site to provide financing for the design or construction of improvements for such portion of the Project Site. City shall allocate shortfalls or cost overruns in the same manner as the special taxes or assessments for construction of improvements are allocated in a community facilities district or other similar financing mechanism (as opposed to assessments for maintenance) so that each lot and/or parcel within the benefited area (including the Project Site) shall bear its appropriate share of the burden thereof.

B. Maintenance District Proceedings

(1) **City-Initiated 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. If City creates such a maintenance district, City may, in its sole discretion, allow Developer (or a designated successor, agent or homeowners association, collectively referred to as "Developer" for the purpose of Subsections C through F of this Section) to perform some or all of such maintenance work, provided such work is performed to City's standards and satisfaction and Developer agrees to indemnify, defend, and hold City and its officials and employees harmless from any injury or damage resulting from such performance of work. City shall credit Developer the value of such work performed against the assessment that Developer would otherwise pay to the maintenance district. If, at anytime, City, in its sole discretion, determines that the work is not being performed to City's standards or satisfaction, City may notify Developer of such substandard performance and, if not cured within thirty (30) days of such notice, City may, through a maintenance district, take responsibility for such work and, thereafter, maintain the areas in question and assess Developer for the value of the work performed.

(2) **Developer-Initiated Proceedings.** Developer may submit requests to City to create and establish the maintenance districts contemplated under Subsection (1), above. City shall consider such requests, provided the requests comply with law and are otherwise regular in form.

(3) **Mechanism.** 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.

(4) **Portion of Project Site.** 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 other portions of the Project Site, provided the assessments are not levied upon such other owners and the formation of such

district does not interfere with the ability to form other maintenance districts to maintain improvements on other portions of the Project Site.

(5) **Inspection of Developer-Maintained Improvements.** In the event Developer assumes responsibility to maintain improvements on the Project Site, Developer shall reimburse City for City's cost to inspect the improvements maintained by Developer. Payment to City shall be made within thirty days of Developer's receipt of City's invoice or statement of such costs.

C. Right Of Reimbursement From Assessment Proceeds

In any assessment proceeding, special tax proceeding or other financing proceeding undertaken by City pursuant to the provisions of this Section, City shall reimburse Developer for any costs or fees reasonably incurred or paid for the 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, together with interest thereon at the rate 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 Developer for the cost of the funds to be reimbursed.

D. Right Of Reimbursement From Others Benefited

If City requires Developer to plan, design or construct excess or oversized improvements or to dedicate land or provide mitigation measures in excess of those necessary to mitigate the Project's impacts, Developer may seek to require other property owners not included within the initial boundaries of the financing district whose property is directly benefited thereby and who utilize the improvements within twenty years after Developer constructs the same, by seeking to either add such property to the financing district or to otherwise require the property owner (as a condition of development of such owner's land) to reimburse Developer for such owner's proportionate share of such costs in accordance with the adopted method of spreading assessments for construction of such improvements, together with interest thereon at the rate being charged on the principal amount of the assessments for which the reimbursement is made or at such other rate, as determined by City, that will fairly compensate Developer for the use of such funds.

SECTION 7. DEFAULT, REMEDIES, TERMINATION OF AGREEMENT

A. Notice Of Default And Liability

Subject to extensions of time mutually agreed to in writing by the parties or as otherwise provided herein, material failure or delay by any party to perform any term or provision of this Agreement constitutes a default hereunder. Upon the occurrence of such default, the party alleging such default shall give the other 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 in which to cure said default, which shall be not less than sixty (60) days measured from the date of personal service or delivery by certified mail of the written notice of default. During any such cure period or during any period prior to notice of default, the party

charged with default shall not be considered in default for the purpose of terminating this Agreement or instituting legal proceedings.

If a dispute arises regarding any other claim of default under this Agreement, the parties shall continue to perform their respective obligations hereunder, to the maximum extent practicable irrespective of such dispute. Notwithstanding anything to the contrary, no default hereunder in the performance of a covenant or obligation with respect to a particular lot or parcel shall constitute a default as to other portions of the Project Site, and any remedy arising by reason of such default shall apply only to such lot or parcel. Absence evidence to the contrary, any liability occasioned by such default shall be the responsibility of the owner(s) of the lot or parcel involving such default.

B. Remedies

Upon expiration of the cure period referenced above, if the default remains uncured, or if such cure cannot be accomplished within such cure period and the defaulting party has not commenced such cure during such period and diligently prosecuting such cure thereafter, the non-defaulting party may, at its option, give notice of intent to terminate this Agreement pursuant to Government Code Section 65868, or pursue such other remedies as may be available to such party. Any such notice of intent to terminate shall be given by certified mail, return receipt requested. In the event the notice of intent to terminate is given by City, the matter shall be scheduled for consideration and review by the City Council within sixty days in accordance with Government Code Sections 65867 and 65868 and Vacaville Municipal Code § 15.60.080. After considering the evidence presented, the City Council shall render its decision to terminate or not terminate this Agreement. If the City Council decides to terminate this Agreement, City shall give written notice thereof to the defaulting party.

Evidence of default of this Agreement may also be taken during the regular Annual Review of this Agreement as described in Section 8 below. Any determination of default (or any determination of failure to demonstrate good faith compliance as a part of the Annual Review) made by City against Developer, or any person who succeeds Developer with respect to any portion of the Project Site, shall be based upon written findings supported by evidence in the record as provided by 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 or its successor of any of its obligations hereunder shall not be limited and City shall have the right to institute legal proceedings to enforce such obligations as set forth herein and in the Vested Elements, including, but not limited to, the obligation to indemnify, defend, and hold harmless City. Such remedies shall include those available at law or in equity as may be needed to enforce defaults such as the failure 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 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 conditional 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 Agreement, any failure or delay by a party in asserting any of its rights or remedies as to any default by the other party shall not operate as a waiver of any default or of any rights or remedies of such party, nor shall it deprive such party of its right to institute and maintain any action or proceeding it may deem necessary to protect, assert or enforce any such rights or remedies.

D. Judicial Review Of Termination

Any purported termination by City of this Agreement for alleged default by Developer 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 Agreement or defaults in the performance of its obligations under this Agreement, Developer (or the owner of the Project Site, or portion thereof, to which such default applies) shall have the rights and remedies provided herein or available in law or in equity, including, without limitation, the right to seek specific performance under the appropriate circumstances.

F. Obligation And Default Limited To Affected Parcel

Notwithstanding anything to the contrary herein contained, when 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 such failure to perform shall apply solely to such lot or parcel only and shall affect only the owner and/or the holders of the interest therein. No obligation, duty or liability will be imposed against or apply to any other parcel or portion of the Project Site for which no default has occurred.

G. Copies Of Default Notices

The owner of any portion of the Project Site shall have the right to request in writing a copy of a notice of default given to the owner of any other portion of the Project Site. City and/or the owners of other portions of the Project Site to whom such request has been made shall honor such request and provide such notice to the address specified in the request. City shall be entitled to recover from the person making the request City's reasonable cost of complying with such request including, but not limited to, the cost of City staff time utilized to comply with the request.

SECTION 8. ANNUAL REVIEW

Good faith compliance by Developer with the provisions of this Agreement shall be subject to annual review ("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 City's Director of Community Development or his/her designee ("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 § 15.60.070.B not less than forty-five days nor more than sixty days prior to each anniversary date of this Agreement. The Director may refer the review to the Planning Commission pursuant to Vacaville Municipal Code § 15.06.070.F. Should Developer fail to submit the annual draft report in a timely manner and City does not notify Developer of such failure within ninety days following the anniversary date, then the Annual Review of this Agreement shall be deemed to have been satisfactorily completed for that year only.

B. Showing Required

During the Annual Review, Developer shall be required to demonstrate to City Developer's good faith compliance with the provisions of this Agreement and provide such documentation or evidence related thereto as the Director may reasonably request.

C. Notice Of Staff Reports; Opportunity To Respond

Not less five days prior to the conduct of any such review, the Director shall deliver to Developer a copy of any publicly-available City staff reports and documentation that will be used or relied upon by City in conducting the review. Developer shall be permitted an opportunity to respond to such staff reports and documentation by written or oral testimony at a public hearing to be held before the Director, if the Developer elects to request such a hearing.

D. Director's Findings: Appeal

At the conclusion of the Annual Review, the 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 by the Director of a failure of compliance shall be subject to the notice requirements and cure periods provided in Section 7, above. Any interested person may appeal the decision of the Director directly to the City Council, provided such appeal is filed and received by the City Clerk within ten calendar days from the date the Director rendered his or her decision in writing or issued a certificate of compliance. The appeal shall otherwise be governed by the provisions of Subsection 14.17.218.010.E of the Vacaville Municipal Code, as may be amended from time to time.

E. Notice Of Termination

If the Director determines that Developer (or other person, firm or entity owning the Project Site or portion thereof) has not complied with the terms and conditions hereof, and after expiration of any cure period, the Director may recommend to the City Council that City give notice of termination or modification of this Agreement as provided in Government Code Section 65865.1and Vacaville Municipal Code § 14.17.218.010.D. If the Director recommends termination of this Agreement, such termination shall apply only to that portion of the Project Site (if less than all) affected by the failure to comply, subject to the provisions of Subsections 7.B and 7.C, above. If the Director recommends a modification of this Agreement, the modification shall similarly apply only to that portion of the Project Site (if less than all) affected by the failure to comply.

F. Certificate Of Compliance

Upon Developer's request, City shall provide Developer with a written certificate of compliance, in recordable form, duly executed and acknowledged by the Director as to any year for which the Annual Review has been conducted or waived and Developer has been found or deemed to be in compliance with the provisions of this Agreement. Developer or any person owning a portion of the Project Site will have the right to a copy of such certificate at his or her own expense.

G. No Damages

In no event shall either party, or its boards, commissions, officers, agents or employees, be liable in damages for any default under this Agreement, it being expressly understood and agreed that the sole legal remedy available to either party for a breach or violation of this Agreement by the other party shall be an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement or to terminate this Agreement. This limitation on damages shall not preclude actions by a party to enforce payments of monies or the performance of obligations requiring an obligation of money from the other party under the terms of this Agreement including, but not limited to, obligations to advance monies or reimburse monies. In connection with the foregoing provisions, each party acknowledges, warrants and represents that it has been fully advised by counsel of such party's choice with respect to the rights and remedies of such party hereunder and the waivers herein contained, and that after such advice and consultation has presently and actually intended, with full knowledge of such party's rights and remedies otherwise available at law or in equity, to waive and relinquish such rights and remedies to the extent specified herein, and to rely to the extent herein specified solely on the remedies provided for herein with respect to any breach of this Agreement by the other party.

SECTION 9. MITIGATION MONITORING

Compliance with the various mitigation measures that are part of the Project and determined to be feasible in the EIR that is certified in connection with the Project shall be determined as follows:

A. Permits And Approvals

Compliance with those mitigation measures that are affected by and pertain to any development application or proposal for which approval is requested shall be considered and determined in connection with the processing of such application or proposal. The foregoing requirement does not require comprehensive monitoring for all mitigation measures specified in the Specific Plan during City's consideration of such application or proposal but shall only involve consideration and review of compliance of those mitigation measures that are directly related to the application or proposal under consideration.

B. Compliance With Mitigation Measures

City will review Developer's compliance with the applicable mitigation measures no less often than annually during the Annual Review of this Agreement as provided above. The draft report regarding Developer's compliance with such measures shall be initially prepared by Developer and submitted to the Director of Community Development for his/her review.

SECTION 10. APPLICABLE LAWS; ATTORNEYS' FEES; PERMITTED DELAYS; EFFECT OF SUBSEQUENT LAWS

A. Applicable Law

This Agreement shall be construed and enforced in accordance with the laws of the State of California.

B. Attorney Fees

Each party shall bear its own attorney fees and other costs in connection with any action or proceeding brought to enforce this Agreement. The prevailing party in such action or proceeding shall not be entitled to recover its attorney fees and other costs from the other party.

C. 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 (despite the party's good faith efforts to avoid or mitigate the delay) including, but not limited to: (i) acts of God; (ii) civil commotion; (iii) 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 catastrophes; (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 excusing performance; and (xii) litigation brought by a third party attacking the validity of this Agreement or any of the approvals, permits, ordinances, entitlements or other actions necessary for development of the Project Site or any portion thereof, which delay a party's performance

hereunder; provided, however, that any party claiming an Excusable Delay shall promptly notify the other party of any such delay and the reason therefor as soon as possible after the same has been ascertained by the party delayed.

D. Effect Of Subsequent Laws

In accordance with California Government Code Section 65869.5, if any governmental or quasi-governmental agency other than City adopts any law, statute, or regulation or imposes any condition (collectively "Law") after the date of execution of this Agreement that prevents or precludes a party from complying with one or more provisions of this Agreement, and such provision is not entitled to the status of a vested right against such new Law, then the parties shall meet in good faith to determine the feasibility of any such modification or suspension based on the effect such Law would have on the purposes and intent of this Agreement and the Vested Elements. Following such meeting between the parties, the provisions of this Agreement may, to the extent feasible, and upon mutual agreement of the parties, be modified or suspended, but only to the minimum extent necessary to comply with such Law. In such an event, this Agreement together with any required modifications shall continue in full force and effect. In the event that the Law operates to frustrate irremediably and materially the vesting of development rights to the Project as set forth in this Agreement, Developer may terminate this Agreement. In addition, Developer shall have the right to challenge (by any method, including litigation) the Law preventing compliance with, or performance of, the terms of this Agreement and, in the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect, unless the parties mutually agree otherwise, except that if the Term of this Agreement would otherwise terminate during the period of any such challenge and Developer has not commenced with the development of the Project in accordance with this Agreement as a result of such challenge, the Term shall be extended for the period of any such challenge.

E. Building Regulations

"Building Regulations" consist of the California Code of Regulations Title 24 and amendments to Title 24 ("Title 24") as found in the Vacaville Municipal Code and any Public Works Standards as adopted in the Vacaville Municipal Code or any ordinances that interpret these codes where such ordinances establish construction and building standards that are intended to be applied ministerially to the construction of improvements on private property and public infrastructure. Building Regulations applicable to building and construction throughout the city at the time Developer applies for the applicable permits for construction of any portion of the Project shall be applicable to the building and construction authorized by such permit, except if such Building Regulations conflict in any manner with the Vested Elements. In the event of such conflict, the particular Building Regulation which is in conflict with the Vested Elements shall not apply to or govern development or construction of the Project unless it is determined by City to be required by Title 24 regulations in effect at the time of building permit application. In the event of a dispute as to City's determination that a particular Building Regulation in conflict with the Vested Elements is required by Title 24, Developer shall have the right to have the City Council hear such dispute and make a determination and findings of fact based on substantial evidence as to whether such Building Regulation is so required by Title 24. Developer shall have no right to appeal any applicable Title 24 regulations adopted by the State of California in

effect at the time of building permit application that may conflict with the Vested Elements except as permitted in this Subsection.

F. Written Verification Of Sufficient Water Supply

Any and all tentative subdivision maps approved for the Project shall comply with Government Code Section 66473.7 if required pursuant to Government Code Section 65867.5(c).

SECTION 11. OTHER GOVERNMENTAL PERMITS AND APPROVALS: COOPERATION OF CITY

City shall cooperate with Developer in its efforts to obtain 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). City shall, from time to time, at the request of Developer join with Developer in the execution of applications for such permits and approvals as may be required to be entered into with any such other agency, so long as such participation will not involve the expenditure of City funds or the use of extensive staff time or expose City, in its sole judgment, to any legal liability. 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 its approval of amending this Agreement in order to comply with such other permits or approvals.

SECTION 12. MORTGAGEE PROTECTION

The parties hereto agree that this Agreement shall not prevent or limit Developer's right to encumber the Project Site or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing for development of the Project Site. City acknowledges that the lenders providing such financing may require this Agreement to be interpreted and modified and agrees upon request, from time to time, to meet with Developer 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 City determines 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 Project Site made in good faith and for value.

B. Notice Of Default To Mortgagee

The Mortgagee of any mortgage or deed of trust encumbering the Project Site, 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 Developer in the performance of Developer's obligations under this Agreement.

C. Right Of Mortgagee To Cure

If City timely receives a written request from a Mortgagee requesting a copy of any notice of default given to Developer under the terms of this Agreement, City shall provide a copy of that notice to the Mortgagee within fifteen days of: (i) the date the notice of default was sent to Developer, or (ii) the date of receipt of Mortgagee's request, whichever is later. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period permitted under this Agreement, plus an additional sixty calendar days if, in order to cure such default, it is necessary for the Mortgagee to obtain legal possession of the property (e.g. seeking the appointment of a receiver); provided, however, that during the cure period permitted under this Agreement, City receives from Mortgagee written notice stating the need to obtain legal possession of the property.

D. Liability For Past Defaults Or Obligations

Any Mortgagee, including the successful bidder at a foreclosure sale, who takes title and possession of the Project Site, or any portion thereof, pursuant to such foreclosure, shall take the Project Site, or portion thereof, subject to the provisions of this Agreement; provided, however, in no event shall such Mortgagee be liable for any defaults or monetary obligations of Developer arising prior to acquisition of title to the Project Site, or portion thereof, by such Mortgagee. In no event, however, shall any such Mortgagee or its successors or assigns be entitled to a building permit, occupancy certificate, or final inspection until all fees and other monetary obligations delinquent or due under this Agreement have been paid to City.

SECTION 13. TRANSFERS AND ASSIGNMENTS

A. Right To Assign

Developer shall have the right to sell, convey, transfer, or assign its rights to any portion of the Project Site. All of its rights, duties and obligations under this Agreement with respect to the portion of the Project Site so sold, conveyed, transferred or assigned shall pass to the party acquiring fee simple title to such portion of the Project Site so transferred for the development thereof. "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 word "Developer" does not include such designated successors in other instances.

B. Release Upon Transfer

Upon sale, conveyance, transfer or assignment, in whole or in part, of Developer's right and interest to all or any portion of the Project Site (hereinafter collectively referred to as "transfer"), Developer shall be released from its obligations hereunder with respect to the portion so transferred provided: (i) Developer (or transferee) was not in default of this Agreement at the time of transfer, (ii) Developer provided to City prior written notice of such transfer, and (iii) with respect to the transfer of any lot that has not been fully improved, the transferee executes

and delivers to City a written assumption agreement in which: (i) the name and address of the transferee is set forth, and (ii) the transferee expressly assumes the obligations of Developer under this Agreement as to the portion of the Project Site transferred; provided, however, that Developer shall not be relieved of any obligation for the dedication or conveyance of land 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 Agreement. Nothing herein contained shall be deemed to grant to City discretion to approve or deny any such transfer except as otherwise expressly provided herein.

C. Approval; Right Of Amendment; Supplements Establishing Specific Rights And Restrictions; Review

City's grant of the various approvals and consents referred to herein shall not constitute amendment hereof, nor shall the actions taken by City staff to implement the provisions hereof (e.g. the granting of minor modifications to approved plans, the Vested Elements or any other approval granted hereunder) constitute an amendment hereof.

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

A person taking ownership of any portion of the Project Site may request that he or she be allowed to use such portion of the Project Site for a use not currently permitted under this Agreement. The City Council shall have the right, in its sole discretion, to approve, conditionally approve or deny such request. The City Council, however, shall not approve a request unless it finds that the requested use is consistent with the Vested Elements and will not increase the burdens upon or reduce the rights of the owners of other portions of the Project Site. If approved by the City Council, such use shall be subject to those restrictions and conditions deemed appropriate by the City Council for such use.

Any parcel or property that is not part of the Project Site and that might, at the parties' option, become subject to this Agreement through an amendment hereof may, as a condition thereof and at City's option, be required to become a part of any community facilities district or assessment district created to fund the design, construction and maintenance of the infrastructure, landscape and other improvements funded by such district to the same extent as if said parcel or property had been part of the Project Site at the time of commencement of the Term of this Agreement. In becoming a part of such district, the owner of said parcel or property may, at City's option, be assessed an additional amount as set by City to compensate for the costs previously borne by other owners within the district so that the added parcel or property is in the position it would have been in had it been part of the district (and the planning for initiation and formation thereof) from the district's inception.

D. No Third Parties Benefited

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

E. Covenants Run With The Land

All of the terms, provisions, covenants, conditions, rights, powers, duties and obligations contained in this 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 entities acquiring the Project Site or any portion thereof or 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 and assigns. All other provisions of this 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 California Civil Code. 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, (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 (iv) shall benefit each party and its property hereunder and each other person or entity succeeding to an interest in such properties.

SECTION 14. 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 Project Site are subject to all rules, regulations, ordinances, procedures, standards, uniform codes, requirements, costs, exactions and processes of City applicable to development of property within the city as the same are in effect at the time Developer seeks any land development approval or entitlement including, but not limited to, subdivision of the Project Site, design review, zoning changes, building permits, or construction of on or off-site improvements or infrastructure.

C. Covenants

The provisions of this Agreement shall constitute covenants or servitudes that shall run with the land comprising the Project Site, and the burdens and benefits of this Agreement shall bind and inure to all estates and interests in the Project Site and all successors in interest to Developer. From and after the date that certificates of occupancy have been issued (or a final inspection is

completed by City's Building Division when no certificate of occupancy is issued) for all buildings and improvements to be constructed on a parcel within the Project Site (or with respect to a single-family residence on a single-family residential lot), 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 that specifically pertain or apply to such parcel or the use thereof.

D. 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 Sections 65867 and 65688, and Division 14.17 of the Vacaville Municipal Code, and all amendments to this Agreement shall automatically become part of the Project Approvals, provided that any amendment to this Agreement which does not relate to the Term of this Agreement, permitted uses of the Project Site, provisions for the reservation or dedication of land, the conditions, terms, restrictions and requirements relating to subsequent discretionary approvals of City, or monetary exactions of Developer, shall be considered an "Administrative Amendment". The Director of Community Development is authorized to execute Administrative Amendments on behalf of City and no action by the City Council (e.g. noticed public hearing) shall be required before the parties may enter into an Administrative Amendment. However, if in the judgment of the Director or any member of the City Council that a noticed public hearing on a proposed Administrative Amendment would be appropriate, City's Planning Commission shall conduct a noticed public hearing to consider whether the proposed Administrative Amendment should be approved or denied. No part of the Vested Elements may be revised or changed during the Term hereof 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 reduction or decrease in rights or increase in burdens caused by such change), unless expressly stated to the contrary elsewhere in this Agreement.

Any amendment to a Vested Element that, in the opinion of the parties, substantially deviates from the development contemplated by this Agreement shall require an amendment to this Agreement. However, any amendment of City land use regulations including, but not limited to, the General Plan, the Specific Plan, and City's zoning ordinance, shall not require amendment of this Agreement. Instead, any such amendment shall be deemed to be incorporated into this Agreement at the time that such amendment is approved by the appropriate City decision maker, so long as such amendment does not reduce the development rights granted to Developer by this Agreement pursuant to Subsection 2.D, above.

E. 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 shall have 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 Agreement.

F. Hold Harmless; Indemnification of City

Developer shall hold and save City, its officers and employees, harmless and indemnify and defend them of and from any and all claims, losses, costs, damages, injuries or expenses (including, but not limited to, attorney fees, expert witness and consultant fees, and other costs of litigation) 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 development or use of those portions of the Project Site owned by Developer pursuant to this Agreement or by any action or activity by 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.

G. 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 this Agreement or 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 to cooperate with Developer in the defense of such action, Developer shall not thereafter be responsible for City's defense. The parties shall use their best efforts to select mutually agreeable legal counsel to defend such action, and Developer shall pay the fees and expenses for such legal counsel, any expert witnesses, and other costs related to the action or proceeding. Developer's obligation to pay for legal counsel and other fees and costs 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.

H. Notices

Any notice or communication required hereunder between the parties shall 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 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 person or entity who acquires a portion of the Project Site, may at any time, by giving ten days written notice to the other party hereto, designate a different address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their respective addresses set forth below:

If to City: Community Development Director
City of Vacaville
650 Merchant Street
Vacaville, California 95688

With a copy to: City Attorney
City of Vacaville
650 Merchant Street
Vacaville, California 95688

If to Developer: Vacaville Land Investors, LLC
c/o Bayless and Hicks, Inc
3500 Douglas Boulevard, Suite 210
Roseville, California 95661

I. No Joint Venture Or Partnership

Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as creating any joint venture or partnership between City and Developer.

J. Severability

If any provision of this Agreement is held to be invalid, void or unenforceable by a court of law but the remainder of this Agreement can be enforced without failure of material consideration to any party, then this Agreement shall remain in full force and effect, unless amended or modified in writing by mutual consent of the parties.

K. Interpretation

To the maximum extent possible, this 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, without limitation, public improvements to be constructed and public areas to be dedicated.

L. Completion Or Revocation

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

M. 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 best knowledge of the certifying party: (i) this Agreement is in full force and effect and a binding obligation of the parties; (ii) this Agreement has not been amended or modified either orally or in writing or, if so amended, identifying such written amendments; and (iii) the requesting party is not in default in the performance of its obligations under this Agreement or, if in default, specify the nature and extent of any such default. A party receiving a request hereunder shall execute and return such certificate or provide a written 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 with respect to any portion of the Project Site shall be in recordable form and may be recorded with respect to the affected portion of the Project Site at the expense of the requesting party.

N. Construction

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

O. 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.

P. Time

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

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

"CITY"

CITY OF VACAVILLE,
a municipal corporation

Steve Hardy, Mayor

Approved as to form:

Gerald L. Hobrecht, City Attorney

"DEVELOPER"

VACAVILLE LAND INVESTORS, LLC,
A California limited liability company

John D. Bayless, Trustee of the Bayless Family Living Trust, Member

Stephen M. Hicks, Member

Approved as to form:

Matthew Berrien, Attorney for Developer

[ADD NOTARY CERTIFICATES]

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

State of California)

)ss.

County of PLACER)

On MAY 7, 2014 before me, JULIA E. PICKARD, Notary Public, personally appeared JOHN D. BAYLESS AND STEPHEN M. HICKS, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

Signature Julia E. Pickard (Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT
CIVIL CODE § 1189

State of California
County of Solano }

On May 12, 2014 before me, Claudia Archer, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Steve Hardy
Name(s) of Signer(s)

,

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

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

WITNESS my hand and official seal.

CLAUDIA ARCHER
Commission # 1969772
Notary Public - California
Solano County
My Comm. Expires Mar 15, 2016

Place Notary Seal Above

Signature: Claudia Archer
Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Development Agreement between City of Vacaville and Vacaville Land Investors, LLC Document Date: 3-25-14

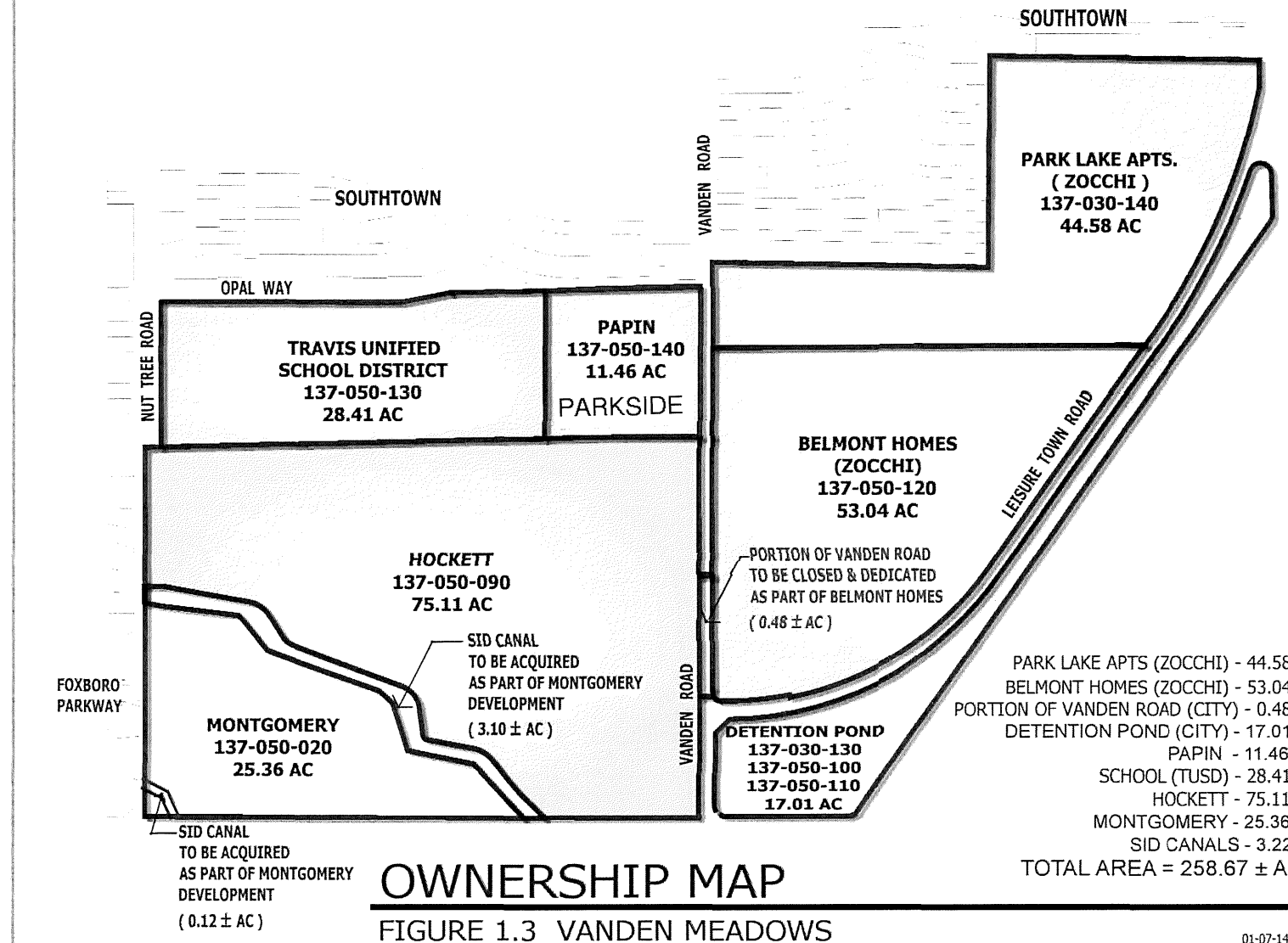
Number of Pages: 55 incl. this page Signer(s) Other Than Named Above: John D. Bayless and Stephen M. Hicks

Capacity(ies) Claimed by Signer(s)

Signer's Name: Steve Hardy	Signer's Name: —
☐ Corporate Officer — Title(s):	☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☒ Other: Mayor of the City of Vacaville	☐ Other:
Signer Is Representing: City of Vacaville	Signer Is Representing:

EXHIBIT A

PROJECT SITE



OWNERSHIP MAP

FIGURE 1.3 VANDEN MEADOWS

01-07-14

EXHIBIT A

EXHIBIT A-1

LEGAL DESCRIPTION OF PROJECT SITE

EXHIBIT A-1

LEGAL DESCRIPTION
PAPIN PROPERTY

REAL PROPERTY SITUATE IN THE STATE OF CALIFORNIA, COUNTY OF SOLANO, UNINCORPORATED AREA, DESCRIBED AS FOLLOWS:

PARCEL 1, AS SHOWN ON THAT PARCEL MAP ENTITLED: "PARCEL MAP OF PAPIN PROPERTY, BEING THE FRACTIONAL S.W. 1/4 SECT. 35 T., 6 N, R. 1 W., M. D. B. & M.", RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SOLANO COUNTY ON FEBRUARY 9, 1978 IN BOOK 14 OF PARCEL MAPS, PAGE 73, AS INSTRUMENT NO. 6034.

EXCEPTING THEREFROM ALL THAT PORTION GRANTED TO THE CITY OF VACAVILLE, RECORDED OCTOBER 23, 2006 AS INSTRUMENT NO. 06-133971, SOLANO COUNTY RECORDS.

ALSO EXCEPTING THEREFROM ALL THAT PORTION GRANTED TO TRAVIS UNIFIED SCHOOL DISTRICT, A CALIFORNIA PUBLIC SCHOOL DISTRICT, RECORDED NOVEMBER 30, 2006, AS INSTRUMENT NO. 06-151926, SOLANO COUNTY RECORDS, AND FURTHER DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 1 AS SAID PARCEL IS SHOWN ON THE PARCEL MAP OF PAPIN PROPERTY, FILED IN BOOK 14 OF PARCEL MAPS, AT PAGE 73, SOLANO COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID PARCEL; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL NORTH 00° 10' 02" WEST, 117.93 FEET TO THE SOUTHWESTERLY CORNER OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO THE CITY OF VACAVILLE RECORDED IN DOCUMENT NO. 200600133971, OFFICIAL RECORDS OF SOLANO COUNTY; THENCE ALONG THE GENERALLY EASTERLY AND SOUTHERLY LINES OF LAST SAID PARCEL THE FOLLOWING TEN (10) COURSES: 1) NORTH 89°49' 58" EAST, 10.00 FEET, 2) NORTH 07°14' 44" EAST, 364.43 FEET, 3) NORTH 00°10' 23" WEST, 171.88 FEET, 4) NORTH 44°47' 32" EAST 14.38 FEET, 5) NORTH 89°45' 07" EAST, 155.48 FEET, 6) ALONG A TANGENT CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 210.00 FEET, A CENTRAL ANGLE OF 06°04' 35" AND AN ARC DISTANCE OF 22.27 FEET, 7) NORTH 83°40' 31" EAST, 28.66 FEET, 8) ALONG A TANGENT CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 140.00 FEET, A CENTRAL ANGLE OF 06°04' 35" AND AN ARC DISTANCE OF 14.85 FEET, 9) NORTH 89°45' 07" EAST, 989.19 FEET, AND 10) ALONG A TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 330.00 FEET, A CENTRAL ANGLE OF 25°12' 03" AND AN ARC DISTANCE OF 145.15 FEET TO THE NORTHERLY LINE OF FIRST SAID PARCEL (14 M 73); THENCE ALONG LAST SAID LINE NORTH 88° 44' 32" EAST, 440.12 FEET; THENCE LEAVING LAST SAID LINE SOUTH 00°04' 12" EAST, 692.72 FEET TO THE SOUTHERLY LINE OF FIRST SAID PARCEL (14 M 73); THENCE ALONG LAST SAID LINE SOUTH 88°44' 32" WEST, 1857.03 FEET TO THE POINT OF BEGINNING.

END OF DESCRIPTION

LEGAL DESCRIPTION
PAPIN PROPERTY

REAL PROPERTY SITUATE IN THE STATE OF CALIFORNIA, COUNTY OF SOLANO, UNINCORPORATED AREA, DESCRIBED AS FOLLOWS:

PARCEL 1, AS SHOWN ON THAT PARCEL MAP ENTITLED: "PARCEL MAP OF PAPIN PROPERTY, BEING THE FRACTIONAL S.W. 1/4 SECT. 35 T., 6 N, R. 1 W., M. D. B. & M.", RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SOLANO COUNTY ON FEBRUARY 9, 1978 IN BOOK 14 OF PARCEL MAPS, PAGE 73, AS INSTRUMENT NO. 6034.

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BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID PARCEL; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL NORTH 00° 10' 02" WEST, 117.93 FEET TO THE SOUTHWESTERLY CORNER OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO THE CITY OF VACAVILLE RECORDED IN DOCUMENT NO. 200600133971, OFFICIAL RECORDS OF SOLANO COUNTY; THENCE ALONG THE GENERALLY EASTERLY AND SOUTHERLY LINES OF LAST SAID PARCEL THE FOLLOWING TEN (10) COURSES: 1) NORTH 89°49' 58" EAST, 10.00 FEET, 2) NORTH 07°14' 44" EAST, 364.43 FEET, 3) NORTH 00°10' 23" WEST, 171.88 FEET, 4) NORTH 44°47' 32" EAST 14.38 FEET, 5) NORTH 89°45' 07" EAST, 155.48 FEET, 6) ALONG A TANGENT CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 210.00 FEET, A CENTRAL ANGLE OF 06°04' 35" AND AN ARC DISTANCE OF 22.27 FEET, 7) NORTH 83°40' 31" EAST, 28.66 FEET, 8) ALONG A TANGENT CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 140.00 FEET, A CENTRAL ANGLE OF 06°04' 35" AND AN ARC DISTANCE OF 14.85 FEET, 9) NORTH 89°45' 07" EAST, 989.19 FEET, AND 10) ALONG A TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 330.00 FEET, A CENTRAL ANGLE OF 25°12' 03" AND AN ARC DISTANCE OF 145.15 FEET TO THE NORTHERLY LINE OF FIRST SAID PARCEL (14 M 73); THENCE ALONG LAST SAID LINE NORTH 88° 44' 32" EAST, 440.12 FEET; THENCE LEAVING LAST SAID LINE SOUTH 00°04' 12" EAST, 692.72 FEET TO THE SOUTHERLY LINE OF FIRST SAID PARCEL (14 M 73); THENCE ALONG LAST SAID LINE SOUTH 88°44' 32" WEST, 1857.03 FEET TO THE POINT OF BEGINNING.

END OF DESCRIPTION

EXHIBIT B

SPECIFIC PLAN: PARK PLAN

EXHIBIT B

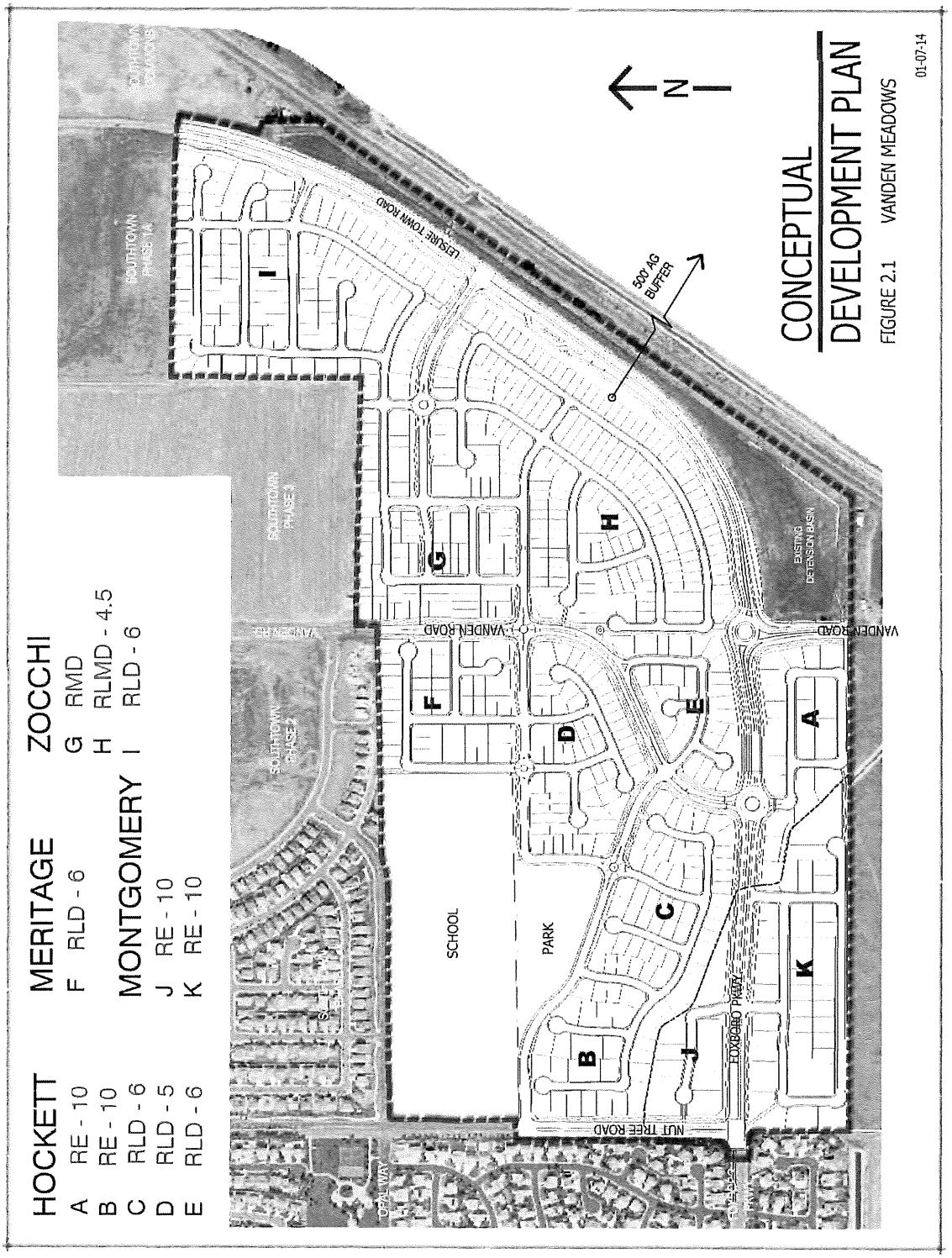


FIGURE 2.1

Vanden Meadows Conceptual Development Plan

EXHIBIT C

PARK FEE CALCULATION

EXHIBIT C

NEIGHORHOOD PARK PORTION OF PARK & RECREATION DEVELOPMENT IMPACT FEE

The neighborhood park portion of the Park and Recreation Development Impact Fee (Park DIF) is determined from values provided in the 1992 City of Vacaville Development Impact Fee Update as was approved by City Council on July 28, 1992.

Table 3 of that document lists the total value of the fees to be collected in two separate columns: a total of $23,069,000 for the Community Park component (column 4), and a total of $13,149,000 for the Neighborhood Park component (column 5); however, the Neighborhood park component includes values for neighborhood centers (total of $659,000). The neighborhood centers cost total should be removed from a calculation of the percentage that is to be set aside purely for neighborhood park construction:

$13,149,000 - $659,000 = **$12,490,000**

Adding together the totals of the two columns (column 4 + column 5) provides a denominator for a percentage calculation:

$23,069,000	Community Park component
$13,149,000	Neighborhood Park component
$36,218,000	Total value of Park improvements

Finally, dividing the total Park DIF value by the pure Neighborhood park value provides the standard percentage of the Park DIF to be allocated for neighborhood park acquisition and development:

$12,490,000 / $36,218,000 = **34.5 %**

This standard percentage is increased for the Vanden Meadows project because the park to be dedicated is 40% larger than is required for just the future residents of Vanden Meadows. 34.5% x 1.40 = **48.3%**

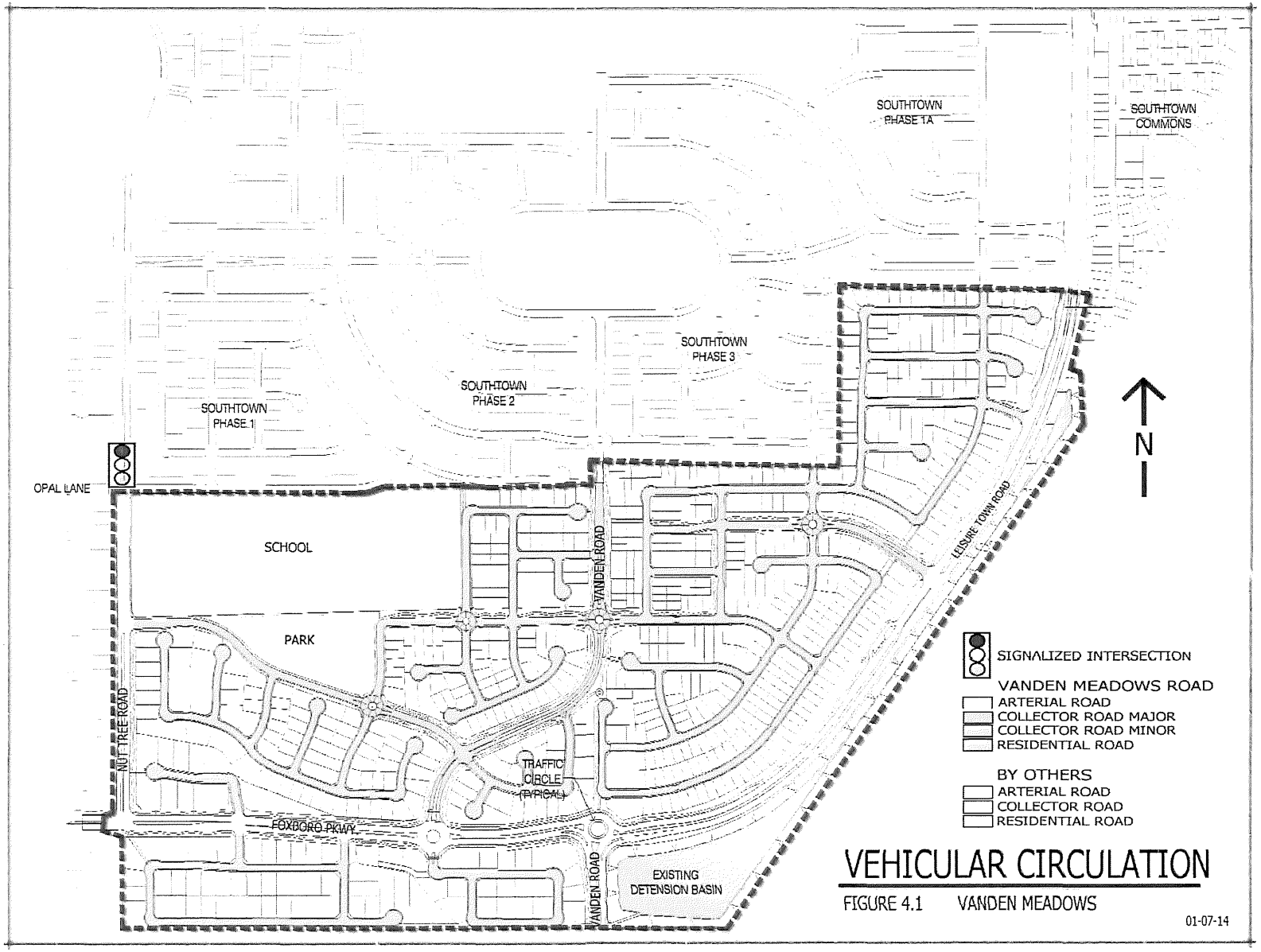
Note: While the Park DIF values are listed in 1992 dollars, the percentage calculated above may be applied to any Park DIF. For example:

$3,995.00	(Park DIF required in 2013 for a single family home)
x 48.3%	Neighborhood park percentage for Vanden Meadows
$1,377.88	Value of each Park DIF to be allocated to the neighborhood park

EXHIBIT D

ROADWAY IMPROVEMENTS

EXHIBIT D



VEHICULAR CIRCULATION

FIGURE 4.1 VANDEN MEADOWS

01-07-14