

**DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF HEALDSBURG AND SONOMA LUXURY RESORT LLC**

This Development Agreement (this "**Agreement**") is entered into this 11th day of April, 2011, by and between City of Healdsburg, a California municipal corporation (the "**City**"), and Sonoma Luxury Resort LLC, a Delaware limited liability company (the "**Developer**"). The City and the Developer are hereinafter collectively referred to as "**Parties**" and singularly as a "**Party**."

RECITALS

A. Authorization. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the waste of resources and other economic risks of development, the Legislature of the State of California adopted the "**Development Agreement Statute**" (California Government Code § 65864, et seq.), which authorizes the City and any person having a legal or equitable interest in real property to enter into a development agreement, establishing certain development rights in property which is the subject of an application to the City for development thereof.

B. Property. The Developer owns the fee interest in certain real property consisting of approximately 258.5 acres, located in the City of Healdsburg, Sonoma County, and more particularly described in Exhibit A attached hereto (the "**Property**").

C. General Description of Project. The Developer proposes to develop, and the Parties desire to provide for the development, subject to the provisions of this Agreement and the Saggio Hills Area Plan adopted by the City on January 31, 2011 (the "**Area Plan**"), of a project (the "**Project**") on the Property that will include:

(i) a luxury resort, as generally defined in the hospitality industry (the "**Resort**"), to be located on approximately 91.11 acres of the Property and containing approximately 130 individually keyed units (with each unit to be rented to one party such as an individual, couple or family); meeting rooms; one or more conference, culinary and/or event facilities; recreational facilities, such as one or more swimming pools; one or more restaurants, cocktail lounges and/or cafes; a spa and health club; and related facilities;

(ii) not to exceed 70 single-family attached and/or detached residences (collectively, the "**Residences**") and singularly, a "**Residence**") to be located on approximately 113.23 acres of the Property;

(iii) approximately 14.16 acres of the Property (the "**Affordable Housing Land**") to be conveyed to the City (or its designee) and made available for the development of up to 150 affordable housing units (collectively, the "**Affordable Housing Units**");

(iv) approximately 36.15 acres of the Property (not including 2.49 acres of public right-of-way adjacent thereto) (the "**Public Park Land**") to be the location for certain wetlands mitigation (as described in more detail in Section 13 of Exhibit B attached hereto, the "**Wetlands Mitigation**") and, after the completion of the Wetlands Mitigation by the Developer, to be conveyed to the City for the development of a public park (as described in more detail in Section 10 of Exhibit B attached hereto, the "**Public Park**");

(v) approximately .85 acres of the Property (the “**Fire Substation Land**”) to be the location of a fire substation to be built by the Developer (as described in more detail in Section 11 of Exhibit B attached hereto, the “**Fire Substation**”) and, after the completion of the Fire Substation by the Developer, to be conveyed to the City;

(vi) approximately .51 acres of the Property (the “**Pump Station Land**”) to be the location of a water pump station to be built by the Developer (as described in more detail in Section 16(f) of Exhibit B attached hereto, the “**Pump Station**”) and, after completion of the Pump Station by the Developer, to be conveyed to the City; and

(vii) public trails (as described in more detail in Section 6(b) of Exhibit B attached hereto, the “**Public Trails**”) and private trails (as described in more detail in Section 6(a) of Exhibit B attached hereto, the “**Private Trails**”).

For purposes of this Agreement, the Project shall not include improvements and development of the Public Park on the Public Park Land or the Affordable Housing Units on the Affordable Housing Land. By entering into this Agreement, but not as part of the Project or the Developer's obligations under this Agreement, the City Council expresses the following intention:

(1) If, during consideration of development of the Affordable Housing Land, including any environmental review associated with such development, the City Council determines, for policy, environmental or other reasons, that less than 150 affordable housing units will be constructed on the Affordable Housing Land, then the City Council will pursue the development of additional affordable housing on other location(s) owned by the Redevelopment Agency of the City of Healdsburg in order to achieve a total of 150 affordable housing units being constructed.

(2) To the extent practicable, the City shall, in connection with development of affordable housing units, pursue and incorporate design features into the affordable housing project that are intended to achieve 100 points under the "Build It Green" program.

D. Public Benefits. The completion of the Project will provide a long-term source of recreational opportunities for the residents of the City in furtherance of the planning objectives contained in the City’s General Plan (the “**General Plan**”), and will, in conjunction with other approved development within the northeast area of the City, (a) maintain an economic and social balance between housing supply and employment opportunities; (b) provide to the City additional revenues to pay expenditures necessary to provide an adequate level of municipal services; and (c) establish a balance of land uses on the Property that will enable the City to provide municipal services to not only the Property, but to all residents of the City.

E. Public Hearing. The City Council of the City (the “**City Council**”) has designated the Planning Commission of the City (the “**Planning Commission**”) as the planning agency for purposes of making recommendations regarding development agreement review pursuant to California Government Code § 65867 with respect to this Agreement. After conducting numerous public hearings with respect to this Agreement, including the last one on December 14, 2010, the Planning Commission considered and made its recommendation to the City Council recommending approval of this Agreement. Beginning in April of 2008, the City Council conducted several public hearings, considered the recommendations of the Planning Commission regarding and approved this Agreement.

F. Entitlements. In response to the Developer's applications, and following public hearing and extensive environmental analysis, the City has granted, or has agreed to grant, the following entitlements with respect to the Project:

(i) By City Council Resolution No. **108-2009**, dated July 6, 2009, adopted the Healdsburg 2030 General Plan ("**General Plan**"), which included land use designations for the Property of Very Low Density Residential ("**VLR**"), Medium High Density Residential ("**MHR**"), and Public/Quasi-Public ("**PQP**");

(ii) By City Council Resolution No. 17-2011 adopted on January 31, 2011, the Area Plan was approved, addressing the plan for, and the overall development and use of, the Property in accordance with the General Plan Land Use Policy LU-C-1;

(iii) By Ordinance No. 1071, zoning for the Property as Planned Development (the "**PD District**"), R-1-3,500 District (the "**R-1-3,500 District**") and Public District (the "**P District**") in accordance with the Area Plan, including the Policy Statement and Development Plan for Saggio Hills Planned District, and on January 31, 2011, said zoning having been ratified by City Council Resolution No. 19-2011;

(iv) By City Council Resolution No. 18-2011, a Tentative Subdivision Map dated May 5, 2008 (the "**Tentative Map**") was adopted and approved for the Property on January 31, 2011, providing for, among other things, 70 residential lots (with such residential lots being a permitted use of the residential Lots 1 - 70 shown thereon pursuant to the PD District zoning);

(the foregoing entitlements, together with any other approvals or permits now or hereafter issued with respect to the Project, including without limitation required design review approvals, and all approved phased maps, subdivision improvement agreement(s), improvement plans, and construction drawings are collectively referred to herein as the "**Project Approvals**").

G. Development of the Project. The Parties desire the timely, efficient, orderly and proper development of the Project, and have reached agreement and desire to express herein a development agreement as defined in California Government Code Sections 65864, et seq., that will facilitate development of the Project subject to conditions set forth herein.

H. General Plan Consistency. Having duly examined this Agreement and conducted public hearings thereon, the City Council has found that, among other things, this Agreement is consistent with the General Plan and has been reviewed and evaluated by the City Council in accordance with the Development Agreement Statute and Chapter 17D of the City's Municipal Code.

I. EIR Certification. In connection with the Project Approvals described in Recital F above, and in accordance with the California Environmental Quality Act (CEQA) and applicable State of California and City guidelines, the City has certified as adequate and complete an Environmental Impact Report entitled "Final Environmental Impact for the Saggio Hills Project", dated October 2007, a "Partial Revision to the 2007 Final Environmental Impact Report", dated December 3, 2010, and the associated documents, including the mitigation monitoring and reporting program adopted by City (collectively referred to hereinafter as, the "**FEIR**").

J. Orderly Growth and Development. Development of the Project pursuant to the terms and conditions of this Agreement, the Project Approvals and the FEIR will provide for

orderly growth and development consistent with the General Plan and the City's other developmental policies and programs.

K. Need for Services and Facilities. Development of the Project pursuant to this Agreement will create a need for municipal services and facilities, some of which services and facilities will be provided by City, subject to the performance of Developer's obligations hereunder.

L. Contribution to Costs of Facilities and Services; Additional Benefits; Vesting. The Developer agrees to contribute to the costs of certain of such public services and facilities in the manner described and as required herein to mitigate impacts on the community of the development of the Project, and to provide additional benefits to the City, and the City agrees to provide such public services and facilities in the manner described and as required herein to assure that the Developer may proceed with and complete the development of the Project as contemplated by, and in accordance with, the terms of this Agreement, except as may otherwise be precluded by operation of law or applicable regulations. The City and the Developer each recognizes and agrees that, but for the Developer's contributions as described herein to mitigate the impacts arising as a result of development of the Project, and to provide additional benefits to the City, the City would not and could not approve the development of the Project as provided by this Agreement, and that, but for the City's covenant to provide certain public services and facilities in the manner and as described herein, the Developer would not and could not commit to provide the mitigation and additional benefits contemplated and required by this Agreement. City's vesting of the right to develop the Project as provided herein is in reliance upon and in consideration of the Developer's agreement to pay development impact fees for the cost of certain public services and facilities as herein provided to mitigate the impacts of development of the Project and to provide additional benefits to the City as described herein. City agrees to manage and account for any development impact fees paid by Developer in accordance with Government Code § 66006.

M. Ordinance No. 1097. By Ordinance No. 1097, effective as of September 1, 2010, the City is authorized to enter this Agreement with the Developer. The City and the Developer have taken all actions mandated by, and fulfilled all requirements set forth in, Ordinance No. 1097.

AGREEMENT

1. Incorporation of Recitals. The Recitals set forth herein are true and are hereby incorporated into this Agreement.

2. Interest of Developer in Property. The Developer owns the fee simple interest in the Property. The Developer represents that all persons holding any legal or equitable interests in the Property shall be bound by this Agreement.

3. Relationship of City and Developer. It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by the City and the Developer, and that the Developer is not an agent of the City. The City and the Developer hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and the Developer joint venturers or partners.

4. Effective Date and Term.

4.1 Effective Date. The effective date of this Agreement is April 11, 2011 (the "Effective Date").

4.2 Term. The term of this Agreement (the "Term") shall commence on the Effective Date and extend for a period of twelve (12) years thereafter, unless otherwise terminated or modified by circumstances set forth in this Agreement. The Term may be extended at any time prior to its expiration or termination by the mutual written agreement of the Parties in accordance with the Development Agreement Statute and any applicable ordinances or resolutions of the City.

4.3 Continued Effect. The expiration or termination of the Term shall not affect any right emanating from entitlements approved by City concurrently with or subsequent to the Effective Date, all of which shall continue in full force and effect. Any use or construction properly established during the Term shall continue to be a lawful use or building after the expiration of the Term.

4.4 Consistency with General Plan. As set forth in greater detail in the Area Plan and the Policy Statement and Development Plan for Saggio Hills, the City Council expressly found that the PD District, the R-1-3,500 District and the P District and the Project Approvals described in Recital F above are consistent with the text and maps of the General Plan. The City Council further finds that this Agreement is consistent with the text and maps of the General Plan.

5. Use of Property.

5.1 Right to Develop. The Developer shall have a vested right to develop the Project on the Property in accordance with the terms and conditions of this Agreement, the Project Approvals, and any amendments to any of them as shall, from time to time, be approved pursuant to this Agreement, so long as no Event of Default (as defined in Section 12 below) by the Developer under this Agreement has occurred and not been cured within the applicable cure period provided by Section 12 below. Developer shall, in good faith, exercise diligence to insure that all applications and other document submittals shall be complete and in a form specified by and acceptable to the City. The City shall, however, accept "pre-application" submittals for review and comment as further described in Exhibit B to this Agreement. The City agrees that it will accept in good faith for processing, review and action, and thereafter process in due course, all necessary complete applications and other complete submittals for the Project so as to not unreasonably delay the progress of the Project development as described in this Agreement and the Project Approvals. The City shall inform the Developer, upon request by the Developer, of the foreseeable requirements for each such application and submission, in advance and in good faith.

5.2 Governing Document. The permitted uses, density and intensity of use; the maximum height and size of proposed buildings; the provisions for reservation and dedication of land or payment of fees in lieu of dedication for public purposes; the construction, installation and extension of public improvements; the development guidelines and standards; the implementation programs for processing of subsequent entitlements; and the other conditions of development for the Project shall be those set forth in this Agreement (including all exhibits attached hereto other than those that are described in this Agreement, including without limitation Exhibit B attached hereto, as showing approximate locations or being conceptual in nature). In the event of any conflict between this Agreement (including all exhibits attached hereto other than those that are described in this Agreement, including without limitation Exhibit B attached hereto, as showing approximate locations or being conceptual in nature) and any Project Approval or any other Existing Land Use Regulations (as defined in Section 6.1 below), the terms and provisions

of this Agreement shall prevail. The Parties intend that this Agreement (including all exhibits attached hereto other than those that are described in this Agreement, including without limitation Exhibit B attached hereto, as showing approximate locations or being conceptual in nature) serve as the definitive and controlling document for all subsequent actions, discretionary or ministerial, relating to the development of the Project. Where any provision(s) of this Agreement, including all exhibits attached hereto, is/are described as being approximate or conceptual in nature and a Project Approval or other approved document, drawing or specification is more detailed or specific than the provisions of this Agreement, including any exhibit attached hereto, then the more detailed or specific provision(s) shall control.

5.3 Quotas, Restrictions or Other Growth Limitations. Subject to applicable law relating to the vesting provisions of development agreements, the Developer and the City intend that, except as otherwise provided in this Agreement, this Agreement shall vest the Project Approvals against subsequent City resolutions, ordinances and initiatives that directly or indirectly limit the rate, timing or sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses, as set forth in this Agreement and the Project Approvals. The Developer shall, to the extent allowed by the laws pertaining to development agreements, be subject to any subsequently enacted growth limitation ordinance, resolution, rule, regulation or policy which is adopted on a uniformly applied City-wide basis and directly concerns an imminent threat to public health, welfare or safety, in which case the City shall treat the Project and the Property in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by that public health, welfare or safety issue, and to the extent practicable, in a manner that best preserves the intent and procedures expressed in Section 9.1 below.

5.4 No Additional Discretionary Approvals. Except as expressly set forth in this Agreement and/or the Project Approvals, the Project, including the Additional Conditions (as defined in section 5.5 below), requires no further discretionary approvals from the City.

5.5 Additional Conditions. The provisions and conditions governing the Project, including provisions relating to phasing, fees and dedications, that are set forth in Exhibit B attached hereto (collectively, the “**Additional Conditions**”) are incorporated herein by reference and shall be a part of this Agreement as if set forth fully in the text hereof.

6. Applicable Rules, Regulations and Official Policies.

6.1 Rules Regarding Permitted Uses, Density, Height, Bulk and Size. For the Term, the City's ordinances, resolutions, rules, regulations and official policies governing permitted uses, density and intensity of use of the Property, and the maximum height, bulk and size of buildings thereon, shall be those in force and effect on the Effective Date (the “**Existing Land Use Regulations**”), except to the extent the Existing Land Use Regulations would not permit development of the Project for the permitted uses and at the permitted intensity and density of uses, maximum heights and sizes and/or provisions for reservation or dedication of land set forth in this Agreement, in which case the terms and provisions of this Agreement shall prevail.

6.2 Rules Regarding Design and Construction. Unless otherwise expressly provided in this Agreement or in any Project Approval, all ordinances, resolutions, rules, regulations and official policies governing design, improvement and construction standards and specifications applicable to the Project, including for any public improvements to be constructed by the Developer, shall be those in force and effect at the time the applicable permit approval is granted. Any development of the Project that is subject to design review shall

be developed in accordance with, and be subject to, the provisions of Chapter 20, Article 26, of the Healdsburg Municipal Code as the same may be amended from time to time.

6.3 Changes in State or Federal Law. This Section 6 shall not preclude the application to development of the Project of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in state or federal laws or regulations in accordance with Section 9.1 below.

6.4 Uniform Codes Applicable. Unless otherwise expressly provided in this Agreement, each improvement at the Project shall be constructed in accordance with the provisions of the California Building, California Electric, California Plumbing, California Mechanical and California Energy Codes and Sonoma County fire code ordinances, all as adopted and/or modified by City ordinance; all applicable City standard construction specifications; and Title 24 of the California Code of Regulations relating to building standards (collectively, the "**Building Codes**"), in each case as in effect at the time of approval of the appropriate building, grading, encroachment or other construction permit for such improvement. If no permit is required for any infrastructure improvement, such improvement shall be constructed in accordance with the applicable provisions of the Building Codes in effect at the start of construction of such improvement.

6.5 Transient Occupancy Tax Applicable to Residences. The Parties hereto acknowledge and agree that, pursuant to a Transient Occupancy Tax Agreement ("**TOT Agreement**") attached hereto as Exhibit E, the terms and conditions of which are incorporated herein, the paid occupancy of a Residence by a non-owner for a period of 30 consecutive days or less shall be subject to the Transient Occupancy Tax imposed by such **TOT Agreement**.

7. Changes to Existing Land Use Regulations. Only the following changes to the Existing Land Use Regulations shall apply to the development of the Project:

7.1 Land use regulations, ordinances, policies or programs adopted or undertaken by City in order to comply with state or federal laws, plans or regulations taking effect after the Effective Date; provided that in the event that such state or federal laws, plans or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended to the extent, and only to the extent, necessary to comply with such state or federal laws, plans or regulations in accordance with Section 9.1 below.

7.2 City land use regulations, ordinances, resolutions or policies adopted after the Effective Date, applicable city-wide, that are not in conflict with the terms and conditions for development of the Project established by this Agreement (or otherwise applicable Existing Land Use Regulations) and which do not impose additional burdens on such development.

7.3 City land use regulations, ordinances, resolutions or policies adopted after the Effective Date, which conflict with the Existing Land Use Regulations, but the application of which to the development of the Project has been consented to in writing by the Developer.

7.4 Nothing in this Agreement shall prevent the City from denying or conditionally approving any subsequent land use permit or authorization for the Project on the basis of new or modified ordinances, resolutions, rules, regulations and official policies, except

any that such denial or conditional approval shall be subject to any conditions, terms, restrictions, and requirements expressly set forth in this Agreement.

8. Fees, Costs, Dedications, Assessments and Taxes.

8.1 Processing and Monitoring Fees, Charges and Costs. The Developer shall pay (i) the development impact, annexation and infrastructure capacity fees and charges described in Exhibit B attached hereto, and (ii) in lieu of and as a substitution for the City's scheduled plan check and inspection fees, all actual direct and indirect costs and expenses incurred by the City in processing applications by the Developer for building permits, and in monitoring and inspecting the Developer's compliance with any permit issued or approvals granted for or with respect to the Project, all as described in Exhibit B attached hereto.

8.2 Development Impact Fees, Exactions and Dedications. Except as otherwise provided herein, any and all dedications of land, development, connection or mitigation fees, and other exactions required by the City to be paid by the Developer to support the construction of any public facilities and improvements or the provision of public services with respect to the development of the Project (collectively, the "**Exactions**") shall be the Exactions authorized to be imposed or charged by the City as of the date of issuance of the applicable permit(s). In connection with any subsequent ministerial or discretionary approval for the development of the Project in the manner contemplated by this Agreement and the Project Approvals, the City shall not impose or require any other dedications of land, development, connection or mitigation fees or other Exactions, or require the construction by Developer of any public improvements or facilities, except as set forth in this Agreement. Nothing in this Section 8.2 is intended, or shall be construed, to alter or modify the Developer's obligations as set forth in Exhibit B attached hereto with respect to the Affordable Housing Land, the Public Park Land, the Fire Substation Land, the Pump Station Land and the Public Trails (in each case, as defined and described in such Exhibit B). No additional Exactions shall be required relating to parks, affordable housing, emergency response or fire suppression in connection with any subsequent ministerial or discretionary approval. Wherever this Agreement obligates the Developer to, at the Developer's cost and expense, design, construct or install any infrastructure improvements, the cost thereof may be paid by the Developer or financed using by a duly established assessment district or other such financing mechanism, subject to and in accordance with the applicable provisions of law governing any such assessment district or other financing mechanism.

8.3 New Taxes. Any City-wide taxes (or any increase thereof) imposed after the Effective Date, including transient occupancy taxes, shall apply to the Project; provided, however, that: (a) the application of such taxes to the Project shall be prospective from and after the imposition thereof; and (b) the imposition of such taxes would not prevent development of the Project in accordance with this Agreement.

8.4 Assessments. Nothing herein shall be construed to relieve the Property from assessments levied against it by the City pursuant to any statutory procedure for the assessment of property to pay for infrastructure and/or services which benefit the Property, except to the extent that (i) such infrastructure or services already are or should have been included in a facilities master plan (on which the development fee requirements for the Project are based); or (ii) such infrastructure or services are designated as the obligation of the City pursuant to the terms and conditions of this Agreement, and further provided that the Developer shall be entitled to credit for fees paid with respect to and the value of work

performed on such infrastructure or services prior to the imposition of such an assessment where such fees or work deal with or pertain to the same infrastructure or services as such assessment.

8.5 CEQA Mitigation Measures. Notwithstanding any other provision in this Agreement to the contrary, as and when the Developer elects to develop the Project, the Developer shall be bound by, and shall perform, all mitigation measures for or relating to the Project contained in and required by the FEIR and to be performed by the Developer pursuant to the provisions of the FEIR, including all mitigation monitoring and reporting.

9. Modification, Amendment or Cancellation.

9.1 Modification Because of Conflict with State or Federal Laws. In the event that state or federal laws and/or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the Parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or state laws and/or regulations. Any such modification (or any suspension of this Agreement by reason of such state or federal laws and/or regulations) shall be considered for approval by the City Council in accordance with the applicable City ordinance, and shall not be effective unless approved in writing by the Parties. It is the intent of the Parties that any such modification or suspension be strictly limited to that which is necessary to preserve, to the full extent possible, the original intent of the Parties entering into this Agreement, while complying with such state or federal laws and/or regulations.

9.2 Amendment by Mutual Consent. This Agreement may be amended in writing from time to time by mutual consent of the Parties and in accordance with the applicable procedures required by state law and City ordinances.

9.3 Insubstantial Amendments. Notwithstanding the provisions of Section 9.2, above, any amendment to this Agreement that does not relate to (a) the Term as provided in Section 4.2 above; (b) the permitted uses of the Project as provided in Section 6.1 above; (c) any provision for a "significant" reservation or dedication of land; (d) the location and maintenance of on-site and off-site improvements; (e) the density or intensity of use of the Project; (f) the maximum height or size of proposed buildings; or (g) monetary contributions by the Developer as provided in this Agreement, shall not, except to the extent otherwise required by law, require notice or public hearing before either the Planning Commission or the City Council before the Parties may execute an amendment hereto. Any amendment described in this Section 9.3 may be made by written agreement executed by the Developer and the City Manager (or the City Manager's designee). The City Manager shall reasonably determine whether any provision for a reservation or dedication of land is "significant".

9.4 Amendment of Project Approvals. Any amendment of any of the Project Approvals relating to: (a) the permitted use of the Property; (b) any provision for a reservation or dedication of land; (c) the density or intensity of use of the Project; (d) the maximum height or size of proposed buildings; (e) monetary contributions by the Developer; or (f) the location and maintenance of on-site and off-site improvements, shall require an amendment of this Agreement. Such amendment shall be limited to those provisions of this Agreement which are affected by such amendment of the Project Approval. Any other amendment of any Project Approval shall not require an amendment of this Agreement, unless the amendment of the Project Approval relates specifically to some provision of this Agreement.

9.5 Cancellation by Mutual Consent. Except as otherwise permitted herein, this Agreement may be canceled in whole or in part only by the mutual consent of the Parties (or their successors in interest), in accordance with the provisions of the applicable City ordinances. Any fees paid pursuant to this Agreement prior to the date of such a cancellation, to the extent that such fees are for processing or services already performed or for permits already issued by the City, shall be retained by City.

10. Term of Project Approvals. Pursuant to Cal. Government Code §66452.6(a), the term of any parcel map or tentative subdivision map pertaining to the Property shall automatically be extended for the Term. Developer shall also be entitled to any other extensions as set forth in Cal. Government Code §66452.6 to the extent that they apply.

11. Annual Review. The City shall, once every twelve (12) months during the Term, review the extent of good faith substantial compliance by the Developer with the terms of this Agreement. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to Government Code §65865.1. The City's Planning Director shall initiate each such annual review by giving to the Developer no less than 30 days written notice of the City's initiation of such annual review. Notice of such annual review shall include the statement that the review may result in amendment or termination of this Agreement. The Developer shall provide to the City's Planning Director, within 30 days after the Developer's receipt of the City's notice, evidence demonstrating the Developer's good faith substantial compliance with this Agreement. The burden of proof of such substantial compliance, by substantial evidence, is on the Developer. A finding by the City following any such review of good faith substantial compliance by the Developer with the terms of this Agreement shall conclusively determine the issue of the Developer's substantial compliance up to and including the date of such review. If, as a result of any such annual review, the City finds and determines, on the basis of substantial evidence, that the Developer has not complied in good faith with the terms or conditions of this Agreement, the City may, after giving Developer notice of such finding and determination and an opportunity to cure such non-compliance within the period described in Section 12.1.4 below, terminate or modify this Agreement. In addition to the foregoing annual review requirement, City staff shall provide periodic "project status" reports as directed by the City Council, including periodic reports from the City's Fire Chief regarding vegetation management practices required of Developer and its successors. Developer shall cooperate with requests for information from City staff in preparing for such periodic reports.

11.1 Staff Reports. The City shall mail or fax to the Developer a copy of all staff reports and, to the extent practical, related exhibits regarding each annual review initiated by the City pursuant to this Section 11 at least ten (10) calendar days prior to such review. The Developer shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before the City Council and, if the matter is referred by the City Council to the City's Planning Commission, before such Commission.

11.2 Failure to Review. In the event City fails to initiate the annual review procedure in the manner described above, then (a) this Agreement shall continue in full force and effect and none of the Developer's rights and entitlements hereunder shall be adversely affected in any manner, and (b) the Developer shall be presumptively deemed to have complied in good faith with the requirements of this Section 11.

11.3 Costs. Costs incurred by the City in connection with any annual review or periodic reports conducted or prepared by the City pursuant to this Section 11 shall be paid by City. All costs incurred by the City for any further or additional work or reports

reasonably required for the Developer to establish or achieve substantial compliance with this Agreement as a result of the annual review or periodic reports, shall be paid by the Developer.

12. Default. Subject to any applicable extension of time, failure by any Party to perform any obligation of such Party under this Agreement shall constitute an event of default (each an "**Event of Default**") by such Party. For the purposes of this Agreement, a Party claiming the other Party is in default hereunder shall be referred to as the "**Complaining Party**," and the Party alleged to be in default shall be referred to as the "**Party in Default**." A Complaining Party shall not exercise any of its remedies as the result of a claimed Event of Default by the Party in Default unless such Complaining Party first gives notice to the Party in Default as provided in Sections 12.1.1 and 12.1.4, below, and the Party in Default fails to cure the claimed Event of Default within the applicable cure period.

12.1 Procedure Regarding Defaults.

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

12.1.2 Cure. The Party in Default shall, after receipt of such notice, diligently endeavor to cure, correct or remedy the claimed Event of Default, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of such notice (or such additional time as may be deemed by the Complaining Party to be reasonably necessary to cure, correct or remedy the claimed Event of Default).

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

12.1.4 Cure Period. If a claimed Event of Default is reasonably capable of being cured within thirty (30) days after the Party in Default receives the notice thereof required by Section 12.1.1 above, the Party in Default shall have such 30 day period to effect a cure prior to exercise of any remedies with respect thereto by the Complaining Party. If the nature of the claimed Event of Default is such that it can be cured, but cannot practicably be cured within such 30 day period, the cure shall be deemed to have occurred within such 30 day period if: (a) the cure is commenced at the earliest practicable date following the Party in Default's receipt of such notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (not later than 30 days after the Party in Default's receipt of such notice), the Party in Default provides written notice to the Complaining Party that the cure cannot practicably be completed within such 30 day period; and (d) the cure is completed at the earliest practicable date. In no event shall the Complaining Party be precluded from exercising remedies with respect to a claimed Event of Default if such claimed Event of Default is not cured within one hundred twenty (120) days after the first notice thereof is given by such Complaining Party.

12.1.5 Exercise of Remedies. Subject to the foregoing, if the Party in Default fails to cure a claimed Event of Default in accordance with the foregoing, the

Complaining Party may, at its option, institute legal proceedings pursuant to this Agreement or, in the event of a material Event of Default, terminate this Agreement. Upon the occurrence of an Event of Default, the Parties may pursue any remedy at law or in equity that is not otherwise provided for or prohibited by this Agreement, or in City's regulations governing development agreements, expressly including the remedy of specific performance of this Agreement.

12.2 Enforced Delay, Extension of Times of Performance. In addition to any specific provision of this Agreement providing for an extension of the time for performance of any obligation hereunder, neither Party shall be deemed to be in default hereunder as a result of a failure of such Party to perform any obligation hereunder in the event such failure is due to war, insurrection, terrorism, strike, walkout, riot, flood, earthquake, fire, other casualty, act of God, governmental restriction imposed or mandated by governmental entities other than the City, enactment of state or federal laws or regulations that conflict with the provisions of this Agreement or any Project Approval, any new or supplementary environmental regulation adopted after the Effective Date, litigation, or any other similar circumstance or event. If the Developer gives the City written notice of any such event or circumstance within 30 days after the occurrence of such event or circumstance (or within 30 days after the date on which the Developer, exercising due diligence, could have discovered such event or occurrence), the City shall grant to the Developer, in writing, an extension of time for the Developer's performance of its obligations hereunder affected by such event or occurrence, which extension shall be for the period of such event or occurrence, or for such longer period as may be mutually agreed to by the Parties.

13. Estoppel Certificate. Either Party may, from time to time, request confirmation from the other Party, by way of written certification (a) that this Agreement is in full force and effect and a binding obligation of the Parties, (b) that this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (c) that to the knowledge of the certifying Party the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, describing the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate within 30 days following such Party's receipt of such request, or such longer period as may reasonably be agreed to by the Parties. The City Manager of the City shall be authorized to execute on behalf of the City any certificate requested by the Developer. If the Party receiving such a request does not execute and return such certificate within the applicable period, such Party shall not be deemed to be in default under this Agreement, but the Requesting Party shall have the right to specifically enforce this Section 13 with respect to such request.

14. Mortgagee Protection: Certain Rights of Cure.

14.1 Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, after the date of recording of a memorandum of this Agreement, including the lien for any deed of trust or mortgage (each, a "**Mortgage**"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee (each a "**Mortgagee**") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

14.2 Mortgagee Not Obligated. Notwithstanding Section 14.1 above, no Mortgagee shall have any obligation or duty under this Agreement, before obtaining title to the Property by foreclosure or deed in lieu of foreclosure, to construct or complete the

construction of any improvements, public or private, described or required herein, or to guarantee such construction or completion, or to pay, perform or provide any fee, cost, charge, dedication, or other exaction or imposition with respect to the Project; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by the Project Approvals or by this Agreement, and shall comply with the provisions of this Agreement in completing the development of the project as contemplated herein and in the Project Approvals.

14.3 Notice to Mortgagee and Right to Cure. If the City receives written notice from a Mortgagee requesting a copy of any notice of any claimed Event of Default, or any suspension, cancellation or termination of this Agreement, given to the Developer hereunder and specifying the Mortgagee's address, then City shall deliver to such Mortgagee, concurrently with service of any such notice to the Developer, a copy of such notice. Each Mortgagee shall have the right, during the same period available to Developer to cure, correct or remedy, or to commence to cure, correct or remedy, the claimed Event of Default set forth in the City's notice. Upon the request of the Developer or a Mortgagee, the City, through its City Manager, may extend the cure period provided in Section 12.1.2 above for a given claimed Event of Default for not more than an additional 60 days.

15. Severability. Except as otherwise provided herein, if any provision of this Agreement is subsequently held or determined to be invalid, the remainder of this Agreement shall not be effected, except as necessarily required by the invalid provision, and such remainder of this Agreement shall remain in full force and effect, unless amended or modified in writing by the mutual consent of the Parties. However, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive either Party of an essential benefit of its bargain hereunder, then either Party shall have the option to terminate this entire Agreement, effective from and after such determination, by written notice of termination given by the terminating Party to the other Party.

16. Applicable Law and Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Any action, proceeding or other judicial process relating to or arising out of this Agreement shall be brought in Sonoma County Superior Court.

17. Attorneys' Fees and Costs. If any legal action is brought by either Party with respect to any claimed Event of Default, or to enforce or interpret any provisions hereof, the prevailing Party in such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the Court.

18. Attorneys' Fees and Costs in Actions By Third Parties. If any person or entity not a party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement and/or the related environmental documentation and findings, or any of the Project Approvals and/or the related environmental documentation and findings, the City shall cooperate and appear in defending such action. To the extent that the Developer determines to contest any such challenge, the Developer shall reimburse the City, within 30 days after the City's written demand therefor (which may be made from time to time during the course of the defense of such challenge), for the City's legal and court costs incurred in or with respect to such challenge; provided, however, that the City shall either: (a) elect to joint representation of the City and the Developer in such challenge by the Developer's counsel; or (b) retain an experienced litigation attorney, subject to the reasonable approval of Developer, to represent only the City in such challenge, in which event the City shall, prior to incurring obligations to pay any legal fees

and expenses in excess of Fifteen Thousand Dollars (\$15,000) with respect to such challenge, require such attorney to prepare and comply with a litigation budget for such challenge reasonably acceptable to the Developer. If Developer elects not to contest any such challenge, then City shall have no obligation to contest such challenge.

19. Transfers and Assignments. From and after recordation of a memorandum of this Agreement, the Developer shall have the full right to assign this Agreement in connection with any sale, transfer or other conveyance of the Property, or any portion thereof, which assignment shall be effective upon (i) the express written assignment by the Developer and the assumption by the assignee of such assignment and the Developer's obligations under this Agreement in the form attached hereto as Exhibit C, and (ii) the closing of the sale, transfer or other conveyance of Developer's interest in the Property related thereto. At such time as such assignment and assumption becomes effective, the Developer shall, without further action by the City, be released from any liability or obligation hereunder related to the portion of the Property so conveyed that arises from and after the date such assignment and assumption becomes effective, and the assignee shall thereafter be deemed to be the "Developer," with all rights and obligations related thereto, with respect to such conveyed property. Prior to recordation of a memorandum of this Agreement, any proposed assignment of this Agreement by the Developer shall be subject to prior reasonable notice to, and the prior written consent of, the City Manager on behalf of the City, and the form of such assignment shall be subject to the approval of the City Attorney, neither of which shall be unreasonably withheld.

20. Agreement Runs with the Land. All of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, California Civil Code §1468. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any owned property, (a) is for the benefit of such properties and is a burden upon such properties, (b) runs with such properties, and (c) is binding upon each Party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each Party and the Property and each other person succeeding to an interest in such properties.

21. Bankruptcy. The obligations of each Party under this Agreement shall not, to the maximum extent permitted by law, be dischargeable in bankruptcy.

22. Indemnification. The Developer agrees to indemnify, defend with counsel of City's choosing, and hold harmless the City, and its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives from any and all claims, costs (including legal fees and costs) and liability for any personal injury or property damage which may arise directly or indirectly as a result of any actions or omissions by the Developer, or any actions or omissions of the Developer's contractors, subcontractors, agents or employees in connection with the construction, improvement, operation, repair or maintenance of the Property and the Project; provided, however, that the Developer shall have no indemnification obligation with respect to the negligence or wrongful conduct of City, its contractors, agents or employees, or with respect to the maintenance, use or condition of any improvement after the time it has been dedicated to and accepted by the City or any other public entity (except as may otherwise be provided in a subdivision improvement agreement or maintenance bond).

23. Insurance.

23.1 Public Liability and Property Damage Insurance. At all times that the Developer is constructing any improvements that will become public improvements, the Developer shall maintain in effect a policy of comprehensive general liability insurance with a “per-occurrence” combined single limit of not less than one million dollars (\$1,000,000.00) and a deductible of not more than twenty thousand dollars (\$20,000.00) per claim. Such policy shall name the City as an additional insured and shall include either a severability of interest clause or cross-liability endorsement.

23.2 Workers Compensation Insurance. At all times that the Developer is constructing any improvements that will become public improvements, the Developer shall maintain workers compensation insurance complying with the provisions of applicable law for all persons employed by the Developer for work at the Project site. The Developer shall require each contractor and subcontractor performing work at the Project site to provide workers compensation insurance complying with the provisions of applicable law for its respective employees. The Developer agrees to indemnify the City for any damage resulting from the Developer's failure to maintain any such insurance. The Developer shall obtain from its workers compensation insurer a waiver of all rights of subrogation against the City.

23.3 Evidence of Insurance. Prior to commencement of construction of any improvements which will become public improvements, the Developer shall furnish the City satisfactory evidence of the insurance coverages (including for additional insureds) required hereunder and evidence that the insurer is required to give the City at least fifteen days prior written notice of the cancellation or reduction in coverage of a policy (ten days in the event of nonpayment of any premium). For any claims related to work performed on the Project, the Developer's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Developer's insurance and shall not contribute with the Developer's insurance.

24. Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Developer and the City and their respective successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

25. Notices. All notices required or permitted by this Agreement, the Development Agreement Statute, or the procedure adopted pursuant to California Government Code §65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notice required to be given to the **City** shall be sent as follows:

City Manager
City of Healdsburg
401 Grove Street
Healdsburg, CA 95448

with copies to:

Michael Gogna, City Attorney
Meyers Nave
401 Mendocino Avenue, Suite 100
Santa Rosa, California 95401

Notice required to be given to the **Developer** shall be sent to each of the following:

Sonoma Luxury Resort LLC
720 East University Avenue, Suite 200
Los Gatos, CA 95032
Attn: Michael G Mohr

The Robert Green Company
169 Saxony Road, Suite 113
Encinitas, CA 92024
Attn: Robert S. Green, Jr.

With copies to:

Clement, Fitzpatrick & Kenworthy
Attn: Steve Butler
3333 Mendocino Avenue, Suite 200
Santa Rosa, California 95403

SNR Denton US LLP
Attn: Richard F. Ross
2398 East Camelback Road, Suite 1100
Phoenix, Arizona 85106

Either Party may change its notice address by giving notice in writing to the other Party, and thereafter notices shall be addressed and transmitted to the new address. Notices shall be deemed given and received upon personal delivery, or if mailed, upon the expiration of three (3) business days after being deposited in the U.S. Mail.

26. Form of Agreement; Exhibits. This Agreement is executed in three duplicate originals, each of which is deemed to be an original. This Agreement consists of seventeen (17) pages and five (5) exhibits, which constitute the entire understanding and agreement of the Parties. The following documents are referred to in this Agreement and are attached hereto and incorporated herein as though set forth in full:

<u>Exhibit A</u>	Legal Description of Property
<u>Exhibit B</u>	Additional Conditions
<u>Exhibit C</u>	Form of Assumption Agreement
<u>Exhibit D</u>	Form of Memorandum of Agreement
<u>Exhibit E</u>	Transient Occupancy Tax Agreement

27. Recordation of Memorandum. The City Clerk of City shall, within ten days after the Effective Date, record a Memorandum of this Agreement in the form attached as Exhibit D.

28. Termination.

28.1 Termination of Agreement Upon Sale of Individual Lots or Units to Public. Notwithstanding any provision of this Agreement to the contrary, the burdens of this Agreement shall terminate as to any residential lot or unit which has been finally subdivided and/or created and individually (and not in "bulk") leased (for a period of longer than one year) or sold to the lessee, purchaser or user thereof, and without the execution or recordation of any further document or instrument such lot or unit shall be released from and no longer be subject to or burdened by the provisions of this Agreement; provided, however, that prior to such lease or sale, there shall be recorded with respect to such lot or unit covenants, conditions and restrictions as required and set forth in Exhibit B attached hereto. Notwithstanding the foregoing, upon

termination of this Agreement with respect to any such individual lot or unit, the rights, entitlements and benefits of this Agreement, including but not limited to the building permit allocations described in Section 4 of Exhibit B attached hereto and the provisions pertaining to the various fees described in Section 5 of Exhibit B attached hereto, shall continue to run as to any such lot or unit until a building is constructed on such lot or unit, or until the termination of this Agreement, if earlier, at which time this Agreement shall terminate as to such lot or unit. At any time upon ten (10) days notice from the Developer or the lessee or purchaser of such a lot or unit properly designating the lots(s) or units(s) to be released, the City shall execute and deliver, and cause to be recorded, a suitable instrument releasing this Agreement as an encumbrance of record for such lot(s) or unit(s).

28.2 Termination upon Completion of Development. This Agreement shall terminate upon the earlier of the expiration of the Term or when the Project has been fully developed and all of the Developer's obligations in connection therewith as set forth in this Agreement are satisfied (as reasonably determined by the City). Upon termination of this Agreement, Developer shall deliver to City for recordation a notice of termination in a form reasonably acceptable to the City Attorney and the Developer stating that this Agreement has been terminated.

28.3 Further Assurances; Warranty by Signers. The Parties agree to execute such additional instruments and to undertake such actions as may be necessary to effectuate the intent of this Agreement. Each of the persons whose signature appears below warrants and represents that he/she is the duly authorized representative of the entity on whose behalf the signature appears and that in signing this Agreement, such person intends to, and does hereby, bind said entity to the terms and conditions of this Agreement.

29. Counterparts, Effective Date and Facsimile Signatures. This Agreement may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument. This Agreement shall be binding and effective as of the date it has been fully executed by all the parties, and facsimile copies of signatures shall be sufficient for purposes of executing this Agreement.

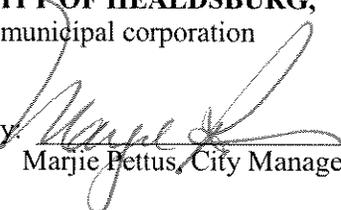
30. Authorization to Bind Parties. Each undersigned representative of the parties to this Agreement warrants and certifies that she or he is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the party for whom she or he has executed this Agreement.

31. No Party Deemed Drafter. Each party represents and warrants that it has been represented by counsel in negotiating and entering into this Agreement and as such, no single party has drafted this Agreement. This Agreement will not be interpreted against either party as the drafting party.

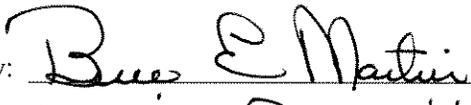
[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City of Healdsburg has authorized the execution of this Agreement in triplicate by its City Manager under the authority of Ordinance No. 1107, adopted by the City Council of the City on February 7, 2011, and Sonoma Luxury Resort LLC has caused this Agreement to be executed.

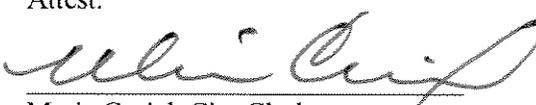
CITY OF HEALDSBURG,
a municipal corporation

By: 
Marjie Pettus, City Manager

SONOMA LUXURY RESORT LLC
a Delaware limited liability company

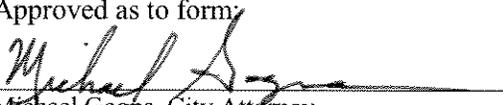
By: 
Its: Authorized Representative

Attest:


Maria Curiel, City Clerk

Approved as to form:

Approved as to form:


Michael Gogna, City Attorney

State of Arizona

County of Maricopa

On March 21, 2011, before me, Bruce E. Martin, Authorized Representative
(insert name and title of the officer)

personally appeared Bruce E. Martin, 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 Arizona that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Lynda K. Morrissey

(Seal)

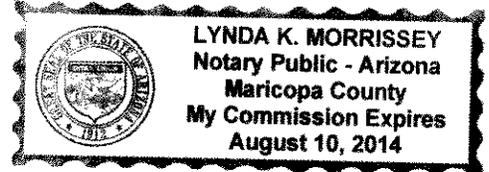


Exhibit A
Legal Description

"EXHIBIT A"
LEGAL DESCRIPTION

PARCEL ONE

BEING A PORTION OF RANCHO SOTOYOME AND BEING THE NORTHEAST ONE-QUARTER OF SECTION 9, TOWNSHIP 9 NORTH, RANGE 9 WEST, M.D.M. AND THAT PORTION OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 9 WHICH LIES EAST OF THE COUNTY ROAD RUNNING FROM HEALDSBURG TO CLOVERDALE.

SAVING AND EXCEPTING THEREFROM THE FOLLOWING:

- (1) THAT CERTAIN 2.0 ACRE TRACT DESCRIBED IN THE DEED FROM JEAN DESTUEL, ET AL, TO EMIL ROEHM, ET AL, DATED MAY 11, 1915 AND RECORDED IN BOOK 333 OF DEEDS, PAGE 56, SONOMA COUNTY RECORDS.
- (2) THAT CERTAIN 1.0 ACRE TRACT DESCRIBED IN THE DEED FROM G.D. AGOSTINI, ET AL, TO ALFRED CARMIGNANI, DATED FEBRUARY 23, 1922 AND RECORDED FEBRUARY 24, 1922 IN BOOK 408 OF DEEDS, PAGE 283, SONOMA COUNTY RECORDS.
- (3) THAT PORTION DESCRIBED IN THE DEED FROM JEAN DESTUEL AND G.D. AGOSTINI TO COUNTY OF SONOMA, DATED OCTOBER 25, 1922 AND RECORDED IN BOOK 24, PAGE 495 OF OFFICIAL RECORDS OF SONOMA COUNTY.
- (4) THAT PORTION THEREOF CONVEYED TO C.D. AGOSTINI, ET AL, TO STATE OF CALIFORNIA FOR HIGHWAY PURPOSES, BY DEED DATED MAY 7, 1931 AND RECORDED JUNE 20, 1931 IN BOOK 299 OF OFFICIAL RECORDS AT PAGE 177, SONOMA COUNTY RECORDS.

PARCEL TWO:

BEGINNING AT AN IRON PIN DRIVEN IN THE NORTHEASTERLY LINE OF THE CALIFORNIA STATE HIGHWAY LEADING FROM HEALDSBURG TO LYTTON, FROM WHICH AN IRON PIN DRIVEN IN THE WESTERLY LINE OF THE RIGHT-OF-WAY OF THE NORTHWESTERN PACIFIC RAILROAD COMPANY, BEING THE SOUTHEAST CORNER OF THE LAND OF THE SALVATION ARMY BOYS' AND GIRLS' INDUSTRIAL HOME AND FARM, BEARS SOUTH 72-1/2° WEST 2.79 CHAINS DISTANT; THENCE ALONG THE AFORESAID NORTHEASTERLY LINE OF THE STATE HIGHWAY, SOUTH 9° WEST, 5.00 CHAINS TO AN IRON PIN; THENCE SOUTH 81° EAST 2.00 CHAINS TO AN IRON PIN; THENCE NORTH 9° EAST 5.00 CHAINS TO AN IRON PIN; THENCE NORTH 81° WEST 2.00 CHAINS TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION THEREOF CONVEYED FOR OR LYING WITH IN THE HIGHWAY.

ALSO EXCEPTING THEREFROM THE FOLLOWING:

BEING A PORTION OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 9 NORTH, RANGE 9 WEST, M.D.B. & M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF BEGINNING OF THE DESCRIPTION IN THAT CERTAIN DEED FROM ALFREDO CARMIGNANI AND GIUSEPPINA CARMIGNANI, HIS WIFE, TO ANDREW LANDINI AND C. PALMIERI, DATED JUNE 9, 1924 AND RECORDED JUNE 10, 1924, IN VOLUME 77 OF OFFICIAL RECORDS AT PAGE 332, SONOMA COUNTY RECORDS, SAID POINT OF COMMENCEMENT BEING DISTANT SOUTH 81° 00' EAST 30 FEET FROM STATION "M" 1037+22.5 P.O.T. ON THE CENTERLINE OF THE STATE HIGHWAY BETWEEN CLOVERDALE AND HEALDSBURG KNOWN AS ROAD IV, SONOMA COUNTY, ROUTE 1, SECTION A; THENCE FROM SAID POINT OF COMMENCEMENT ALONG THE WESTERLY LINE OF THE LAND OF THE GRANTORS, BEING THE EASTERLY LINE OF THE EXISTING STATE HIGHWAY, SOUTH 9° 00' WEST, (STATE HIGHWAY BEARING SOUTH 8° 55' WEST) 330 FEET TO THE SOUTHWESTERLY CORNER THEREOF; THENCE ALONG THE SOUTHERLY LINE OF THE LAND OF THE GRANTORS, SOUTH 81° 00' EAST 20 FEET TO A POINT ON A LINE PARALLEL TO AND 50 FEET EASTERLY AT RIGHT ANGLES, FROM THE CENTERLINE OF SAID HIGHWAY; THENCE ALONG SAID PARALLEL LINE, NORTH 9° 00' EAST 330 FEET TO A POINT ON THE NORTHERLY LINE OF THE LAND OF THE GRANTORS; THENCE ALONG SAID NORTHERLY LINE, NORTH 81° 00' WEST 20 FEET TO THE POINT OF COMMENCEMENT.

ALSO EXCEPTING THEREFROM PARCEL ONE THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF SONOMA, STATE OF CALIFORNIA, BEING A PORTION OF THE LANDS OF PASSALACQUA, ET AL, AS DESCRIBED BY THAT DEED RECORDED IN BOOK 2766 OF OFFICIAL RECORDS AT PAGE 95, SONOMA COUNTY RECORDS OFFICE DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LANDS OF PASSALACQUA SAID CORNER BEING SOUTH 76 DEGREES 56' 54" EAST 23.68 FEET FROM A 1/2" IRON PIPE STAMPED LS 5143 SET AT THE NORTHWESTERLY CORNER OF THE LANDS OF ZAM ENTERPRISES AS DESCRIBED BY THOSE DEEDS RECORDED AS DOCUMENT NUMBERS 89-031859 AND 86-085882, OFFICIAL RECORDS OF SONOMA COUNTY; SAID 1/2 IRON PIPE IS SHOWN ON THAT RECORD OF SURVEY FOR ZAM ENTERPRISES RECORDED IN BOOK 537 OF MAPS AT PAGES 2-3, SONOMA COUNTY RECORDER'S OFFICE (THE BASIS OF BEARING OF THIS DESCRIPTION); THENCE ALONG THE WESTERLY BOUNDARY OF SAID LANDS OF PASSALACQUA AND THE EASTERLY LINE OF HEALDSBURG AVENUE AS DESCRIBED IN BOOK 299 OF OFFICIAL RECORDS AT PAGE 17; SONOMA COUNTY RECORDS, NORTH 45 DEGREES 24' 52" EAST (NORTH 45 DEGREES 25' EAST DEED) 489.71 FEET; THENCE LEAVING SAID WESTERLY LINE OF PASSALACQUA, SOUTH 56 DEGREES 44' 16" EAST 188.15 FEET; THENCE NORTH 86 DEGREES 03' 54" EAST 407.25 FEET; THENCE SOUTH 41 DEGREES 52' 08" EAST 692.92 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LANDS OF PASSALACQUA AND THE NORTHERLY LINE OF SAID LANDS OF ZAM ENTERPRISES; THENCE ALONG SAID SOUTHERLY LINE OF PASSALACQUA AND SAID NORTHERLY LINE OF ZAM ENTERPRISES, SOUTH 89 DEGREES 36' 07" WEST 959.74 FEET TO A 1/2" IRON PIPE STAMPED LS 5143 AS SHOWN ON SAID RECORD OF SURVEY FOR ZAM ENTERPRISES; THENCE CONTINUING ALONG THE SOUTHERLY LINE OF SAID LANDS OF PASSALACQUA AND THE NORTHERLY LINE OF SAID LANDS OF ZAM ENTERPRISES MONUMENTED BY 1/2" IRON PIPES STAMPED LS 5143 AS SHOWN ON SAID RECORD OF SURVEY FOR ZAM ENTERPRISES, THE FOLLOWING COURSES: NORTH 45 DEGREES 38' 33" WEST 94.35 FEET; THENCE 52 DEGREES 50' 23" WEST 130.12 FEET; THENCE NORTH 60 DEGREES 41' 17" WEST 84.6 FEET; THENCE NORTH 82 DEGREES 35' 30" WEST 112.79 FEET; THENCE NORTH 76 DEGREES 56' 54" WEST 71.92 FEET TO THE POINT OF BEGINNING.

PARCEL THREE:

LYING WITHIN THE RANCHO SOTOYOME, COUNTY OF SONOMA, STATE OF CALIFORNIA, AND BEING A PORTION OF THE LANDS OF PASSACREEK, LLC AS DESCRIBED BY DEED RECORDED UNDER DOCUMENT NO. 1997-051385, SONOMA COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" IRON PIPE TAGGED LS 5143 AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 537 OF MAPS, PAGES 2 AND 3, SONOMA COUNTY RECORDS, AND MARKING THE NORTHWEST CORNER OF SAID LANDS, FROM WHICH A 1/2" IRON PIPE TAGGED LS 5143 AS SHOWN ON SAID RECORD OF SURVEY AND MARKING THE SOUTHWEST CORNER OF SAID LANDS BEARS SOUTH 00° 29' 37" WEST, 1312.52 FEET; THENCE ALONG THE WESTERLY LINE OF SAID LANDS SOUTH 00° 29' 37" WEST, 536.69 FEET; THENCE LEAVING SAID WESTERLY LINE ON A CURVE CONCAVE NORTHWESTERLY WITH A RADIAL BEARING OF NORTH 33° 34' 37" WEST, RADIUS OF 450.00 FEET IN A NORTHEASTERLY DIRECTION, FOR A LENGTH OF 179.87 FEET, CENTRAL ANGLE OF 22° 54' 08"; THENCE ON A REVERSE CURVE, RADIUS OF 150.00 FEET, LENGTH OF 71.25 FEET, CENTRAL ANGLE OF 27° 12' 56"; THENCE ON A REVERSE CURVE, RADIUS OF 1750.00 FEET, LENGTH OF 586.9 FEET, CENTRAL ANGLE OF 19° 12' 57" TO THE NORTHERLY LINE OF SAID LANDS; THENCE ALONG THE NORTHERLY LINE SOUTH 89° 36' 07" WEST, 628.21 FEET TO THE POINT OF BEGINNING.

SAID PARCEL THREE WAS COMBINED WITH THE REMAINING LANDS OF PASSACREEK, LLC DESCRIBED IN THE DEED RECORDED SEPTEMBER 23, 1997 AS DOCUMENT NO. 1997 085008, SONOMA COUNTY RECORDS BY SONOMA COUNTY LOT LINE ADJUSTMENT NO. LLA 02-0075.

Exhibit B
Additional Conditions

EXHIBIT B TO DEVELOPMENT AGREEMENT

Additional Conditions

The following are the Additional Conditions to which Section 5.5 of the Development Agreement to which this Exhibit B is attached refers (with such agreement and all exhibits thereto, including this Exhibit B, being the “**Development Agreement**”). Capitalized terms that are used, but not defined, in this Exhibit B shall have the meanings given to them in the text of the Development Agreement. In the event of any conflict between the provisions of this Exhibit B and the provisions of the Development Agreement, the provisions of the Development Agreement shall apply.

1. Tentative Map; Final Maps. In connection with the City Council’s approval of the Development Agreement, the City Council approved the Tentative Map. The Tentative Map contemplates and provides for the following parcels:

(a) Parcels 1 and 7 - Resort Parcels. Parcels 1 and 7 (collectively, the “**Resort Parcels**”) shall be developed as the Resort, consistent with the requirements of the Area Plan, the PD District and the Development Agreement. The Resort shall consist of approximately 130 individually keyed units (as described in Recital C(i) of the Development Agreement), and may include any of the related facilities and amenities described in such Recital C(i). The Resort is a permitted use of the Resort Parcels pursuant to the Area Plan and the PD District, and is subject to design review pursuant to the City’s normal and customary public process of design review and approval by the City’s Planning Commission and/or the City Council.

(b) Parcels 2A, 2B, 2C, 2D, 3A, 3B, 3C, 4A and 4B and Lots 1 through 70 - Residential Parcels. Parcels 2A, 2B, 2C, 2D, 3A, 3B, 3C, 4A-and 4B and Lots 1 through 70 (with such parcels and lots being collectively, the “**Residential Parcels**”) shall be developed as the Residences (and related common area and private roadways) consistent with the requirements of the Area Plan, the PD District and the Development Agreement. The Residences shall consist of not more than seventy (70) single-family detached and/or attached residential dwelling units. The Residences (and related common areas and private roadways) are a permitted use of the Residential Parcels pursuant to the Area Plan and the PD District and the City’s normal and customary public process of design review and approval by the City’s Planning Commission and/or the City Council. Setbacks from private streets may be reduced from minimum setbacks described in the zoning for the Property (the Policy Statement) through the normal design review process by the Planning Commission and/or City Council, in order to provide flexibility to reduce tree impacts.

The Residences have been located and designed so as to be part of the Resort community and to have convenient pedestrian and service vehicle access to the Resort, thereby allowing occupants of the Residences to utilize amenities and services offered by the Resort. The Developer anticipates that various Resort services will be offered to the occupants of the Residences, not only at the Resort, but also at the Residences by using such pedestrian and service vehicle paths from the Resort to the Residences. Some of the Residences may be designed and constructed (and may be furnished) in a manner which will allow those Residences to be used as "resort villas" to accommodate transient occupancy use in connection with the Resort (in addition to vacation use by a single family, extended family and non-familial groups

and use by individuals and families as primary or secondary residences). The Developer anticipates that the Resort will allow owners of the Residences to make their Residences available for transient occupancy purposes through the Resort, and the Resort will make various Resort amenities and services available to transient occupants of such Residences. Pursuant to the Transient Occupancy Agreement required by the Development Agreement, the Resort will collect and forward to the City the transient occupancy taxes that are imposed by the City on such transient occupancy arrangements. The Developer shall include in the recorded conditions, covenants and restrictions for the Residences an express requirement, for the benefit of and enforceable by the City in its sole discretion, that the owners of any Residence that is made available for transient occupancy (as defined in the Transient Occupancy Agreement) purposes other than through the Resort shall pay directly to the City the transient occupancy taxes that are imposed by the City on such transient occupancy, which express requirement shall not be amended without the prior written consent of the City.

(c) Parcels 5 and 6 - Affordable Housing Land. Parcels 5 and 6 are collectively the Affordable Housing Land, and shall be mass graded by the Developer and served by infrastructure to be installed to the boundary of each of Parcel 5 and Parcel 6 by the Developer, all as described in Section 7 below. In addition, the Developer shall complete the Wetlands Mitigation for Parcels 5 and 6, with such mitigation to be partially on the Public Park Land (as defined below) and partially on land owned by the City and located to the southwest of the Public Park Land (parcels 091-040-062 and 091-040-105). The Developer shall convey Parcels 5 and 6 to the City (or its designee) at the time and in the manner described in Section 7 below to enable the City (or its designee) to arrange for the development of affordable housing units thereon.

(d) Parcel 8 - Public Park Land. Parcel 8 is the Public Park Land, and shall be mass graded by the Developer (which mass grading may be in two phases, with one phase being the portion of the Public Park Land located to the north of Foss Creek, and the other phase being the portion of the Public Park Land located to the south of Foss creek), as described in more detail in Section 10 below. In addition, the Developer shall implement part of the Wetlands Mitigation on a portion of Parcel 8, and the remaining part of the Wetlands Mitigation on land owned by the City and located to the southwest of Parcel 8 (parcels 091-040-062 and 091-040-105). The Developer shall convey Parcel 8 to the City at the time and in the manner described in Section 10 below to enable the City to arrange for the construction of the Public Park thereon.

(e) Parcel 9 - Pump Station Land. Parcel 9 is the Pump Station Land, on which the Developer shall construct the Pump Station as described in Section 16(f) below. After completion of the Pump Station by the Developer, the Developer shall convey Parcel 9 (including the completed Pump Station) to the City in the manner described in Section 16(f) below.

(f) Parcel 10 - Fire Substation Land. Parcel 10 is the Fire Substation Land, on which the Developer shall construct the Fire Substation as described in Section 11 below. After completion of the Fire Substation by the Developer (and the payment by the City to the Developer of the portion of the design and construction costs related thereto to be paid by the

City pursuant to Section 11 below), the Developer shall convey Parcel 10 (including the completed Fire Substation) to the City in the manner described in Section 11 below.

2. Final Map(s) for Residential Parcels. The Developer shall have the right to apply for one or more final maps for the Residential Parcels all at once or in phases as determined by the Developer in its sole discretion, for an aggregate number of Residences not to exceed 70. In no event shall the aggregate number of Residences provided for by all of the final maps for the Residential Parcels exceed 70. The exact proposed location of each Residence shall be determined during the process of preparing and submitting each application for a final map; provided, however, that each such location shall be consistent with the Area Plan, the PD District, and the FEIR (including any mitigation requirements set forth therein), and shall be in substantial compliance with the Tentative Map. The City shall work diligently with the Developer to process complete applications for final maps for the Residential Parcels in a manner consistent with the Development Agreement, the Area Plan, the PD District, the Tentative Map and the FEIR (including any mitigation requirements set forth therein).

3. Time of Development. The Parties acknowledge that the most efficient and economic development of the Resort Parcels and the Residential Parcels (collectively, the "Parcels") depends on various factors, such as market demand, interest rates and competition, and that it will generally be most beneficial to the ultimate purchasers/users of the Residences to have the timing of the development of the Residential Parcels determined by the Developer. The Parties hereby declare their intent to provide, and do hereby agree, that the Developer shall have the right to develop the Parcels in such order, and at such rate and times, as the Developer deems appropriate in its sole and subjective business judgment, subject to the terms, conditions and provisions of the Development Agreement. The City acknowledges that such a right is consistent with the intent, purpose and understanding of the Parties, and that without such a right, the Developer's development of the Parcels would be subject to the very uncertainties sought to be avoided by the Development Agreement Statute, Chapter 17D of the City's Municipal Code and the Development Agreement. Accordingly, the timing, sequencing and phasing of the development of the Parcels shall be the sole responsibility of the Developer, subject to the provisions of the City's Growth Management Program, including City Ordinance No. 970 and the adopted Policies and Procedures for the Healdsburg Growth Management Program, (the "GMP"), the Development Agreement, the Area Plan, the PD District and the Tentative Map, and the City shall not impose, by ordinance, resolution, initiative, referendum or otherwise, any restrictions on such timing, sequencing and phasing that are not set forth in the GMP, the Development Agreement, the Area Plan, the PD District and/or the Tentative Map. The City shall not withhold or delay approval of any entitlements for the Residential Parcels that are consistent with the terms of the GMP, the Development Agreement, the Area Plan, the PD District and the Tentative Map. The Developer shall give the City at least three (3) months' written notice prior to commencing the first phase of development hereunder (with such notice being the "Development Notice").

4. Growth Management Allocations. The City and the Developer agree that (i) the construction of the Residences (*specifically including up to six (6) Residences which may be constructed as model units for viewing by potential purchasers of the Residences*) will be subject to the GMP; (ii) the GMP limits the number of residential building permits that may be issued by

the City to an average of thirty (30) per year, and no more than ninety (90) in any three-year period; and (iii) the GMP establishes two classifications of permitted annual allocations for residential building permits. To implement the GMP, the City has adopted a policy of issuing "allocations", each of which entitles the holder to receive a residential building permit at any time during the period in which the allocation is valid. Under the GMP, the City reserves and makes available ten allocations annually, referred to as "Type A" allocations, for residential projects of four (4) units or less. The City also reserves and makes available twenty (20) allocations annually, referred to as "Type B" allocations, for residential projects of five (5) units or more. Except where specifically described to include "Type A" allocations, the term "Allocation" or "Allocations" shall mean "Type B" allocations only.

(a) Guaranteed Allocations. The City and the Developer hereby agree that the City shall, following the City's receipt of the Development Notice, pursuant to the GMP and subject to the provisions of this Section 4(a), reserve for the Developer Allocations for the Residences in accordance with the applicable of (x) Option 1 as described in subsection (i) of this Section 4(a) ("**Option 1**"); or (y) Option 2 as described in subsection (ii) of this Section 4(a) ("**Option 2**"), with the allocations reserved for the Developer pursuant to the applicable of Option 1 or Option 2 being the "**Guaranteed Allocations**".

The Developer shall state in the Development Notice which of Option 1 or Option 2 is to apply, and the applicable of Option 1 or Option 2 as stated in such notice shall apply during the remainder of the term of the Development Agreement. In the event the Development Notice does not state which of Option 1 or Option 2 is to apply, then Option 1 shall apply (unless the City and the Developer agree in writing that Option 2 is to apply).

- (i) Option 1. If the Developer gives the Development Notice and Option 1 is to apply, the City shall promptly after receipt of the Development Notice, to the extent then available for reservation, reserve for the Developer (i) ten (10) Allocations that first became effective on January 1st of the calendar year during which the Development Notice is given, and (ii) *an additional six (6) Allocations for model Residences* that first became effective on January 1st of such year, with each of such allocations as is actually so reserved by the City being an "**Option 1 Initial Allocation**". The Developer acknowledges that the City's reservation obligation shall be limited to those Allocations as are then available for reservation, and that any Option 1 Initial Allocation will be effective only for the remainder of the year during which the Development Notice is given and the following two years.

To the extent there are insufficient Allocations then available to reserve for the Developer all of the Allocations described above, the City shall on January 1st of each subsequent calendar year during the term of the Development Agreement reserve for the Developer, in addition to the ten (10) Allocations to be reserved for the Developer each year pursuant to the immediately following paragraph, such additional Allocations (which shall be effective for a full three-year period beginning on such January 1st) as

are then available for reservation, until the earlier of (x) such time as all of the Allocations described above been reserved for the Developer and not relinquished by the Developer pursuant to Section 4(e) below, or (y) such time as a total of seventy (70) Allocations have been reserved for and not so relinquished by the Developer.

On January 1st of the first calendar year after the Developer gives the Development Notice, and on each January 1st thereafter during the term of the Development Agreement until such time as a total of seventy (70) Allocations have been reserved for and not so relinquished by the Developer, the City shall reserve for the Developer, in addition to any Allocations to be reserved pursuant to the immediately preceding paragraph, ten (10) Allocations (which shall be effective for a full three-year period beginning on such January 1st), or such lesser number of such allocations as is required for the City to have reserved for the Developer a total of seventy (70) such Allocations that have not been so relinquished.

- (ii) **Option 2.** If the Developer gives the Development Notice and Option 2 is to apply, the City shall promptly after receipt of the Development Notice, to the extent then available for reservation, reserve for the Developer (i) fourteen (14) Allocations that first became effective on January 1st of the calendar year during which the Development Notice is given, and (ii) an additional six (6) Allocations that first became on January 1st of such year for model Residences, with each of such allocations as is actually reserved by the City being an “**Option 2 Initial Allocation**”. The Developer acknowledges that the City’s reservation obligation shall be limited to those Allocations as are then available for reservation, and that any Option 2 Initial Allocation will be effective for the remainder of the year during which the Development Notice is given and the following two years.

To the extent there are insufficient Allocations then available to reserve for the Developer all of the Allocations described above, the City shall on January 1st of each subsequent calendar year reserve for the Developer, in addition to the Allocations to be reserved for the Developer pursuant to the immediately following two paragraphs, such additional Allocations (which shall be effective for a full three-year period beginning on such January 1st) as are then available for reservation, until the earlier of (x) such time as all of the Allocations described above have been reserved for the Developer and not relinquished by the Developer pursuant to Section 4(e) below, or (y) such time as a total of seventy (70) Allocations have been reserved for and not so relinquished by the Developer.

On January 1st of the first calendar year after the Developer gives the Development Notice, the City shall reserve for the Developer (x) if the City has not reserved any Initial Option 2 Allocations, twenty (20) Allocations (which shall be effective for a full three-year period beginning

on such January 1st), or (y) if the City has reserved Initial Option 2 Allocations, the number of Allocations (which shall be effective for a full three-year period beginning on such January 1st) that is calculated by deducting from twenty (20) the lower of the number five (5) or the number of Initial Option 2 Allocations actually reserved by the City.

On January 1st of the second calendar year after the Developer gives the Development Notice, and on each January 1st thereafter for the next four (4) calendar years until such time as a total of seventy (70) Allocations have been reserved for and not relinquished by the Developer, the City shall reserve for the Developer fifteen (15) Allocations (which shall be effective for a full three-year period beginning on such January 1st), or such lesser number of such Allocations as is required for the City to have reserved for the Developer a total of seventy (70) such Allocations that have not been relinquished.

(b) Additional Allocations. Nothing in this Section 4 is intended to preclude or limit, or shall be construed as precluding or limiting, the Developer's right to seek allocations under the GMP (whether Type A Allocations or Type B Allocations) in addition to the Guaranteed Allocations to the extent such additional allocations are otherwise available. The City agrees that, to the extent there are available but uncommitted or unused Type A or Type B allocations under the GMP at the end of any calendar year after the Developer gives the Development Notice and before the City has reserved a total of seventy (70) allocations for the Developer pursuant to this Section 4 that have not been relinquished by the Developer pursuant to Section 4(e), below, such available but uncommitted or unused allocations shall be made available for the Residences as "**Additional Allocations**" (which may include Type A Allocations) upon written request of the Developer to the extent that allocations which are otherwise available may expire or be forfeited. As for any allocations that are uncommitted at the end of any calendar year, but are not at risk of expiring or being forfeited, the Developer may request any such uncommitted allocations during any subsequent year. Upon receipt of such request from the Developer, the City shall use reasonable efforts, in good faith, to make such uncommitted allocations available to the Developer.

(c) Carryover. To the extent that Allocations actually issued during a given calendar year are less than the aggregate number of Guaranteed Allocations (and any Additional Allocations that may then be allocated to the Residences), the Guaranteed Allocations and Additional Allocations for which such permits have not been issued shall, to the maximum extent permitted by the GMP, be carried forward and made available for the Residences during the next calendar year(s) in addition to any new Guaranteed Allocations or Additional Allocations to be made available for the Residences pursuant to Sections 4(a) and 4(b) above during such next calendar year(s).

(d) Transfer. The Developer shall have, to the maximum extent permitted by the GMP, the right to transfer or assign any Guaranteed Allocations allocated to and then available for the Residences in connection with the sale, transfer or other conveyance of any lot(s) and/or unit(s) in the Residential Parcels; provided, however, that the Developer shall provide written

notice of any such transfer, assignment or other conveyance to the City's Planning Director at least 30 days prior to such transfer or assignment. The Developer shall have, to the maximum extent permitted by the GMP and with the prior written consent of the City's Planning Director (which consent shall not be unreasonably withheld), the right to transfer or assign any Additional Allocations allocated to and then available for the Residences in connection with the sale, transfer or other conveyance of any lot(s) and/or unit(s) in the Residential Parcels; provided, however, that the Developer shall provide written notice of any such transfer or assignment to the City's Planning Director within 30 days after such transfer or assignment. The Developer, or any transferee or assignee in any transfer or assignment permitted by this Section 4, shall have 36 months from the date on which a Guaranteed Allocation or Additional Allocation was made available to commence construction of the related Residence. In the event construction of such Residence is not commenced within such 36 month period, then the related allocation shall expire and be of no further force and effect.

(e) Relinquishment of Guaranteed Allocations. The Developer, or any transferee or assignee in any transfer or assignment of a given Guaranteed Allocation or Additional Allocation (each, an "Allocation") permitted by this Section 4 (each, an "**Allocation Holder**") may relinquish and release to the City any such Allocation for which a building permit has not then been issued as follows:

- (i) Guaranteed Allocations - Option 1. If the Guaranteed Allocation was reserved under Option 1, then the Allocation Holder may, on or before July 1st of the second year after such Guaranteed Allocation initially became effective, give written notice to the City that the Allocation Holder relinquishes such Guaranteed Allocation, after which notice the Allocation Holder shall have no right in or to such Guaranteed Allocation. If the Allocation Holder for a given Guaranteed Allocation reserved under Option 1 does not give such written notice before such July 1st, then such Allocation Holder shall retain such Guaranteed Allocation, in which event such Guaranteed Allocation shall, for all purposes under the Development Agreement (including without limitation this Exhibit B), be deemed and considered a Allocation reserved for the Developer that has not been relinquished by the Developer pursuant to this Section 4(e).

If the Allocation Holder timely gives such notice with respect to such a Guaranteed Allocation reserved under Option 1, then the City shall thereafter reserve for the Developer a substitute Guaranteed Allocation (which shall have a term of three years) on the first January 1st on which the City is not otherwise reserving for the Developer at least ten (10) Guaranteed Allocations pursuant to the last paragraph of subsection (i) of Section 4(a) above.

- (ii) Guaranteed Allocations - Option 2. If the Guaranteed Allocation was reserved under Option 2, then the Allocation Holder may, with respect and only with respect to any Guaranteed Obligation reserved by the City for the Developer on or before the sixth January 1st after the date of the

Development Notice, give written notice to the City, on or before July 1st of the second year after such Guaranteed Allocation initially became effective, that the Allocation Holder relinquishes such Guaranteed Allocation, after which notice the Allocation Holder shall have no right in or to such Guaranteed Allocation. If the Allocation Holder for a given Guaranteed Allocation reserved under Option 2 does not give such written notice before such July 1st, then such Allocation Holder shall retain such Guaranteed Allocation, in which event such Guaranteed Allocation shall, for all purposes under the Development Agreement (including without limitation this Exhibit B), be deemed and considered a Allocation reserved for the Developer that has not been relinquished by the Developer pursuant to this Section 4(e).

If the Allocation Holder timely gives such notice with respect to such a Guaranteed Allocation, then the City shall thereafter reserve for Developer a substitute Guaranteed Allocation (which shall have a term of three years) on the first January 1st on which the City is not otherwise reserving for the Developer at least fifteen (15) Guaranteed Allocations pursuant to the last paragraph of subsection (ii) of Section 4(a) above.

- (iii) Additional Allocations. An Allocation Holder may give written notice to the City, on or before July 1st of the second year after a given Additional Allocation initially became effective, that the Allocation Holder relinquishes such Additional Allocation, after which notice the Allocation Holder shall have no right in or to such Additional Allocation. If the Allocation Holder for a given Additional Allocation does not give such written notice before such July 1st, then such Allocation Holder shall retain such Additional Allocation, in which event such Allocation shall, for all purposes under the Development Agreement (including without limitation this Exhibit B), be deemed and considered a Allocation reserved for the Developer that has not been relinquished by the Developer pursuant to this Section 4(e).

In addition, if the Developer, pursuant to this Section 4(e), timely relinquishes a given Allocation, the Developer shall thereafter have the priority for an additional GMP allocation having a term of three years (to replace the relinquished Allocation) which priority shall be the same as the priority that the party who accepted the relinquished Allocation had immediately before such party accepted such relinquished Allocation. For example, if the party that accepted the relinquished Allocation was first in the “waiting line” for GMP allocations (or otherwise had, immediately prior to such party’s receipt of such relinquished Allocation, first priority for the next available GMP allocation), then the Developer shall, upon acceptance of such relinquished Allocation by such party, have such party’s place in such “waiting line” for GMP allocations (or otherwise have the first priority for the next GMP allocation that becomes available for allocation), and any allocation given to the Developer pursuant to this paragraph shall be in addition to any Guaranteed Allocations required by this Exhibit B, and shall be considered an Allocation reserved for the Developer for the purposes of determining whether seventy (70)

Allocations have then been reserved by the City for the Developer and not relinquished by the Developer pursuant to this Section 4(e).

(f) Application of Allocations. Each building permit for a Residence shall be issued pursuant to the City's Policy and Procedures governing the GMP, dated February 19, 2008, as such policy and procedures may be from time-to-time amended by the City; provided that any such amendment shall not be applied to any Allocation Holder in a manner that deprives such Allocation Holder of any material right or other benefit under the Development Agreement (including without limitation this Exhibit B).

(g) Foundation-only Permits. The Developer may, upon compliance with the City's normal requirements relating to "foundation-only" permits and following the City's issuance of a foundation-only permit for a given Residence in accordance with the City's normal policies and procedures, construct the foundation (and related infrastructure covered by such foundation-only permit) for such Residence prior to obtaining a GMP allocation for such Residence; provided, however, that the Developer shall not commence work on any portion of such Residence other than that permitted by such foundation-only permit unless and until the Developer has obtained a GMP allocation and a building permit for such Residence. The issuance of a foundation-only permit by the City shall not grant or vest any right to perform any work or construct any improvements or structures other than or beyond what is expressly covered in the foundation-only permit. The Developer knowingly and willingly assumes all risks associated with the City's issuance of a foundation-only permit.

5. Fees and Costs. The Developer shall pay the following fees, including applicable development impact fees and infrastructure capacity fees, and reimburse the City for the following costs and expenses incurred by the City in connection with the development of the Project:

(a) Development Fees for Resort. The Developer shall pay for the Resort prior to the issuance of a building permit therefor, the following as payment for the fees, deposits and charges described in the City's Development Fees, Deposits and Charges Non-Residential Property (Commercial & Industrial) schedule as updated in April 2008 (as may from time-to-time be updated by the City, the "**City Commercial Fee Schedule**"):

- (i) In lieu of the use permit and major design review fees for the Resort as described in Section A of the City Commercial Fee Schedule, the Developer shall reimburse the City for the costs and expenses it incurs in processing use permits and design reviews for the Resort in the manner described in Section 5(d) below.
- (ii) In lieu of the planning department building plan check fees for the Resort as described in the Section B of the City Commercial Fee Schedule, the Developer shall (x) shall reimburse the City for the costs and expenses it incurs in processing and completing building permit plan review and related inspections in the manner described in Section 5(d) below; and (y) pay for geotechnical review (to the extent applicable) the amount required by the City Commercial Fee Schedule.

- (iii) In lieu of the fire department plan check fees for the Resort as described in Section C of the City Commercial Fee Schedule, the Developer shall reimburse the City for the costs and expenses it incurs in completing such fire department plan checks in the manner described in Section 5(d) below.
- (iv) In lieu of the public works department plan check deposits for the Resort as described in Section D of the City Commercial Fee Schedule, the Developer shall reimburse the City for the costs and expenses it incurs in completing such public works department plan checks in the manner described in Section 5(d) below.
- (v) The Developer shall pay the water system, sewer system and streets and traffic controls infrastructure capacity charges for the Resort as described in Section E of the City Commercial Fee Schedule; provided, however, that the charges so paid for the water system and the sewer system shall be estimated charges (collectively, the “**Estimated Infrastructure Capacity Charges**”). In accordance with the requirements of applicable City ordinances and policies, the City shall, after the Resort has been open for business four years, recalculate such water and sewer infrastructure capacity charges (the “**Actual Infrastructure Capacity Charges**”) for the Resort based on the actual water consumed by or at the Resort. If the Estimated Infrastructure Capacity Charges are less than the Actual Infrastructure Capacity Charges, the Developer shall pay to the City, within 30 days after Developer’s receipt of City’s recalculation, the amount by which the Estimated Infrastructure Capacity Charges are less than the Actual Infrastructure Capacity Charges. If the Estimated Infrastructure Charges are more than the Actual Infrastructure Capacity Charges, the Developer shall be entitled to a credit against future City fees and charges for the Resort and/or Residences in the aggregate amount by which the Estimated Infrastructure Capacity Charges are more than the Actual Infrastructure Capacity Charges. Developer shall also pay fees for streets and traffic controls required in the FEIR and any fees imposed by the County of Sonoma for traffic improvements located outside of the unincorporated area of the City.
- (vi) The Developer shall pay the storm drain system infrastructure capacity charges for the Resort as described in Section E of the City Commercial Fee Schedule for each square foot of “hard surface” (as described in the City’s Commercial Fee Schedule) that drains into the City’s storm drain system. Developer acknowledges that the Developer’s indemnification of the City as set forth in Section 22 of the Development Agreement shall apply to any third party claim that is based on the Developer’s design or construction of any portion of the Project in a manner that provides for the drainage of such “hard surface” to other than in the City’s storm drain system.

- (vii) The “Park System” infrastructure capacity charges for the Resort as set forth in Section E of the City Commercial Fee Schedule shall be deemed paid and satisfied by the Developer’s conveyance of the Public Park Land to the City pursuant to Section 10 below.
- (viii) The Developer shall pay the electrical development impact fees for the Resort as described in Section F of the City Commercial Fee Schedule in the amounts required by the City Commercial Fee Schedule.
- (ix) The Fire Department development impact fees for the Resort as set forth in Section G of the City Commercial Fee Schedule shall be deemed paid and satisfied by the Developer’s conveyance of the Fire Substation Land to the City pursuant to Section 11 below.
- (x) The Developer shall pay the school district fees for the Resort as described in Section H of the City Commercial Fee Schedule in the amounts required by the City Commercial Fee Schedule.
- (xi) The Developer shall pay the public works encroachment permit fees and deposits for the Resort as described in Section I of the City Commercial Fee Schedule in the amounts required by the City Commercial Fee Schedule.

(b) Development Fees for Residences. The Developer shall pay for each Residence prior to the issuance of a building permit therefor, the following as payment for the fees, deposits and charges described in the City’s Development Fees, Deposits and Charges Single Family Residential Dwelling Unit schedule as updated in April 2008 (as may from time-to-time be updated by the City, the “**City Residential Fee Schedule**”):

- (i) In lieu of the use permit and major design review fees for such Residence as described in Section A of the City Residential Fee, the Developer shall reimburse the City for the costs and expenses it incurs in processing use permits and design reviews in the manner described in Section 5(d) below.
- (ii) The Developer shall pay the growth management allocation fee for such Residence as described in Section A of the City Residential Fee Schedule in the amount required by the City Residential Fee Schedule.
- (iii) In lieu of the planning department building plan check fees for such Residence as described in the Section B of the City Commercial Fee Schedule, the Developer shall (x) shall reimburse the City for the costs and expenses it incurs in processing and completing building permit plan review and related inspections in the manner described in Section 5(d) below; and (y) pay for geotechnical review (to the extent applicable) the amount required by the City Residential Fee Schedule.

- (iv) In lieu of the fire department plan check fees for such Residence as described in Section C of the City Residential Fee Schedule, the Developer shall reimburse the City for the costs and expenses it incurs in completing such fire department plan checks in the manner described in Section 5(d) below.
- (v) In lieu of the public works department plan check deposits for such Residence as described in Section D of the City Residential Fee Schedule, the Developer shall reimburse the City for the costs and expenses it incurs in completing such public works department plan checks in the manner described in Section 5(d) below.
- (vi) The “In Lieu Housing Fees” for such Residence as set forth in Section E of the City Residential Fee Schedule shall be deemed paid and satisfied by the Developer’s conveyance of the Affordable Housing Land to the City pursuant to Section 7 below.
- (vii) The Developer shall pay the water system, sewer system, streets and traffic controls and storm drainage system infrastructure capacity charges for such Residence as described in Section F of the City Residential Fee Schedule in the amounts required by the City Residential Fee Schedule. Developer shall also pay fees for streets and traffic controls required in the FEIR and any fees imposed by the County of Sonoma for traffic improvements located outside of the unincorporated area of the City.
- (viii) The “Park System” infrastructure capacity charges for such Residence as set forth in Section F of the City Residential Fee Schedule shall be deemed paid and satisfied by the Developer’s conveyance of the Public Park Land to the City pursuant to Section 10 below.
- (ix) The Developer shall pay the electrical development impact fees for such Residence as described in Section G of the City Residential Fee Schedule in the amounts required by the City Residential Fee Schedule.
- (x) The “Fire System” development impact fees for the Resort as set forth in Section H of the City Residential Fee Schedule shall be deemed paid and satisfied by the Developer’s conveyance of the Fire Substation Land to the City pursuant to Section 11 below.
- (xi) The Developer shall pay the school district fees for such Residence as described in Section I of the City Residential Fee Schedule in the amounts required by the City Residential Fee Schedule.
- (xii) The Developer shall pay the public works encroachment permit fees and deposits for such Residence as described in Section J of the City Residential Fee Schedule in the amounts required by the City Residential Fee Schedule.

(c) Annexation Fees. The Developer shall pay annexation fees for the Property in accordance with the City Annexation Fee Schedule pursuant to Section 17A-40 of City's Municipal Code, except as follows:

- (i) Affordable Housing Land, Public Park Land, Fire Substation Land and Pump Station Land. The Developer shall not pay any annexation fees for the Affordable Housing Land, the Public Park Land, the Fire Substation Land or the Pump Station Land.
- (ii) Agricultural Reserve Land. Developer shall not pay any annexation fees for the Agricultural Reserve Land (as defined in Section 19(vii) below); provided, however, that the first party that makes application for the development of any portion of such Agricultural Reserve Land (whether the Developer or any other owner of any portion of such Agricultural Reserve Land), shall, prior to the issuance of the first permit or other approval therefor, pay to the City the annexation fees for such Agricultural Reserve Land at such rate as is then in effect.
- (iii) Undeveloped Land. Developer shall not pay any annexation fees for the undeveloped land that is described in Exhibit B-2 attached hereto; provided, however, that the first party that makes application for the development of any portion of such undeveloped land (whether the Developer or any other owner of any portion of such undeveloped land), shall, prior to the issuance of the first permit or other approval therefor, pay to the City the annexation fees for such undeveloped land at such rate as is then in effect.

(d) Processing and Inspection Costs; Developer Deposit Account. The City and the Developer acknowledge and agree that (i) the applicable City development impact fees and infrastructure capacity charges (collectively, the "**Development Impact Fees and Infrastructure Capacity Charges**") to be paid by the Developer for the Resort and the Residences pursuant to Sections 5(a) and 5(b) above do not include the costs and expenses that the City has incurred and will incur in processing the Developer's applications for approvals and permits, reviewing plans and making inspections of the Resort, the Residences and the infrastructure and other improvements described and/or contemplated herein, all of which costs and expenses are hereinafter referred to as "**City Processing Costs**". City Processing Costs will include both (x) out-of-pocket consultant fees, charges, costs and expenses; and (y) the costs to the City ("fully burdened", including salaries, wages and benefits) of City personnel who work on such applications and inspections. With respect to consultants, the Developer shall reimburse the City for the actual, out-of-pocket consultant fees, charges, costs and expenses incurred by the City with respect to the processing of such applications and the related inspections, plus a twenty percent (20%) administrative surcharge to cover the City's costs in processing applications for payment and payments to consultants and requests to the Developer for reimbursements of such consultant costs. With respect to City personnel, the Developer shall reimburse the City for the actual costs (on an hourly basis) of such personnel ("fully burdened", including salaries, wages

and benefits) incurred by the City for the hours spent by City personnel processing such building permit applications and making such related inspections.

Prior to engaging any such consultant, the City and the Developer shall meet and confer regarding the qualifications and charges of such consultant and the scope of work to be performed by such consultant. Based on such charges and scope, the City and the Developer shall establish a budget, reasonably acceptable to each of the City and the Developer, for the work to be performed by each such consultant (including any costs and expenses to be charged by such consultant to the City). Such budget shall serve as a limit or "cap" on the amount of the fees, charges, costs and expenses of such consultant to be reimbursed by the Developer to the City pursuant to this Section 5(d), unless the Developer agrees in writing to reimburse the City for additional fees, charges, costs and/or expenses of such consultant prior to the City incurring such additional fees, charges, costs and/or expenses.

In lieu and instead of the City's normal building permit application and inspection fees, the Developer shall pay to and reimburse the City for the City Processing Costs incurred by the City with respect to such applications and inspections. Such City Processing Costs shall be charged to the Developer on a "time and materials" basis.

Developer acknowledges that the nature of the Resort and the Residences, as well as the anticipated timing of City processing and inspection activities likely to be requested by the Developer with respect to the Resort and Residences, are such that the Application Processing and Inspection Costs may include costs and expenses for the expedited processing of building permit applications and related inspections requested by the Developer as described in Section 20 below.

The City shall maintain, in a reasonable manner, records evidencing (with reasonable itemization and supporting documentation) the actual fees, charges, costs and expenses incurred by the City (with respect to both consultants and City personnel) in processing such applications and making such inspections, and shall make such records (including such itemization and supporting documentation) available for review by the Developer on a monthly basis during the City's normal business hours and following reasonable notice by the Developer.

The Developer has established and shall hereafter maintain, on deposit with the City, a "**Developer Deposit Account**", the proceeds of which are to be used to reimburse the City for City Processing Costs as and when such reimbursements become due and payable.

Upon execution of the Development Agreement by the City, the Developer shall deposit into the Developer Deposit Account the amount required to bring the then balance of the Developer Deposit Account to Fifty Thousand Dollars (\$50,000). Thereafter, the Developer shall, from time to time within ten (10) days after its receipt from the City of a written notice stating that the then unapplied balance in the Developer Deposit Account is less than Five Thousand Dollars (\$5,000), deposit into the Developer Deposit Account funds in an amount (as stated in the City's notice) sufficient to bring the balance of the Developer Deposit Account to Fifty Thousand Dollars (\$50,000). In the event that Developer does not deposit additional funds into the Developer Deposit Account following proper notice from the City as described herein,

neither City nor City's Consultants shall be obligated to continue performing services as contemplated herein until such additional funds are deposited by Developer.

City shall provide to Developer, within thirty (30) days of receipt of a written request from the Developer, an itemization of the amounts withdrawn by the City from the Developer Deposit Account and applied to reimburse the City for the costs and expenses incurred by the City during the period described in the Developer's request as City Processing Costs.

If, after the issuance of final certificates of occupancy for the Resort (and all components thereof) and all of the Residences, and the reimbursement to the City of all City Processing Costs incurred by the City with respect thereto, there remain any funds in the Developer Deposit Account, the City shall promptly return such funds to the Developer.

The City acknowledges that the Developer's construction schedule may be such that the Developer may decide to install and complete the foundation(s) for Resort and/or certain Residence buildings before the Developer completes the final construction drawings (and therefore is able to make application for a full building permit) for one or more of such buildings; provided that City-approved fire protection services are, or will prior to the start of any work be, available to the area where such buildings will be located. Accordingly, the Developer may, in its discretion, apply for "foundation only" permits for one or more of such buildings, and the City shall process and grant any such application in accordance with its normal processing procedures, including a requirement for City-approved water supply and pressure for fire suppression purposes. In the event the Developer receives a foundation-only permit for any such building, the Developer shall not commence any construction on or of such building other than that permitted by such foundation-only permit without first applying for and obtaining a building permit that provides for construction of the remainder of such building.

(e) State Strong Motion Instrumentation and Seismic Mapping Fee. The Developer acknowledges that the City is required by the Public Resources Code, Sections 2700 -2709.1 to collect with respect to the Project and forward to the State of California the "Strong Motion Instrumentation and Seismic Mapping Fees" for the Project, and that such fees are to be calculated, based on valuation(s) for the Project, in the manner required by the State of California. Such fees will be calculated on a valuation basis using the Building Valuation Data provided in the April 2002 Building Standards, using both the applicable cost of living increase and the "San Francisco Bay Area Modifier" (collectively the "**Valuation Method**"), but the City makes no representation or warranty that the use of the Valuation Method for the purposes of calculating such fees complies with the requirements of such sections of the Public Resources Code. In the event the State of California adjusts or changes the amount of such fees (including any change based on the assertion the City's calculation of such fees using the Valuation Method was not proper or accurate), then the Developer shall (i) have the right, to the extent permitted by the State of California, to challenge such adjustment or change in a manner that does not subject the City to any fine, penalty or other adverse consequence, and (ii) pay the final amount of any such adjustment or change.

6. Trails.

(a) Private Trails. The Developer shall, as part of the construction of the Resort and at the Developer's sole cost and expense, design and construct private pedestrian trails (collectively, the "**Private Trails**") in the approximate locations for private trails shown on the public and private trail map attached hereto as Exhibit B-3. The exact locations of the Private Trails shall be (i) generally consistent with the approximate locations shown on Exhibit B-3 attached hereto, (ii) determined based on consideration of topography, drainage, existing vegetation and other physical constraints, and (iii) shown in the final plans and specifications therefor as approved by the City. The Private Trails shall be designed and constructed in substantially in accordance with the conceptual standards for private trails set forth on Exhibit B-4 attached hereto, and shall be posted with signs stating that the Private Trails will be open to public pedestrian use during daylight hours subject to the rules and regulations contemplated by this Section 6(a). The final designs for the Private Trails shall be (i) generally consistent with the conceptual standards shown on Exhibit B-4 attached hereto, (ii) based on consideration of topography, drainage, existing vegetation and other physical constraints, and (iii) shown in the final plans and specifications for the Private Trails as approved by the City. The Developer shall cause the Private Trails to be completed and open for use not later than the opening of the Resort for business, and shall have the right to keep the Private Trails closed for purposes of public safety during the course of construction activity at the Resort.

Title to and ownership of the Private Trails shall remain with the owner(s) of the underlying land, and the City shall not have any easement, license or other interest therein, other than the right to enforce, pursuant to the provisions of the CCRs (as defined in Section 19 below), the requirement that the Private Trails be open to public pedestrian use during daylight hours as described in the immediately following paragraph. The owner of the land underlying any portion of the Private Trails shall be responsible for the maintenance, repair and replacement of such portion of the Private Trails; provided, however, that such owner shall have the right to delegate such maintenance, repair and replacement to any other owner of land underlying any portion of the Private Trails, or to any owner or similar association created by the CCRs.

The Private Trails shall be open to public pedestrian use during daylight hours, subject to such reasonable rules and regulations regarding the use thereof that are applicable to all users thereof as may from time-to-time be adopted by the owner or owners of the land underlying the Private Trails or by any owner or similar association created by the CCRs responsible for the maintenance and repair of the Private Trails. Such rules and regulations may include, among other things, the right to (i) deny use of the Private Trails to any person that engages or threatens to engage in activities thereon that may endanger any person or property or disrupt the peaceful use of the Private Trails and surrounding lands by the owners, occupants and other users thereof, and (ii) temporarily close or restrict the use of the Private Trails (or any portion thereof) for maintenance, repair, replacement, fire, landslide or flood danger or other potentially hazardous or unsafe condition for such periods as are reasonably required for safety purposes or to complete maintenance, repair and/or replacement work. The CCRs shall include provisions (1) stating the requirement described in the first sentence of this paragraph in a manner that is reasonably acceptable to the City, and (2) requiring the prior written consent of City before the CCRs are

modified or amended to restrict or eliminate public pedestrian access over the Private Trails at times, or in a manner, not consistent with this Exhibit B.

(b) Public Trails. The Developer shall, at the Developer's sole cost and expense, design and construct public pedestrian trails (collectively, the "**Public Trails**") in the approximate locations for public trails shown on the public and private trail map attached hereto as Exhibit B-3. The exact locations of the Public Trails shall be (i) generally consistent with the approximate locations shown on Exhibit B-3 attached hereto, (ii) determined based on consideration of topography, drainage, existing vegetation and other physical constraints, and (iii) shown in the final plans and specifications therefor as approved by the City. The Public Trails shall be designed and constructed in accordance with the Area Plan and the standards for public trails set forth on Exhibit B-4 attached hereto, and shall be posted with signs stating that the Public Trails will be open to public pedestrian use subject to the City's rules and regulations relating to public trails. The final designs for the Public Trails shall be (i) generally consistent with the conceptual standards shown on Exhibit B-4 attached hereto, (ii) based on consideration of topography, drainage, existing vegetation and other physical constraints, and (iii) shown in the final plans and specifications for the Public Trails as approved by the City. The Developer shall cause the Public Trails to be completed and open for use not later than the opening of the Public Park, and shall have the right to keep the Public Trails closed for purposes of public safety during the course of construction activity at the Resort, or intermittently during construction of the Residences if, and for so long as, safety concerns warrant closure.

Pursuant to City's acceptance of the Affordable Housing Land, the Public Park Land and the Pump Station Land, the City will acquire fee title to the portions of the Public Trails that are on the Affordable Housing Land, the Public Park Land and the Pump Station Land. In the event the City so acquires title to the Affordable Housing Land and/or the Public Park Land and/or the Pump Station Land before the Developer has completed the Public Trails thereon, the Developer's obligation to complete the Public Trails thereon shall survive the conveyance of the Affordable Housing Land and/or the Public Park Land and/or the Pump Station Land to the City, and the Developer and its agents and contractors shall have (and are hereby granted) the license and right to thereafter enter on the Affordable Housing Land and/or the Public Park Land and/or the Pump Station Land, as applicable, to complete such construction.

The Developer intends to submit to the City, within 3 months after the date on which the Developer gives the Development Notice (the "Notice Date"), a complete application for the City's approval of a bulk parcel final map (the "**First Final Map**") establishing separate legal parcels for Parcels 1, 2A, 2B, 2C, 2D, 3A, 3B, 3C, 4A, 4B, 5, 6, 7, 8, 9 and 10. The First Final Map shall delineate the Public Trails corridors that are to be located on portions of the Resort Parcels and the Residential Parcels, and shall include both an offer to dedicate to the City an easement for the use of the Public Trails corridors shown thereon for public trails, and an acceptance of such offer of dedication that complies with applicable law. The City agrees to accept any such offer of dedication that is made in compliance with applicable law and the provisions of the Development Agreement at such time as (i) the City approves the First Final Map (if such Public Trails are then completed), or (ii) such Public Trails are completed in accordance with the Subdivision Improvement Agreement for the First Final Map (if such Public Trails are not completed when such final map is approved).

From and after the date on which the Public Trails are completed, and accepted and opened for public use by the City, but subject to the Developer's obligation as stated in Section 15 below to reimburse the City for certain Public Trail maintenance expenses, the City shall maintain and repair the Public Trails (or cause the Public Trails to be maintained and repaired by a third party selected by the City). The City shall cause any such maintenance and repair to be performed in accordance with the City's normal maintenance and repair policies and procedures and only during such hours and in such manner as complies with the City's then applicable noise ordinances for areas zoned for single-family use. Except in the case of an emergency or other unusual circumstance that precludes giving such notice, the City shall give at least twenty-four (24) hours' oral notice of such maintenance or repair to such representative of the Resort having a telephone number in Sonoma County as may from time-to-time be designated in writing by the owner or operator of the Resort to the City. The Developer and the City agree that the City shall not open the Public Trails for public use until the Public Park is completed and opened for public use, even if the Public Trails are completed by the Developer prior to the completion and/or opening of the Public Park for public use.

7. Affordable Housing Land Grading, Infrastructure and Conveyance. The Developer shall submit final mass grading plans for the Affordable Housing Land (consistent with the conceptual mass grading plans attached hereto as Exhibit B-5) to the City within 3 months after the Notice Date. Following the City's approval of such plans, the Developer shall, at the Developer's sole cost and expense, (i) grade the Affordable Housing Land in accordance with such mass grading plans; (ii) install to or at the boundary of each of Parcel 5 and Parcel 6 (in the public right-of-way to be constructed along such boundaries) a twelve inch (12") water main, an eight inch (8") sewer main, and joint trench improvements for gas, electricity, communications and cable television services, all in accordance with applicable City Public Works Department and Electric Department standards; and (iii) complete the Wetlands Mitigation (which includes mitigation of existing wetlands on the Affordable Housing Land). The Developer shall, prior to the commencement of the work described in the immediately preceding sentence, provide to the City, in a form and amount reasonably acceptable to the City, a bond (or other security reasonably acceptable to the City) securing the Developer's completion of such work and naming the City as obligee. The parties hereto acknowledge and agree that (i) the Wetlands Mitigation will require that the Developer install and cause to be established replacement wetlands (for the wetlands to be removed from the Affordable Housing Land) on the Public Park Land and the City land described in Section 1(c) above before the Developer removes any wetlands from, or does any grading work on, that portion of the Affordable Housing Land that contains existing wetlands; (ii) that the establishment of such replacement wetlands will require that such replacement wetlands not only be installed, but also be given one growing season to "grow-in"; and (iii) the mass grading of the portion of the Affordable Housing Land that contains existing wetlands, as contemplated by Exhibit B-5 attached hereto, cannot be commenced until after such replacement wetlands have been so established for one growing season. The parties further acknowledge and agree that the Wetlands Mitigation cannot commence until all permits and approvals required therefor have been obtained and are in full force and effect.

The Developer, shall, within 20 days after the recording of the First Final Map and at the Developer's sole cost and expense, obtain from the Title Company and provide to the City a title report in favor of the City relating to the Affordable Housing Land. Such title report shall show

title to the Affordable Housing Land in the Developer, with the Affordable Housing Land not being subject to any monetary encumbrance that cannot be satisfied and discharged by the payment of money, or any easement, restriction, condition or covenant that would preclude the use of the Affordable Housing Land for the purposes described in and contemplated by the Development Agreement.

The City shall cause such title report to be, in the City's reasonable discretion, reviewed and approved or disapproved, and a written notice of approval or disapproval to be given to the Developer within 15 business days after the City's receipt of such title report. Any notice of disapproval shall state the reasons for the City's disapproval. Any failure by the City to give written notice of approval or disapproval shall be deemed to be a notice of approval.

If the City disapproves any title report submitted to the City pursuant to this Section 7, the Developer shall have the right to either (x) take action to resolve the City's objections regarding title to the Affordable Housing Land and then submit a revised title report to the City for review and approval pursuant to this Section 7, or (y) submit the issue of the reasonability of the City's disapproval to a mutually acceptable local title officer for review and a recommendation regarding the City's disapproval of said report.

The Developer shall, within 10 days after the recording of the First Final Map (which when recorded will establish the Affordable Housing Land as separate legal parcels that can be legally conveyed to the City), deliver to the Title Company, to be held in escrow pursuant to escrow instructions reasonably satisfactory to the City, the Title Company and the Developer (the "**Affordable Housing Land Title Instructions**"), a deed (the "**Affordable Housing Land Deed**") in the form attached hereto as Exhibit B-6, executed and acknowledged by the Developer, by which the Developer conveys title to the Affordable Housing Land to the City (subject only to easements, restrictions, covenants and conditions permitted by this Section 7).

The Developer intends to submit to the City, within 12 months after the Notice Date, a complete application for the City's approval of a final map (the "**Third Final Map**") for Parcels 2A, 2B, 2C and 2D, thereby creating the residential lots and related common areas and private roadway parcels shown thereon. The Affordable Housing Land Title Instructions shall provide that the Affordable Housing Land Deed shall be delivered and released to the City within 10 days after the Title Company's receipt of a statement, signed by the Developer and the City, stating that either:

(x) the Developer has submitted to the City a complete application for approval of the Third Final Map within 12 months after the Notice Date, that (i) the City has approved the Third Final Map, and (ii) the Developer has completed the replacement wetlands described above (including the one growing season "grow-in") and the grading on and the infrastructure for the Affordable Housing Land (all as described in this Section 7); or

(y) the Developer has not submitted to the City a complete application for approval of the Third Final Map within 12 months after the Notice Date, that the Developer has completed the replacement wetlands described above and the grading on and the infrastructure for the Affordable Housing Land (as described in this Section 7).

The Developer shall, at its sole cost and expense, cause the Title Company to deliver to the City when the Affordable Housing Land Deed is delivered and released to the City an owner's title insurance policy in the amount of \$7,150,000.00, issued by the Title Company, subject only to (x) the exceptions listed in the title report approved by the City pursuant to this Section 7; (y) any easement, restriction, condition or covenant recorded after the Effective Date with the prior consent of the City (which consent shall not be unreasonably withheld); and (z) the restrictions -set forth in the Affordable Housing Land Deed.

8. City Reimbursement for Affordable Housing Land Infrastructure Costs. As a condition to the Developer's delivery to the City of the Affordable Housing Land Deed, the City shall reimburse the Developer, on a monthly basis and within 20 days after receipt from the Developer of an invoice therefor (accompanied by reasonable supporting documentation of the costs and expenses listed on each invoice), for the actual, out-of-pocket costs and expenses, including any permit processing and related inspection fees, costs and expenses, that the Developer incurs in designing and installing the infrastructure for the Affordable Housing Land described in Section 7 above; provided, however, that the City's reimbursement obligation under this Section 8 for such infrastructure shall not exceed (and is limited to the maximum amount of) \$1,000,000. The Developer shall obtain separate bids for the construction of such infrastructure, and the City's reimbursement obligation shall be based on actual expenditures made by Developer for such construction.

9. Development of Affordable Housing Land. The Parties intend that, after the Developer's conveyance of the Affordable Housing Land to the City pursuant to Section 7 above, the City will arrange for the Affordable Housing Land to be developed as attached and/or detached housing to be made available as affordable housing in accordance with qualification standards established by the City in compliance with applicable law, and the City intends to provide (or make arrangements for the provision of) financial assistance if and in such manner as the City deems appropriate. The City shall have the right to, prior to such conveyance, undertake and complete such planning and design work related to the Affordable Housing Land as the City deems appropriate; provided, however, that no such work shall (i) cause any lien or encumbrance to be placed on the Affordable Housing Land, or (ii) interfere with any of the Developer's work on the Affordable Housing Land to be competed hereunder prior to such conveyance.

The Parties agree that the City shall be responsible, at its sole cost and expense, for making arrangements for both the development and construction of such affordable housing, and the provision of such financial assistance as the City deems appropriate.

In addition, the City shall make arrangements for a site development analysis ("**Site Analysis**") for such affordable housing that will (i) provide an assessment of the affordable opportunities and constraints of the Affordable Housing Land for the purpose of assisting the City in determining the nature, density and related characteristics of the affordable housing to be developed on the Affordable Housing Land, and (ii) provide for a fixed price, not to exceed Fifty Thousand Dollars (\$50,000), as compensation for the preparation of such Site Analysis. The Developer shall reimburse the City for (or at the request of the City pay directly) the amount of such fixed price (which reimbursement obligation shall not exceed Fifty Thousand Dollars (\$50,000)). The City agrees to consider in good faith any recommendations and suggestions

made in such Site Analysis in making the determination of the nature, density and related characteristics of such affordable housing. The City may, at its expense and at any time after the execution of the Development Agreement and prior to the conveyance thereof to the City as contemplated herein, take such actions as the City deems appropriate relating to the evaluation, analysis, planning and design of such affordable housing; provided, however, that the City shall obtain the prior written consent of the Developer to any entry by the City onto the Affordable Housing Land prior to the conveyance thereof to the City, which consent shall not be unreasonably withheld and may be conditioned on the City's compliance with reasonable conditions (such as, but not limited to, taking action to not interfere with any grading or other work then being performed on the Affordable Housing Land and indemnifying the Developer against any claims, demands, liabilities and damages arising out of such entry).

The City and the Developer acknowledge that it will be in the interest of both Parties that the affordable housing be architecturally compatible with the remainder of the Project and the residential uses located to the south and west of the affordable housing. Accordingly, the City shall provide to the Developer copies of site plan and exterior design documents relating to the affordable housing (including without limitation site plans, drainage and grading plans, elevations, renderings, color boards and material samples, and schematic, design development and construction plans), as they are received by the City, to enable the Developer to review such plans and make suggestions, recommendations and comments regarding the site plan for and exterior design of the affordable housing as shown by such design documents, and shall consider in good faith any suggestions, recommendations and comments regarding the site planning for and the exterior design of the affordable housing made by the Developer following its review of such design documents provided that such comments are received by the City within twenty (20) days of the City having given the Developer said plans and documents. Nothing in this Section 9 is intended to limit or otherwise restrict the review of the design of the affordable housing through the City's normal and customary public process of review and approval by the City's Planning Commission and/or the City Council.

Developer shall, within three (3) months after the Notice Date, pay to the City, to facilitate and expedite the City's analysis of, planning for and provision of the affordable housing contemplated by this Agreement, the amount of One Million Dollars (\$1,000,000) for application by the City to costs and expenses incurred by the City in the planning and analysis (including environmental analysis) for and design of, and in the seeking and obtaining of developers and/or builders for, the affordable housing to which this Section 9 refers, as well as additional or supplemental affordable housing within the city limits of Healdsburg. The City shall, from time-to-time in response to requests therefor from the Developer (which requests shall not be made by the Developer more frequently than once each calendar quarter and may be made by the Developer until such time as the City has provided responses with respect to the expenditure of such entire amount), provide evidence reasonably acceptable to the Developer that the portion of the above amount expended by the City has been spent for the purposes described in this paragraph.

In consideration of the Developer's payment to the City of such amount, the City shall, to the extent permitted by applicable law and subject to the provisions of and limitations in this Section 9, establish (x) a priority list for the initial purchasers of the affordable housing that is

built on the Affordable Housing Land and offered for sale (with a “sublist” for each applicable income category), and (y) a priority list for the renters of the affordable housing that is built on the Affordable Housing Land and offered for rent (with a “sublist” for each applicable income category), which lists shall provide priority to employees of the Resort with respect to consideration of applications by such employees to purchase or rent such affordable housing, as applicable. Each such list (and the rights of Resort employees on such lists) shall be subject to the following:

(i) The priority list for the initial purchasers of the affordable housing that is built on the Affordable Housing Parcels and offered for sale shall be maintained until 30% of the “for sale” affordable housing units built on the Affordable Housing Parcels have been conveyed to initial owner/occupants.

(ii) The priority list for the rental of the affordable housing that is built on the Affordable Housing Land and offered for rent shall be maintained so long as affordable housing units built on the Affordable Housing Land are offered for rent.

(iii) No Resort employee may be placed on either such list unless such employee first provides evidence to the City (reasonably acceptable to the City) that such person is a Resort employee, and meets all of the qualification requirements then applicable to any purchaser or renter, as applicable, of the affordable housing for which such priority list is maintained. Resort employees that are qualified for such listing shall be listed on a “first come-first listed” basis.

(iv) For so long as such a list is required by the provisions of this Section 9, the Resort employees who are on such list shall, subject to the requirements or limitations of applicable law, be given (in the order listed in the applicable income category) the first right of refusal to purchase or rent, as applicable, a given unit of such affordable housing; provided, however, that the right of first refusal to rent such a unit shall be given to a Resort employee with respect to a given unit that becomes available for rent only if, at the time such unit becomes available for rent, the percentage of the units of affordable housing on the Affordable Housing Land occupied by employees of the Resort is less than 30% of such rental units. A Resort employee who has such a right of first refusal must accept or reject the opportunity to purchase or rent, as applicable such a unit, within 15 days after receipt of a written notice from the City of such opportunity. If such employee fails to accept such opportunity in writing within such period, or does not qualify for such purchase or rental under the qualification requirements that then apply to such unit, such employee shall be removed from the applicable list; provided, however, that a Resort employee who does not qualify for such unit solely by reason of income may, at such employee’s request and in the event such employee then qualifies for another income category, be relisted in the appropriate income category.

(v) Any Resort employee who exercises such a right of first refusal shall be subject to all of the requirements of the program pursuant to which such unit is offered for sale or rent as affordable housing.

10. Public Park Land Grading and Conveyance and Development of Public Park.

(a) Mass Grading and Conveyance. The Developer shall submit complete final mass grading plans for the Public Park (consistent with the conceptual mass grading plans attached hereto as Exhibit B-7) to the City within 3 months after the Notice Date. The City shall cause the City's selected park design firm to work cooperatively with Developer and Developer's civil engineer in an effort to achieve Developer's goals for (i) "balanced" mass grading on the Public Park Land site, (ii) Developer's cost estimate for mass grading of said site, and (iii) the Project site entryway aesthetics. The Parties acknowledge and agree that it is in the best interest of the Project and the development of the Public Park Land for the mass grading on the Public Park Land to be coordinated and consistent with the design of the Public Park Land improvements. At the written request of the City, the Developer shall consider in good faith any modification to the conceptual mass grading plans attached hereto as Exhibit B-7 proposed by the City in connection with such cooperative efforts; provided, however, that the Developer shall not be required to consider any proposed modification that will (i) require the placement of more or less off-site materials on the Public Park Land than is contemplated by the conceptual mass grading plans attached hereto as Exhibit B-7 (the City hereby acknowledging that such mass grading plans provide for "balanced" mass grading work for the Project that does not require either the import or the export of material to or from the Project site). No such modification shall have any force or effect until such time, if any, as the Developer and the City agree in writing that such modification is to take the place of and supersede the conceptual mass grading plans attached hereto as Exhibit B-7.

The Developer shall, at the Developer's sole cost and expense, (i) grade the Public Park Land in accordance with the mass grading plans attached hereto as Exhibit B-7 (or such modification thereof as may be agreed to in writing by the Developer and the City pursuant to the immediately preceding paragraph); and (ii) complete the Wetlands Mitigation, partially on the Public Park Land and partially on land owned by the City and located to the southwest of the Public Park Land (parcels 091-040-062 and 091-040-105). The Developer shall, prior to the commencement of the work described in the immediately preceding sentence, provide to the City, in a form and amount reasonably acceptable to the City, a bond (or other security reasonably acceptable to the City) securing the Developer's completion of such work and naming the City as obligee.

The Developer may cause such grading to be performed, with respect to each of the phases described in Section 1(d) above, separately, the intent of the parties being that the Developer may perform grading for the phase located to the north of Foss Creek before completion of the Wetlands Mitigation (which will be only on the phase located to the south of Foss Creek).

The Developer, shall, within 20 days after the recording of the First Final Map and at the Developer's sole cost and expense, obtain from the Title Company and provide to the City a title report in favor of the City relating to the Public Park Land. Such title report shall show title to the Public Park Land in the Developer, with the Public Park Land not being subject to any monetary encumbrance that cannot be satisfied and discharged by the payment of money, or any

easement, restriction, condition or covenant that would preclude the use of the Public Park Land for the purposes described in and contemplated by the Development Agreement.

The City shall cause such title report to be, in the City's reasonable discretion, reviewed and approved or disapproved, and a written notice of approval or disapproval to be given to the Developer within 15 business days after the City's receipt of such title report. Any notice of disapproval shall state the reasons for the City's disapproval. Any failure by the City to give written notice of approval or disapproval shall be deemed to be a notice of approval.

If the City disapproves any title report submitted to the City pursuant to this Section 10(a), the Developer shall have the right to either (x) take action to resolve the City's objections regarding the title to the Public Park Land and then submit a revised title report to the City for review and approval pursuant to this Section 10(a), or (y) submit the issue of the reasonableness of the City's disapproval to a mutually acceptable local title officer for review and a non-binding recommendation regarding the City's disapproval of said report.

The Developer shall, within 10 days after the recording of the First Final Map (which when recorded will establish the Public Park Land as a separate legal parcel than can be legally conveyed to the City), deliver to the Title Company, to be held in escrow pursuant to escrow instructions reasonably satisfactory to the City, the Title Company and the Developer (the "**Public Park Land Title Instructions**"), a deed (the "**Public Park Land Deed**") in the form attached hereto as Exhibit B-8, executed and acknowledged by the Developer, by which the Developer conveys title to the Public Park Land to the City (subject only to the easements, restrictions, covenants and conditions permitted by this Section 10(a)).

The Developer intends to submit to the City, within 4 months after the Notice Date, a complete application for the City's approval of a final map (the "**Second Final Map**") for Parcels 3A, 3B, and 3C, thereby creating the residential lots and related common areas and private roadway parcels shown thereon. The Public Park Land Title Instructions shall provide that the Public Park Land Deed shall be delivered and released to the City within 10 days after the Title Company's receipt of a statement, signed by the Developer and the City, stating that either:

(x) the Developer has submitted to the City a complete application for approval of the Second Final Map and submitted a complete application for the building permit(s) for the Resort within 4 months after the Notice Date, that (i) the City has approved the Second Final Map and issued such building permit(s), (ii) the Developer has completed the mass grading on and the infrastructure for the Park Land (as described in this Section 10(a)), and (iii) the City has delivered to the Developer a copy of a resolution of the City's City Council authorizing the execution of a contract or contracts providing for the construction of the Public Park as contemplated herein, together with evidence reasonably acceptable to the Developer that any conditions to such execution set forth therein have been or will be satisfied; or

(y) the Developer has not submitted to the City a complete application for approval of the Second Final Map and submitted a complete application for the building permit(s) for the Resort within 4 months after the Notice Date, that (i) the Developer has completed the mass grading on and the infrastructure for the Park Land (as described in this Section 10(a)), and (ii)

the City has delivered to the Developer a copy of a resolution of the City's City Council authorizing the execution of a contract or contracts providing for the construction of the Public Park as contemplated herein.

The Developer shall, at its sole cost and expense, cause the Title Company to deliver to the City when the Public Park Land Deed is delivered and released to the City an owner's title insurance policy in the amount of \$6,475,000.00, issued by the Title Company, subject only to (x) the exceptions listed in the title report approved by the City pursuant to this Section 10(a); (y) any easement, restriction, condition or covenant recorded after the Effective Date with the prior consent of the City (which consent shall not be unreasonably withheld); and (z) the restrictions set forth in the Public Park Land Deed.

(b) Development of the Public Park Land. The Parties intend that, after Developer's conveyance of the Public Park Land to the City pursuant to Section 10(a) above, City will develop the Public Park Land as the Public Park (having (i) active use recreation areas; (ii) passive use recreation areas; (iii) Public Trails; (iv) existing and new wetlands; (v) a riparian zone for Foss Creek; (vi) parking areas; (vii) a pavilion area; and (viii) landscaped areas), with both the Fire Substation and the Public Park being substantially as shown in (i) the "Park Site Concept F" dated July 17, 2006 and approved by the City Council, a copy of which is attached hereto as Exhibit B-9, and (ii) the Public Park design parameters shown on Exhibit B-10 attached hereto.

The City may cause such development to be completed, with respect to each of the phases described in Section 1(d) above, separately, the intent of the parties being that the City may develop the phase located to the north of Foss Creek before completion of the Wetlands Mitigation (which will be only on the phase located to the south of Foss Creek).

The Parties agree that City shall be responsible, at its sole cost and expense to the extent the cost thereof exceeds the Developer Public Park Contribution (as defined in Section 12(b) below), for designing and constructing the Public Park in general conformity with (i) "Park Site Concept F" dated July 17, 2006, approved by the City Council, a copy of which is attached hereto as Exhibit B-9, and (ii) the Public Park design parameters shown on Exhibit B-10 attached hereto.

City acknowledges that Developer currently owns the Public Park Land and will be providing a substantial portion of the cost of designing and constructing the Public Park, and City and Developer each acknowledges that it will be in the interest of both Parties that the Public Park be architecturally compatible with the remainder of the Project and the residential uses located to the south of the Public Park. Accordingly, City shall provide to Developer copies of site plan and exterior design documents relating to the Public Park (including without limitation site plans, drainage and grading plans, elevations, renderings, color boards and material samples, and schematic, design development and construction plans), as they are received by City, to enable Developer to review such plans and make suggestions, recommendations and comments regarding the site plan for and exterior design of the Public Park as shown by such design documents, and shall consider in good faith any suggestions, recommendations and comments regarding the site planning for and the exterior design of the

Public Park made by the Developer following its review of such design documents, provided that such comments are received by the City within twenty (20) days of the City having given the Developer said plans and documents. Nothing in this Section 10(b) is intended to limit or otherwise restrict the review of the design of the Public Park through the City's normal and customary public process of review and approval by the City's Planning Commission and/or the City Council.

The City and the Developer acknowledge that the City will be constructing the Public Park while the Developer is developing and constructing the Resort, some of the Residences and the Project infrastructure, and that it will be in the interest of both of the Parties that the Public Park be completed (except for "grow-in" of plant materials) by the time the Resort is first opened for business. Accordingly, (x) the Developer shall, prior to commencement of construction of the Resort, provide to the City the Developer's schedule for the construction of the Resort, and shall keep the City advised of any material changes in such schedule, and (y) the City shall cause the design of and construction work on the Public Park to be performed pursuant to a schedule that provides for the completion of the Public Park (except for "grow-in") at approximately the same time the Resort is first opened for business (as shown by the most recent schedule for completion of the Resort provided by the Developer to the City before the City solicits bids for such contract(s)).

The City and the Developer shall each use reasonable efforts to coordinate their respective construction activities, including establishing periodic "coordination" meetings to discuss the status of their respective construction activities, as more particularly described in Section 20(d), below.

11. Fire Substation Land Grading and Conveyance and Development of Fire Substation.

(a) Mass Grading and Conveyance. The Developer shall, at the Developer's sole cost and expense, grade the Fire Substation Land in accordance with the mass grading plans attached hereto as Exhibit B-7 (or such modification thereof as may be agreed to by the Developer and the City pursuant to the provision of Section 10(a) above).

The Developer shall, not later than 20 days after the recording of the First Final Map (which when recorded will establish the Fire Substation Land as a separate legal parcel that can be legally conveyed to the City), and at the Developer's sole cost and expense, obtain from a licensed geotechnical engineer or firm and provide to the City a geotechnical report describing conditions relating to the Fire Substation Land.

The Developer, shall, within 20 days after the recording of the First Final Map and at its sole cost and expense, obtain from the Title Company and provide to the City a title report in favor of the City relating to the Fire Substation Land. Such title report shall show title to the Fire Substation Land in the Developer, with the Fire Substation Land not being subject to any monetary encumbrance that cannot be satisfied and discharged by the payment of money, or any easement, restriction, condition or covenant that would preclude the use of the Fire Substation Land for the purposes described in and contemplated by the Development Agreement.

The City shall cause such title report to be, in the City's reasonable discretion, reviewed and approved or disapproved, and a written notice of approval or disapproval to be given to the Developer within 15 business days after the City's receipt of such title report. Any notice of disapproval shall state the reasons for the City's disapproval. Any failure by the City to give written notice of approval or disapproval shall be deemed to be a notice of approval.

If the City disapproves any title report submitted to the City pursuant to this Section 11(a), the Developer shall have the right to either (x) take action to resolve the City's objections regarding title to the Fire Substation Land and then submit a revised title report to the City for review and approval pursuant to this Section 11(a), or (y) submit the issue of the reasonableness of the City's disapproval to a mutually acceptable local title officer for review and a non-binding recommendation regarding the City's disapproval of said report.

The Developer shall, within 10 days after the recording of the First Final Map deliver to the Title Company, to be held in escrow pursuant to escrow instructions reasonably satisfactory to the City, the Title Company and the Developer ("**Fire Substation Land Title Instructions**"), a deed (the "**Fire Substation Land Deed**") in the form attached hereto as Exhibit B-11, executed and acknowledged by the Developer, by which the Developer conveys the Fire Substation Land to the City (subject only to the easements, restrictions, covenants and conditions permitted by this Section 11(a)).

The Fire Substation Land Title Instructions shall provide that the Fire Substation Land Deed shall be delivered and released to the City within 10 days after the Title Company's receipt of a statement, signed by the Developer and the City, that the Developer has completed construction of the Fire Substation pursuant to Section 11(c) below and the City has accepted the same as being complete.

The Developer shall, at its sole cost and expense, cause the Title Company to deliver to the City when the Fire Substation Deed is delivered and released to the City an owner's title insurance policy in the amount of \$600,000.00, issued by the Title Company, and insuring the fee interest that the City acquires pursuant to the Fire Substation Land Deed, subject only to (w) the exceptions listed in the title report approved by the City pursuant to this Section 11(a); (x) any easement, restriction, condition or covenant recorded after the Effective Date with the prior consent of the City (which consent shall not be unreasonably withheld); (y) any mechanic's lien to the extent (and only to the extent) that such mechanic's lien relates to work for which the City is required by the provisions of this Section 11 to provide to the Developer funds to pay the costs thereof and the City has failed to provide such funds in breach of the provisions of this Section 11; and (z) the restrictions set forth in the Fire Substation Land Deed.

(b) Design. The Fire Substation shall be designed in accordance with the provisions of this Section 11(b), and such design shall be sufficient to provide to the City a fire substation that accommodates three fire fighters, a brush truck, and another vehicle and related parking. With the consent of the City, the Developer previously engaged its architect to prepare a preliminary design for the Fire Substation. Promptly after the Developer gives the Development Notice, Developer shall engage and require an architect selected by the Developer and reasonably acceptable to the City (the "Architect") to complete the design for the Fire Substation

in the manner described in this Section 11(b). Subject to the City's reimbursement obligations described in Section 12(a) below with respect to such costs and expenses, if any, as are incurred by the Developer in the development, design and construction of the Fire Substation that exceed, in the aggregate, the Developer Fire Substation Contribution (as defined in Section 12(a) below), the Developer shall pay any and all amounts due to the Architect for design work contemplated by this Section 11(b) as and when they become due and payable; provided, however, that nothing in this Section 11(b) shall preclude the Developer from pursuing any dispute resolution process with respect to any disputed amount claimed by the Architect.

The Fire Substation will be designed and constructed by the Developer while the Fire Substation Land is owned by the Developer. The City and the Developer desire that the Fire Substation be completed before the Resort is completed and open to the public, and therefore desire to provide an efficient means for promptly completing the design of the Fire Substation so that the Developer may timely begin construction thereof. The City and the Developer therefore agree to the following process for the design of the Fire Substation, and for the City's approval of such design in its proprietary capacity (as the future owner of the Fire Substation). Nothing in this Section 11(b) is intended to limit or otherwise restrict the review of the design of the Fire Substation through the City's normal and customary public process of review and approval by the City's Planning Commission and/or the City Council.

After giving the Development Notice, the Developer shall use diligent efforts to cause the Architect to complete in a diligent and prompt manner, the following:

- (i) Schematic Plans. First, proposed schematic plans for the Fire Substation (the "**Proposed Schematic Plans**"), which plans shall be based on and consistent with the description of the Fire Substation set forth above and applicable law. The Developer shall, promptly after receipt of the Proposed Schematic Plans from the Architect, submit the Proposed Schematic Plans to the City for review and approval pursuant to this Section 11(b)(i).

The City shall cause the Proposed Schematic Plans to be reviewed, and a written notice of approval or disapproval thereof to be given to the Developer within 15 business days after the City's receipt thereof. The standard for the City's review of the Proposed Schematic Plans, and for any revisions thereof submitted by the Developer pursuant to this Section 11(b)(i), shall be whether the Proposed Schematic Plans (or any such revision) are consistent with the description of the Fire Substation set forth above and applicable law, and the City shall not unreasonably withhold approval of the Proposed Schematic Plans (or any such revision) if they meet such standard.

Any disapproval of the Proposed Schematic Plans (or any such revision) shall state with particularity the reason for such disapproval. Any failure by the City to give such a notice of approval or disapproval within such 15 business day period shall be deemed approval.

Upon any disapproval by the City of the Proposed Schematic Plans, the Developer shall have the right to require that the Architect revise the Proposed Schematic Plans and then submit the revised plans to the City for review and approval or disapproval pursuant to this Section 11(b)(i). Such schematic plans as are approved (or deemed approved) by the City pursuant to this Section 11(b)(i) shall be the “**Approved Schematic Plans**”.

- (ii) Design Development Plans. Second, proposed design development plans for the Fire Substation (the “**Proposed Design Development Plans**”), which plans shall be based on and consistent with the Approved Schematic Plans and applicable law. The Developer shall, promptly after receipt of the Proposed Design Development Plans from the Architect, submit the Proposed Design Development Plans to the City for review and approval pursuant to this Section 11(b)(ii).

The City shall cause the Proposed Design Development Plans to be reviewed, and a written notice of approval or disapproval thereof to be given to the Developer promptly following completion of the City’s normal design review process, but not later than ninety (90) days after receipt thereof. The standard for the City’s review of the Proposed Design Development Plans, and for any revisions thereof submitted by the Developer pursuant to this Section 11(b)(ii), shall be whether the Proposed Design Development Plans (or any such revision) are consistent with the Approved Schematic Plans and applicable law, and the City shall not unreasonably withhold approval of the Proposed Design Development Plans (or any such revision) if they meet such standard.

If the City is unable to approve the Proposed Design Development Plans within ninety (90) days, as described herein, and the inability to provide such approval within said 90 days delays the occupancy of the Fire Substation beyond the date on which the Resort is completed, then the fact that the Fire Substation is not completed shall not be a basis for precluding the Resort from opening for business once all other requirements to such opening have been satisfied, so long as Developer has agreed in writing to provide the Fire Department a suitable location at the Resort site for temporary placement of a “brush truck” and appropriate sleeping accommodations for 3 firefighters until the Fire Substation is operational. Such temporary truck storage and firefighter accommodations shall not, without the written approval of the City’s Fire Chief, extend for more than the number of days greater than 90 that the City required to approve the Proposed Design Development Plans. Upon any disapproval by the City of the Proposed Design Development Plans, the Developer shall have the right to require that the Architect revise the Proposed Design Development Plans and then submit the revised plans to the City for review and approval or disapproval pursuant to this Section 11(b)(ii). Such design

development plans as are approved by the City pursuant to this Section 11(b)(ii) shall be the “**Approved Design Development Plans**”.

- (iii) Construction Plans and Specifications. Third, proposed construction plans and specifications for the Fire Substation (the “**Proposed Construction Plans**”) which plans and specifications shall be based on and consistent with the Approved Design Development Plans and applicable law. The Developer shall, promptly after receipt of the Proposed Construction Plans from the Architect, submit the Proposed Construction Plans to the City for review and approval pursuant to this Section 11(b)(iii).

The City shall cause the Proposed Construction Plans to be reviewed, and a written notice of approval or disapproval thereof to be given to the Developer within 30 calendar days after the City’s receipt thereof. The standard for the City’s review of the Proposed Construction Plans, and for any revisions thereof submitted by the Developer pursuant to this Section 11(b)(iii), shall be whether the Proposed Construction Plans (or any such revision) are consistent with the Approved Design Development Plans and applicable law, and the City shall not unreasonably withhold approval of the Proposed Construction Plans (or any such revision) if they meet such standard.

Any disapproval of the Proposed Construction Plans (or any such revision) shall state with particularity the reason for such disapproval. Any failure by the City to give such a notice of approval or disapproval within 30 calendar days from receipt shall be deemed approval.

Upon any disapproval by the City of the Proposed Construction Plans, the Developer shall have the right to require that the Architect revise the Proposed Construction Plans and then submit the revised plans to the City for review and approval or disapproval pursuant to this Section 11(b)(iii). Such construction plans and specifications as are approved (or deemed approved) by the City pursuant to this Section 11(b)(iii) shall be the “**Approved Construction Plans**”.

- (iv) City Initiated Revisions to Approved Construction Plans. The parties hereto anticipate that the Approved Construction Plans will provide for the construction of a fully functional fire substation adequate to provide the fire service capacity contemplated by this Section 11(b), and that there will be no need for the City to request any changes to the Approved Construction Plans. In the event, however, the City desires that the Construction Work (as defined in Section 11(c) below) be completed in a manner other than as provided for in the Approved Construction Plans, the City shall cause documentation to be prepared and delivered to the Developer (a “**Proposed City Plan Change Request**”) describing in

detail the change from the Approved Construction Plans desired by the City (a “**Proposed City Plan Change**”).

The Developer shall, upon receipt of a given Proposed City Plan Change Request and working with the Contractor (as defined in Section 11(c) below), determine whether (x) the implementation of the Proposed City Plan Change will adversely affect the Construction Schedule (as defined in Section 11(c) below), and (y) the amount, if any, by which the cost of the Construction Work will be increased (or decreased) if such Proposed City Plan Change is implemented.

If the Developer determines that such Proposed City Plan Change will adversely affect the Construction Schedule, then (i) the Developer shall give the City written notice of such determination, and (ii) such Proposed City Plan Change shall not be implemented unless the City agrees in writing that, notwithstanding any provision to the contrary in the Development Agreement (including this Exhibit B), in the event the implementation of such Proposed City Plan Change delays the completion of the Fire Substation beyond the date on which the Resort is completed, then the fact that the Fire Substation is not completed shall not be a basis for precluding the Resort from opening for business once all other requirements to such opening have been satisfied, so long as Developer has agreed in writing to provide the Fire Department a suitable location at the Resort site for temporary placement of a “brush truck” and appropriate sleeping accommodations for 3 firefighters until the Fire Substation is operational. Such temporary truck storage and firefighter accommodations shall not, without the written approval of the City’s Fire Chief, extend for more than the number of days required for the Developer, using due diligence to cause the completion of such Proposed City Plan Change, to cause such Proposed City Plan Change to be implemented as requested by the City. If (x) the Developer determines that such Proposed City Plan Change will not adversely affect the Construction Schedule, or (y) the Developer determines that such Proposed City Plan Change will adversely affect the Construction Schedule, but the Parties provide to each other the written agreements to which the immediately preceding sentence refers, then the Developer shall give to the City written notice of the amount of the related increase (or decrease) in the cost of the Construction Work. If, within 5 business days after the City’s receipt of the Developer’s notice (or such shorter period of time as may be (i) reasonably required to avoid a material delay in the Construction Work, and (ii) specified the Developer’s notice), the City gives the Developer written confirmation that (x) the City will pay any such increased cost (accompanied by evidence reasonably acceptable to the Developer of the availability of City funds in an amount sufficient to timely pay such increased cost), and (y) such Proposed City Plan Change is to be implemented, the Developer shall exercise commercially

reasonable efforts to cause such Proposed City Plan Change to be implemented by a Construction Change Directive or Change Order (each as defined in the form of the Construction Contract to which Section 11(c) below refers) under the Construction Contract. If, during such 5 business day (or shorter as provided above) period, the City gives the Developer written confirmation that such Proposed City Plan Change is not to be implemented, or if the City does not give any notice during such period, the Developer shall not implement such Proposed City Plan Change.

In the event that the Developer is to implement a given Proposed City Plan Change pursuant to this Section 11(b)(iv), such Proposed City Plan Change shall upon and following such implementation be part of and included in the Approved Construction Plans.

- (v) Developer Initiated Revisions to Approved Construction Plans. The parties hereto anticipate that the Approved Construction Plans will provide for the construction of a fully functional fire substation adequate to provide the fire service capacity contemplated by this Section 11(b), and that there will be no need for the Developer to request any changes to the Approved Construction Plans. In the event, however, the Developer desires that the Construction Work be completed in a manner other than as provided for in the Approved Construction Plans, the Developer shall cause documentation to be prepared and delivered to the City (a **“Proposed Developer Plan Change Request”**) describing in detail the change from the Approved Construction Plans desired by the Developer (a **“Proposed Developer Plan Change”**) and the reasons therefor.

The Developer shall, prior to submitting a given Proposed Developer Plan Change Request to the City, work with the Contractor to determine whether (x) the implementation of the Proposed Developer Plan Change will adversely affect the Construction Schedule, and (y) the amount, if any, by which the cost of the Construction Work will be increased (or decreased) if such Proposed Developer Plan Change is implemented.

Each Developer Plan Change Request submitted by the Developer to the City shall be accompanied by the Developer’s statement (with supporting documentation reasonably acceptable to the City) of (x) any effect the Proposed Developer Plan Change will have on the Construction Schedule, and (y) the amount of the related increase (or decrease) in the cost of the Construction Work. The City shall, within 5 business days after the City’s receipt of such Proposed Developer Plan Change Request, give the Developer written confirmation that (x) such Proposed Developer Plan Change is approved by the City and is to be implemented, or (y) such proposed Developer Plan Change Request is disapproved by the City and shall not be implemented. The City shall not unreasonably disapprove any Proposed Developer Plan Change that does not adversely affect the

Construction Schedule or increase the cost of the Construction Work to be paid by the City. Any failure by the City to give such confirmation during such 5 business day period shall be an approval of the related Proposed Developer Plan Change.

The Developer shall exercise commercially reasonable efforts to cause each Proposed Developer Plan Change approved by the City pursuant to this Section 11(b)(v) to be implemented by a Construction Change Directive or Change Order under the Construction Contract. If, during such 5 business day period, the City gives the Developer written confirmation that such Proposed Developer Plan Change is not to be implemented, the Developer shall not implement such Proposed City Plan Change. Developer shall bear the cost of any Proposed Developer Plan Change that results in an increase in the cost of the Construction Work for which the City has given its written approval, including without limitation, any increase in Construction Work costs resulting from Developer's request for an expedited schedule to complete the Construction Work.

In the event that the Developer is to implement a given Proposed Developer Plan Change pursuant to this Section 11(b)(v), such Proposed Developer Plan Change shall upon and following such implementation be part of and included in the Approved Construction Plans.

The City's rights of review and approval or disapproval under this Section 11(b) are independent of, and in addition to, any governmental powers of the City, and are to be exercised in the City's proprietary capacity as the future owner of the Fire Substation.

(c) Competitive Bidding for Construction Contract. Promptly after (i) the Developer has given the Development Notice, and (ii) the City has approved the Approved Construction Plans pursuant to Section 11(b) above, the Developer shall cause the Architect to prepare, for review and approval by the Developer and the City, a proposed request or solicitation for bids (the "**Proposed Bid Request**") for the construction of the Fire Substation in accordance with the Approved Construction Plans (the "**Construction Work**"). The Proposed Bid Request shall be in conformance with applicable law, and both the City and the Developer shall diligently cooperate with the Architect to enable the Architect to promptly prepare the Proposed Bid Request in accordance with the requirements of applicable law. The Proposed Bid Request shall expressly provide for (x) the award of the construction contract for the Fire Substation (the "**Construction Contract**") by the City, with the City's right to enter into the Construction Contract (and the duties, rights and obligations of the "Owner" thereunder) being transferred and assigned by the City to the Developer before the Construction Contract is signed; (y) the incorporation of the form of the Construction Contract to which the Developer and the City have agreed prior to the execution of the Development Agreement; and (z) the transfer and assignment of all Contractor warranties thereunder to the City upon the City's acceptance of the Fire Substation Land Deed.

Promptly after the Developer receives and approves the Proposed Bid Request from the Architect, the Developer shall submit such Proposed Bid Request to the City for the City's review and approval or disapproval pursuant to this Section 11(c). The City shall cause such Proposed Bid Request to be reviewed, and a written notice of approval or disapproval thereof to be given to the Developer within 5 business days after the City's receipt thereof. The standard for the City's review of such Proposed Bid Request shall be whether such Proposed Bid Request complies with the provisions of the Development Agreement and applicable law, and the City shall not unreasonably withhold approval of the Proposed Bid Request (or any revision thereof submitted by the Developer pursuant to this Section 11(c)) if it meets such standard.

Any disapproval of a Proposed Bid Request (or any such revision) shall state with particularity the reason for such disapproval. Any failure by the City to give such notice within such 5 business day period shall be deemed approval.

Upon any disapproval by the City of a Proposed Bid Request, the Developer shall have the right to require that the Architect revise the Proposed Bid Request and then submit the revised proposed request to the City for review and approval or disapproval pursuant to this Section 11(c). Such Proposed Bid Request as is approved (or deemed approved) by the City pursuant to this Section 11(c) shall be the "**Approved Bid Request**".

Promptly after the Approved Bid Request is approved (or deemed approved), the Developer and the City shall each take such actions as are required for the City to (i) publish the Approved Bid Request in the manner required by applicable law; (ii) accept bids pursuant to the Approved Bid Request; and (iii) award the Construction Contract (in the form and subject to the transfer and assignment to the Developer described herein) to the lowest responsive, responsible bidder (as reasonably determined by the City). Promptly following such award, (x) the City shall provide to the Developer evidence reasonably satisfactory to the Developer that the City then has the funds to pay (and the right to use such funds to pay) all costs and expenses, including amounts that will become due under the Construction Contract (together with an amount reasonably acceptable to the Developer to cover potential obligations of the City with respect to Change Orders, if any, under the Construction Contract), incurred in the design and construction of the Fire Substation as contemplated herein, to the extent such costs and expenses exceed the amount of the Developer Fire Substation Contribution (as defined below); and (y) the Developer shall (as the then owner of the Fire Substation Land and pursuant to such transfer and assignment by the City) enter into the Construction Contract with the successful bidder (the "**Contractor**").

(d) Construction of Fire Substation. After the Developer and the Contractor execute the Construction Contract, the Developer shall use diligent efforts to cause the Construction Contractor to perform all of the Contractor's duties and obligations thereunder, including without limitation complying with the construction schedule (the "**Construction Schedule**") set forth therein, in the manner and at the times required by the provisions thereof. The Developer shall implement best management practices for construction management during the construction of the Fire Substation. This includes, but is not limited to, providing notice to the City of non-compliance with the construction schedule; monitoring the Contractor's work force to ensure adequate resources are present to perform critical path work activities; timely review and processing of Contractor submittals, including without limitation Contractor claims for

additional payment and proposed change orders; and monitoring compliance with contract documents, including plans and specifications. The Developer shall keep the City advised of the progress of the Construction Work and of the Contractor's performance under the Construction Contract, including without limitation any claimed defaults by the Contractor, any claims made by either the Developer or the Contractor thereunder and all Change Orders and Construction Change Directives (each as defined in the Construction Contract). The Developer shall provide an update regarding such matters to the City at each of the "coordination" meetings to which Section 10(b) above refers.

The form of the Construction Contract to which the Developer and the City have previously agreed includes the Contractor's acknowledgment of the City's right to be present at the site of and observe the Construction Work during all reasonable times during the course of the Construction Work, and the Developer shall take all commercially reasonable actions required to accommodate and implement such right; provided, however, that (x) the City shall not have the right to give (and shall not give) any directions, instructions or other communications to the Contractor, and (y) the City shall not, in exercising such rights, interfere with either the Developer's oversight of the Construction Work or the Construction Work itself. The rights granted to the City under this Section 11(d) shall be exercised by the City through such representative (the "**City's Construction Representative**") as is from time-to-time designated in writing by the City to the Developer. The City's Construction Representative may be an agent, employee or consultant of the City.

(e) Contractor Change Order Requests. The parties hereto acknowledge that the Construction Contract will provide for the submission by the Contractor to the Developer of written requests for Change Orders. Promptly after receipt of a request for a Change Order from the Contractor, the Developer shall submit a copy of such request to the City, accompanied by (x) copies of all back-up or supporting materials submitted by the Contractor to the Developer in connection with such request, and (y) the Developer's proposed course of action regarding such request. The City shall cause such request and proposed course of action to be reviewed, and a written notice of approval or disapproval of such proposed course of action to be given to the Developer within 5 business days after the City's receipt of such request, the related back-up or supporting documentation and the Developer's proposed course of action. The City shall not unreasonably withhold approval of any such proposed course of action.

Any disapproval of the Developer's proposed course of action shall state with particularity the reason for such disapproval. Any failure by the City to give such notice within such 5 business day period shall be deemed approval of such proposed course of action.

The parties hereto acknowledge that the approved form of the Construction Contract includes (i) the Contractor's acknowledgement of the need to complete the Fire Substation in accordance with the construction schedule set forth therein to facilitate the availability of the Fire Substation from and after the opening of the Resort, and (ii) the Contractor's agreement that the Construction Work may not be suspended or otherwise delayed as a result of, or pending the resolution of any dispute between the Developer and the Contractor regarding, any request by the Contractor for a Change Order (or the denial thereof). The Developer shall not sign any Change Order if such signing has been disapproved by the City pursuant to the provisions of this Section

11(e), but the Developer shall have the right, to avoid any delay in the completion of the Construction Work pending the resolution of any dispute between the Contractor and the Developer regarding the related Change Order request, to sign and issue a Construction Change Directive with respect to the work described in the related Change Order request (in which event the Contractor will have the right under the Construction Contract to make a “claim” with respect to such Change Order request).

(f) Contractor Claims. Promptly after receipt of a “claim” from the Contractor under the Construction Contract, the Developer shall submit a copy of such claim to the City, accompanied by (x) copies of all back-up or supporting materials submitted by the Contractor to the Developer in connection with such claim, and (y) the Developer’s proposed course of action regarding such claim. The City shall cause such claim and proposed course of action to be reviewed, and a written notice of approval or disapproval of such proposed course of action to be given to the Developer within 5 business days after the City’s receipt of such claim, the related back-up or supporting documentation and the Developer’s proposed course of action. The City shall not unreasonably withhold approval of any such proposed course of action. Any failure by the City to give written notice of approval or disapproval within such 5 business day period shall be deemed approval of such proposed course of action.

If the City approves (or is deemed to have approved) such proposed course of action, the Developer shall take such actions as are reasonably required to implement such proposed course of action (with the Developer paying all of the reasonable costs and expenses required to implement such proposed course of action (including any amounts found by an arbitrator or court to be due and owing to the Contractor) and the City reimbursing the Developer, in the manner provided for in Section 12 below, for all such costs and expenses that, together with the other costs and expenses incurred by the Developer in designing and constructing the Fire Substation, exceed the amount of the Developer Fire Substation Contribution).

If the City gives notice of disapproval the Developer’s proposed course of action, the City’s notice of disapproval shall include a statement of the reasonable alternative actions (consistent with the provisions of the Construction Contract) to be thereafter taken by the Developer with respect to such claim, together with the City’s acknowledgement that the City will reimburse the Developer for all reasonable costs and expenses (including any amounts found by an arbitrator or court to be due and owing to the Contractor) incurred by the Developer in taking such alternative actions (together with evidence reasonably acceptable to the Developer of the availability and sufficiency of City funds to make such reimbursement). Any notice of disapproval by the City that does not comply with the requirements of this paragraph shall be deemed a failure by the City to give notice of approval or disapproval of the Developer’s proposed course of action.

The Developer shall keep the City advised of all significant developments and occurrences with respect to any course of action taken by the Developer with respect to any Contractor claim (whether such course of action was proposed by the Developer or stated by the City), and shall consider in good faith all recommendations from time-to-time made by the City with respect thereto. The Developer shall not settle any such claim in a manner that requires any

payment or reimbursement by the City (or otherwise adversely affects the City) without the City's prior written consent, which consent shall not be unreasonably withheld.

(g) Assignment of Warranties and Rights. Upon completion of the Fire Substation, the Developer shall assign and transfer to the City (i) all rights that the Developer then has or may in the future have relating to any claim of defective or improper design, or any negligence or error or omission of the Architect or any of its consultants or subcontractors in the design, of the Fire Substation, and (ii) all warranties and guarantees relating to the Fire Substation, and all rights relating to any claim of defective or improper construction, or any negligence or error or omission of the Contractor or any of its consultants or subcontractors in the construction of, the Fire Substation. Upon such assignment and transfer, the Developer shall be released and discharged from any liability for the design and/or construction of the Fire Substation, and the City shall thereafter defend (by counsel reasonably satisfactory to the Developer), indemnify and hold harmless the Developer, the Robert Green Company, Korman Development, Inc., the Resort operator and their respective members, managers, employees and agents from and against any claims, demands, causes of action, costs (including reasonable legal costs and expenses) and liabilities based on, arising from or attributable to any claim of defective design and/or construction of the Fire Substation, except to the extent attributable to the gross negligence or intentional misconduct of the indemnified party.

12. Developer Fire Substation and Public Park Payments.

(a) Developer Fire Substation Contribution. The Developer shall pay for the first \$1,750,000 of "hard" costs incurred in designing and constructing the Fire Substation (with such payment being the "**Developer Fire Substation Contribution**"). Such "hard" costs shall not include (i) costs of building permits, review and/or plan check fees, development fees and/or capacity charges for or related to the Fire Substation, all of which shall be paid and/or waived by the City, (ii) the costs of any furniture, furnishings or equipment and/or operational supplies and equipment for the Fire Substation, all of which furniture, furnishings and equipment and operational supplies and equipment shall be obtained by the City at its sole cost and expense; (iii) the costs of any items, features, finishes, materials or conditions that are not included in the Approved Construction Plans, but are imposed or required as a result of the review of the plans for the Fire Substation by the City's Planning Commission or other Design Review authority (with any costs described in this clause (iii) being paid by the City); and (iv) any costs related to the implementation of Proposed City Plan Changes, all of which shall be paid by the City. The costs and expenses incurred by the Developer in mass grading the Fire Substation Land (as required by Section 11(a) above) and in installing Project infrastructure (as more particularly described in Section 16 below) to the boundaries of the Fire Substation Land shall not be included in the costs and expenses of designing and constructing the Fire Substation for the purposes of this Section 12(a), and the Developer shall be responsible (as an obligation that is separate and distinct from the Developer Fire Substation Contribution) for the payments of such costs and expenses pursuant to Section 11(a) above and Section 16 below.

The Parties acknowledge and agree that the Developer has paid the costs and expenses of obtaining the certain conceptual plans for the Fire Substation, and that such costs shall be included in and credited to the \$1,750,000 of costs and expenses of designing and constructing

the Fire Substation to be paid by the Developer as the Developer Fire Substation Contribution. The Developer has paid and shall continue to pay the Architect the amounts due the Architect for the design work contemplated by this Section 9(b), and all amounts so paid by the Developer shall also be included in and credited to the Developer Fire Substation Contribution to be paid by the Developer.

Until such time as the aggregate of all amounts paid by the Developer for the design and construction of the Fire Substation (including without limitation the amounts described in the immediately preceding paragraph) equals \$1,750,000, the Developer shall pay, as part of the Developer Fire Substation Contribution, the amounts due the Contractor under the Construction Contract as such amounts become due and payable. From and after time at which the aggregate of all amounts paid by the Developer for the design and construction of the Fire Substation equals \$1,750,000, the Developer shall continue to pay the amounts due the Contractor under the Construction Contract, but shall be reimbursed by the City for each payment made after such time.

The City shall, within 30 days after the Developer delivers to the City evidence reasonably satisfactory to the City of each such payment made by the Developer after such time, reimburse the Developer for the amount of such payment. In the event the City fails to timely make any such payment, the Developer shall have (in addition to and not as a replacement for any other remedy that the Developer may have with respect to such failure) the right to offset such amount against any payment(s) thereafter to be made by the Developer pursuant to Section 12(b) below.

(b) Developer Public Park Contribution. The Developer acknowledges that the City intends to enter into one or more contracts for the design of the Public Park before the Public Park Land is conveyed by the Developer to the City. The Developer has previously provided to the City the amount of **\$91,026.29** to pay the costs of preliminary design work for the Public Park. After the Developer gives the Development Notice, the Developer shall, within 10 days after the City delivers to the Developer written notice that the City is about to enter into a contract for completion of such design, accompanied by a copy of the proposed contract (including without limitation the aggregate amount to be paid by the City under the contract), deliver to the City such aggregate amount (and the City shall use such aggregate amount to make payments under such contract as and when they become due). When the Developer conveys the Public Park Land to the City, the Developer shall deliver to the City the amount of \$3,000,000, less all amounts provided by the Developer to the City to pay for Public Park design costs, and the City shall use the amount so delivered by the Developer to pay costs the City incurs in the design and construction of the Public Park. In no event shall the aggregate of the amounts delivered by the Developer to the City pursuant to this Section 12(b) exceed \$3,000,000 (the "**Developer Public Park Contribution**"). The City shall be solely responsible for any costs and expenses that the City incurs in designing and constructing the Public Park that exceed, in the aggregate, the amount of \$3,000,000 (it being the intent of the parties that the Developer reimburse the City for the first \$3,000,000 of the out-of-pocket expenses that the City incurs in designing and constructing the Public Park), and the City shall cause the Public Park to be designed and constructed in a manner consistent with the provisions of the Development Agreement.

The City and the Developer acknowledge and agree that the Developer Public Park Contribution is over and above, and shall not be reduced by, the amount of any costs and expenses that the Developer incurs in performing the mass grading work on the Public Park Land described in Section 10 above and the Wetlands Mitigation.

13. Wetlands Mitigation. The City and the Developer acknowledge that the development of the project as contemplated herein will require the removal of certain existing wetlands from the Affordable Housing Land, the Public Park Land, the Fire Substation Land, the Resort Parcels and/or the Residential Parcels, that mitigation of the effects of such removal will therefore be required, and that the Parties anticipate that such mitigation can and likely will be implemented by the creation of new additional wetlands on a portion of the Public Park Land located south of Foss Creek and on land owned by the City and located to the southwest of the Public Park Land (parcels 091-040-062 and 091-040-105), as conceptually shown on Exhibit B-14 attached hereto.

The Developer shall, at its sole cost and expense, make application to and obtain from the U.S. Army Corps of Engineers (and any other governmental entity having jurisdiction) such approvals and permits as may be required to lawfully remove such existing wetlands and mitigate the removal thereof with the installation and “grow-in” of replacement wetlands. The Developer shall, as contemplated by the provisions of Sections 7 and 10 above and at the sole cost and expense of Developer, cause to be performed all such removal and mitigation work in compliance with the requirements of all such approval and permits, including (i) the “grow-in” of all planted materials, and (y) any required acceptance of such installation and grow-in as complete by the governmental entities having jurisdiction over such existing and the replacement wetlands, (collectively, the “**Wetlands Mitigation**”). The Developer shall also, at the sole cost and expense of the Developer, cause to be performed any mitigation monitoring requirements relating to the Wetlands Mitigation for a period of not less than 5 years following completion of the wetlands replacement, as approved by the Army Corp of Engineers. The City shall grant the Developer appropriate easements and/or licenses to allow the Developer to perform all the Wetlands Mitigation and such mitigation monitoring. The Developer and the City each acknowledge that the Army Corps of Engineers may, as a condition to its approval of the Wetlands Mitigation, require that the lands on which the Wetlands Mitigation is completed be subject to perpetual restrictions requiring that such lands remain wetlands. If the Army Corps of Engineers requires such restrictions, each of the Developer and the City shall take such actions as are reasonably required to implement such restrictions; provided, however, that each document implementing such a restriction shall be in such form and have such substance as is reasonably acceptable to the City.

Developer shall achieve full and complete compliance with all mitigation requirements imposed by any of the regulatory agencies with jurisdiction over wetlands, including the possibility of alternative or corrective actions, if on-site mitigation efforts as described herein are not accepted as "complete" by such agencies.

14. FEIR Mitigation. Except (i) to the extent the FEIR states that a given mitigation measure set forth therein is to be performed by the City, including any required mitigation monitoring to be performed by City, and (ii) for mitigation measures other than Wetlands Mitigation (which shall be the responsibility of the Developer pursuant to the provisions of this Exhibit B) that are

to be performed on or with respect to the Affordable Housing Land, the Public Park Land and/or the Fire Substation Land, the Developer shall, at its sole cost and expense and in compliance with the requirements of the FEIR, perform each of the mandatory mitigation measures including any required mitigation monitoring and reporting, as set forth in the FEIR. City shall grant Developer appropriate easements and/or licenses to allow Developer to perform all FEIR mitigation work that the Developer is required by the FEIR to perform, including mitigation monitoring and reporting obligations, in compliance with the FEIR.

15. Developer Reimbursement of Certain Public Trail and Public Park Maintenance Costs. The Developer shall, on a monthly basis and within 20 days after receipt of an invoice therefor accompanied by substantiation reasonably acceptable to the Developer (including without limitation an itemization of such costs and expenses), reimburse the City for the amount by which (x) the reasonable costs and expenses incurred by the City in maintaining the Public Trails and the Public Park (which does not include the Fire Substation) to the standard of maintenance for other City trails and parks, as applicable, during the month for which reimbursement is to be made, exceeds (y) the amount of the City's receipts during such month of transient occupancy taxes from the Resort. The Developer's reimbursement obligation under this Section 15 shall be in effect for the period commencing on the first date the Resort opens for business and terminating eight (8) weeks from the last day of the first month during which the City's receipts of transient occupancy taxes from the Resort for such month are equal to the amount of the costs and expenses incurred by the City in so maintaining the Public Trails and the Public Park during such month.

16. Infrastructure.

(a) Public Roads and Related Utilities. The Developer shall, at the Developer's sole cost and expense, design and construct the public roads and related municipal utilities to be located thereunder (collectively, the "**Public Roads and Related Utilities**") described in the public roads and related municipal utilities map attached hereto as Exhibit B-15. The map attached hereto as Exhibit B-15 shows the approximate locations of the Public Roads and Related Utilities. The exact locations of the Public Roads and Related Utilities shall be (i) generally consistent with the approximate locations shown on Exhibit B-15, (ii) determined based on consideration of topography, drainage, existing vegetation and other physical constraints, and (iii) shown on the final plans and specifications therefor as approved by the City. The Public Roads and Related Utilities shall be designed and constructed in accordance with the standards set forth in the Tentative Map, a Subdivision Improvements Agreement between the Developer and the City, the conceptual public roads design standards set forth on Exhibit B-16 attached hereto, and the applicable City Public Works Department standards. The final design for the Public Roads and Related Utilities shall (i) be generally consistent with such conceptual road standards, (ii) based on consideration of topography, drainage, existing vegetation and other physical constraints, and (iii) shown in the plans and specifications for the Public Roads and Related Utilities approved by the City.

Title to the Public Roads and Related Utilities shall be dedicated to the City by the Final Map(s) contemplated by the Tentative Map. Each such Final Map shall delineate the areas for the related Public Roads and Related Utilities for such Final Map, and shall include both an offer to

dedicate such areas to the City for public use and an acceptance of such offer that complies with applicable law. The City agrees to accept any such offer of dedication that is made in compliance with applicable law and the provisions of the Development Agreement at such time as such roads and utilities are completed in accordance with the Subdivision Improvement Agreement for each such Final Map.

From and after the Developer's completion of the Public Roads and Related Utilities in accordance with the requirements of the Tentative Map, any related Subdivision Improvement Agreements and the Development Agreement, and the City's acceptance thereof, the related Public Roads and Related Utilities shall become public roads and municipal utilities and thereafter be operated, maintained and repaired by the City (except as provided in the Roadway Maintenance Easement Agreement (as defined below).

The City and the Developer acknowledge that (i) the public roadway area shown and described on the Tentative Map as "Passalacqua Road" is currently the subject of one or more easements for the benefit of lands located to the east of the Property, (ii) such easements allow the use of such public roadway area for access to and from such lands in connection with the residential and agricultural uses thereon, (iii) the Developer will be required, on order to dedicate title to such public roadway areas to the City as contemplated herein, to cause such easements to be extinguished, and (iv) the owners of such lands may require, as a condition to such extinguishment, that the owners and occupants of such land have the right to use such roadway areas (in common with the public) for access to and from such lands (including without limitation, by vehicles transporting agricultural supplies and products), subject to compliance with the California Vehicle Code regarding the use of agricultural vehicles and equipment on public roadways. Accordingly, the Developer shall cause the roadway to be constructed on such public roadway area to be designed and constructed in a manner that complies with all applicable City standards and is also sufficient to accommodate such use, and the Final Map by which such public roadway area is dedicated to the City shall include notations and provisions, reasonably acceptable to both the City and the Developer, acknowledging and providing for such use of such roadway.

(b) Private Roads. The Developer shall, at the Developer's sole cost and expense, design and construct private roads (individually, a "**Private Road**" and collectively, the "**Private Roads**") in the approximate locations shown on the private road map attached hereto as Exhibit B-17 (as such locations may be further refined pursuant to the processing and approval of the Final Map(s)). The exact locations of the Private Roads shall be (i) generally consistent with the approximate locations shown on Exhibit B-17, (ii) determined based on consideration of topography, drainage, existing vegetation and other physical constraints, and (iii) shown on the final plans and specifications therefor as approved by the City. The Private Roads shall be designed and constructed in accordance with the standards set forth in the Tentative Map, the conceptual private road design standards attached hereto as Exhibit B-18 and any applicable City standards. The final design for the Private Roads shall (i) be generally consistent with such conceptual road standards, (ii) based on consideration of topography, drainage, existing vegetation and other physical constraints, and (iii) shown in the plans and specifications for the Private Roads approved by the City. The Developer shall cause the Private Roads labeled as "Road 4" and "Road 16" on Exhibit B-17 attached hereto to be completed and open for use not

later than the opening of the Resort for business. The Developer shall cause each of the other Private Roads shown on Exhibit B-17 attached hereto to be completed and open for use not later than the occupancy of the first Residence served by such Private Road, in accordance with a Subdivision Improvement Agreement.

Title to and ownership of the Private Roads shall, in the case of the Private Roads labeled as “Road 4” and “Road 16” on Exhibit B-17 attached hereto, remain with the owner(s) of the Resort Parcel, and the City shall not have any easement, license or other interest therein (other than the easement for public water lines described in Section 16(d) below, and the right to enforce, pursuant to the provisions of the CCRs, the requirement that the Resort Roads provide public access to the Resort). The owner of the Resort Parcel shall be responsible for the maintenance, repair and replacement of such “Road 4” and “Road 16”; provided, however, that such owner shall have the right, to be exercised in such owner’s sole discretion, to delegate such maintenance, repair and replacement to any owner or similar association created by the CCRs that agrees in writing (with a copy of such fully signed writing being provided by such owner to the City) to assume such maintenance, repair and replacement responsibility.

From and after the opening of the Resort for business, and so long as the Resort is open for business, the Private Road labeled as “Road 4” on Exhibit B-17 attached hereto shall be open to public vehicular use in connection with the public’s use of the Resort, subject to such reasonable rules and regulations regarding the use thereof that are applicable to all users thereof as may from time-to-time be adopted by the owner or owners of the land underlying such “Road 4” or by any owner or similar association created by the CCRs responsible for the maintenance and repair of such “Road 4”. Such rules and regulations may include, among other things, the right to (i) deny use of such road to any person that engages or threatens to engage in activities thereon that may endanger any person or property or disrupt the peaceful use of such road, the Resort and the surrounding lands by the owners, occupants and other users thereof, and (ii) temporarily close or restrict the use of such road (or any portion thereof) for maintenance, repair, replacement, fire, landslide or flood danger or other potentially hazardous or unsafe condition. The CCRs shall include a provision stating the requirement described in the first sentence of this paragraph in a manner that is reasonably acceptable to the City.

Title to and ownership of the Private Roads shall, in the case of the Private Roads other than “Road 4” and “Road 16” as shown on Exhibit B-17 attached hereto, be transferred to one or more owner or similar associations created by the CCRs, and the City shall not have any easement, license or other interest therein (other than (i) the easement for public water lines described in Section 16(d) below, and (ii) the easement for city-owned electrical lines described in Section 16(e)below). Such association shall thereafter be responsible for the maintenance, repair and replacement of such Private Roads as are transferred to such association.

The City acknowledges that certain owners of lands located to the east of the Project will have the right to use the Private Road located in the southeasterly portion of the Property and identified on Exhibit B-17 attached hereto as “Passalacqua Road” for access to and from such lands, and the City hereby acknowledges and agrees that the Developer retains and shall have the rights, without notice to or the approval or consent of the City, to place, on or adjacent to such roadway in a manner that complies with applicable law and provides for vehicle turnarounds and

emergency vehicle access reasonably acceptable to the City, signage and other physical items (such as grating) that notifies the general public that such road is private.

(c) Private Sanitary Sewer System. The Developer shall, at the Developer's sole cost and expense, design and construct a private sanitary sewer system (the "**Private Sewer System**") serving the Resort and the Residences in the approximate locations shown on the private sanitary sewer system map attached hereto as Exhibit B-19 (as such locations may be further refined pursuant to the processing and approval of the Final Maps). The Private Sanitary Sewer System shall be designed and constructed in accordance with the standards set forth in the Tentative Map and in accordance with any applicable City Public Works Department standards. The Developer shall cause the portions of the Private Sanitary Sewer System that serve the Resort to be completed and open for use not later than the opening of the Resort for business. The Developer shall cause each other portion of the Private Sewer System to be completed and open for use not later than the occupancy of the first Residence served by such other portion of the Private Sanitary Sewer System. Title to and ownership of the Private Sewer System shall be transferred to one or more owner or similar associations created by the CCRs, and the City shall not have any easement, license or other interest therein. Such association shall thereafter be responsible for the maintenance, repair and replacement of the Private Sewer System.

(d) Public Water Lines and Facilities Serving Resort and Residences. The Developer shall, in connection with the Developer's construction of the Private Roads and at the Developer's sole cost and expense, design and construct the public water lines and facilities (collectively, the "**Resort/Residential Water Lines**") serving the Resort and the Residences in the approximate locations shown on the resort and residential water lines map attached hereto as Exhibit B-20 (as such locations may be further refined pursuant to the processing and approval of the Final Maps). The Resort/Residential Water Lines shall be designed and constructed in accordance with the standards set forth in the Tentative Map and the applicable City Public Works Department standards. The Developer shall cause the portions of the Resort/Residential Water Lines that serve the Resort (and provide a looped water line to the Resort) to be completed and open for use not later than the opening of the Resort for business. The Developer shall cause each other portion of the Resort/Residential Water Lines to be completed and open for use not later than the occupancy of the first Residence served by such other portion of the Resort/Residential Water Lines.

Title to the Resort/Residential Water Lines (and easements in favor of the City therefor) shall be dedicated to the City by means of the Final Map(s) contemplated by the Tentative Map. Each Such Final Map shall delineate the areas for the related Resort/Residential Water Lines, and shall include both an offer to dedicate such areas to the City for public use and an acceptance of such offer that complies with applicable law. The City agrees to accept any such offer of dedication that is made in compliance with applicable law and the provisions of the Development Agreement at such time as (i) the City approves such Final Map (if such public water lines are then completed), or (ii) such public water lines are completed in accordance with the Subdivision Improvement Agreement for such Final Map (if such public water lines are not completed when such Final Map is approved).

From and after the Developer's completion of each component of the Resort/Residential Water Lines in accordance with the requirements of the Tentative Map, the related Subdivision Improvement Agreement and the Development Agreement, and the City's acceptance thereof, such component of the Resort/Residential Water Lines shall become public water lines and thereafter be operated, maintained and repaired by the City; provided however, that in the event (x) such maintenance or repair requires that the City excavate into or remove any private roadway or landscaping located above or in the vicinity of the portion of the Resort/Residential Water Lines to be maintained or repaired, and (y) such roadway has been designed and constructed to a higher standard than the standard that applies to City streets, then the City shall be required to restore and replace such private roadway only to the then applicable standards for City streets, and the City shall not have any obligation to restore such roadway to a higher standard or to restore or replace any such landscaping.

The Developer shall indemnify and hold the City harmless from any and all costs, expenses, losses and damages incurred or sustained by the City, within 3 years after the City's acceptance of a given segment of the Resort/Residential Water Lines, with respect to the maintenance, repair, reconstruction or replacement of such Resort/Residential Water Lines (including without limitation any removal and restoration of any roadway), to the extent the need for such maintenance, repair, reconstruction or replacement is attributable to the defective design and/or construction of the Private Roadway beneath which such Resort/Residential Water Lines were installed.

(e) Public Electrical Lines and Facilities Serving Resort and Residences. The City will design and construct the public electrical lines and facilities (collectively, the "**Resort/Residential Electrical Lines**") serving the Resort and the Residences.

Title to the Resort/Residential Electrical Lines (and easements in favor of the City therefor) shall be dedicated to the City by means of the Final Map(s) contemplated by the Tentative Map. Each Such Final Map shall delineate the areas for the related Resort/Residential Electrical Lines, and shall include both an offer to dedicate such areas to the City for public use and an acceptance of such offer that complies with applicable law. The City agrees to accept any such offer of dedication that is made in compliance with applicable law and the provisions of the Development Agreement at such time as the City approves such Final Map.

From and after the City's completion of each component of the Resort/Residential Electrical Lines, such component of the Resort/Residential Electrical Lines shall be operated, maintained and repaired by the City; provided however, that in the event (x) such maintenance or repair requires that the City excavate into or remove any private roadway or landscaping located above or in the vicinity of the portion of the Resort/Residential Electrical Lines to be maintained or repaired, and (y) such roadway has been designed and constructed to a higher standard than the standard that applies to City streets, then the City shall be required to restore and replace such private roadway only to the then applicable standards for City streets, and the City shall not have any obligation to restore such roadway to a higher standard or to restore or replace any such landscaping.

(f) Pump Station. Because of the elevation of portions of the Property, a pump station (the “**Pump Station**”) will be required to be built and operated on the Property to provide adequate water pressure to serve all of the Resort and all of the Residences. In anticipation of the need to design and construct the Pump Station, the Developer previously caused preliminary design work for the pumps and related equipment and systems for the Pump Station to be performed to the standards described Exhibit B-21 attached hereto .

After the Developer gives the Development Notice, the Developer shall, promptly and at the Developer’s sole cost and expense, cause (i) its architect to design the building for the Pump Station, and (ii) its engineers to complete the design of the pumps and related equipment and systems for the Pump Station, all in a manner that complies with the standards described in Exhibit B-21 attached hereto and is consistent and functions with the water lines and facilities that are included in the Public Roads and Related Utilities and the Resort/Residential Water Lines.

The design of and construction plans for the Pump Station shall be subject to the City’s review and approval. Such review and approval, may, in the City’s reasonable judgment, be subject to peer review by an engineering firm of the City’s choosing, and shall be performed and made in connection with the City’s review and approval of the design and construction plans for the Public Roads and Related Utilities and the Resort/Residential Water Lines for the Resort. If the City chooses to have the constructions plans reviewed by an engineering firm of the City’s choosing, Developer shall reimburse the City for the reasonable costs of such review in an amount not to exceed fifteen thousand dollars ((\$15,000)).

The Developer shall, at its sole cost and expense and following the City’s approval of the construction plans therefore, cause the Pump Station to be constructed in connection with and as part of the construction of the Public Roads and Related Utilities. The Parties hereto acknowledge and agree that the Subdivision Improvements Agreement to be entered into with respect to the Developer’s construction of the Public Roads and Utilities (including without limitation the warranty provisions thereof) shall apply to and include the Developer’s construction of the Pump Station.

The Developer, shall, within 20 days after the recording of the Final Map and at the Developer’s sole cost and expense, obtain from the Title Company and provide to the City a title report in favor of the City relating to the Pump Station Land. Such title report shall show title to the Pump Station Land in the Developer, with the Pump Station Land not being subject to any monetary encumbrance that cannot be satisfied and discharged by the payment of money, or any easement, restriction, condition or covenant that would preclude the use of the Pump Station Land for the purposes described in and contemplated by the Development Agreement.

The City shall cause such title report to be, in the City’s reasonable discretion, reviewed and approved or disapproved, and a written notice of approval or disapproval to be given to the Developer within 15 business days after the City’s receipt of such title report. Any notice of disapproval shall state the reasons for the City’s disapproval. Any failure by the City to give written notice of approval or disapproval shall be deemed to be a notice of approval.

If the City disapproves any title report submitted to the City pursuant to this Section 16(e), the Developer shall have the right to either (x) submit a revised title report to the City for review and approval pursuant to this Section 16(e), or (y) submit the issue of the reasonableness of the City's disapproval to a mutually acceptable local title officer for review and a non-binding recommendation regarding the City's disapproval of said report.

The Developer shall, within 30 days after the first date on which the Developer has completed and the City has accepted, the Pump Station, deliver to the City (i) a deed (the "**Pump Station Land Deed**") in the form attached hereto as Exhibit B-22, executed and acknowledged by the Developer, by which the Developer conveys the Pump Station Land to the City subject only to the easements, restrictions, covenants and conditions permitted by this Section 16(f); and (ii) an owner's title insurance policy in the amount of \$200,000.00, issued by the Title Company, and insuring the fee interest that the City acquires pursuant to Pump Station Land Deed, subject only to (x) the exceptions listed in the title report approved by the City pursuant to this Section 16(f); (y) any easement, restriction, condition or covenant recorded after the Effective Date with the prior consent of the City (which consent shall not be unreasonably withheld); and (z) the restrictions and reversionary interest set forth in the Pump Station Land Deed.

From and after the Developer's completion and the City's acceptance of the Pump Station in accordance with the requirements of the Tentative Map, any related Subdivision Improvement Agreement and the Development Agreement, and the City's acceptance thereof, the Pump Station shall thereafter be operated, maintained and repaired by the City (subject to any warranty obligations of the Developer and/or the contractor).

Because the Pump Station will serve only the Resort and the Residences, the City requires that the costs and expenses that the City incurs in the ownership, operation, maintenance, repair and replacement of the Pump Station be paid by and allocated to the owners of the Resort and the Residences as part of a "Zone of Benefit" under the City's water billing policies and practices. The City therefore shall have the right to from time-to-time impose on each water bill for the Resort and each of the Residences a surcharge (based on a charge assessed against each cubic foot of water consumed, which charge shall be the same for the Resort and each of the Residences) sufficient to reimburse the City for such costs and expenses and to provide a reserve for replacement of the Pump Station and/or components thereof. The Developer shall disclose in writing to each purchaser of a Residence the intent and right of the City to impose such surcharge.

(g) Irrigation for Vineyards. The Developer will make arrangements for the existing and any new vineyards at the Project to be served by existing private wells (and not from City water lines). The City shall have no obligations with respect to the irrigation of such vineyards. The Developer shall have the right to from time-to-time replace such private wells in the event the then existing wells are not adequate to continue providing irrigation water for such vineyards.

(h) Creek Restoration. The Developer shall comply with all creek mitigation and restoration measures as required in the FEIR and by all regulatory agencies with jurisdiction over the creek areas. The Parties agree to implement the creek mitigation and restoration plans described in Exhibit B-27, attached.

17. Entrance Landscaping. In connection with the Developer's construction of the Resort (and prior to the opening of the Resort), the Developer shall, at the Developer's sole cost and expense, install landscaping and hardscape (including irrigation therefor and any retaining walls as described in this paragraph) on (i) the portion of the Healdsburg Avenue and Passalacqua Road rights-of-way designated on Exhibit B-23 attached hereto, and (ii) the portions of the Public Park Land, the Fire Substation Land and the Pump Station Land designated on Exhibit B-23 attached hereto. Such landscape and hardscape shall be installed pursuant to final plans and specifications therefor to be approved by the City and consistent with the conceptual landscape plan shown on Exhibit B-23 attached hereto. Exhibit B-23 attached hereto identifies an area as being subject to further evaluation in connection with the preparation and the City's approval of such final plans and specifications. The parties hereto acknowledge that such evaluation will include an assessment of whether one or more retaining walls should be installed in the area so identified to increase the amount of flat area suitable for recreational use in the area being evaluated. To the extent such final plans and specifications for such area approved by the City provide for such retaining wall(s), the Developer shall, at its sole cost and expense, install such retaining wall(s) as part of its installation of the landscaping and hardscape contemplated by this paragraph. The City and the Developer shall each take such actions as are reasonably required for the Developer to prepare, and for the City to review and approve, such plans and specifications in a manner that allows for a reasonable period (between the date of the City's approval of such plans and the completion and opening of the Resort) for the Developer to complete the installation of such landscaping and hardscape before the Resort opens.

The Developer, at its sole cost and expense, shall maintain such landscaping and hardscape in good and healthy condition until such time as the Parties enter into a Landscape Maintenance Easement and Agreement (as defined in paragraph immediately following).

Not later 10 days following the occurrence of all of (i) the Developer's dedication to the City of the additional rights-of-way for Healdsburg Avenue and Passalacqua Road required by the Tentative Map; (ii) the Developer's conveyance to the City of the Public Park Land, the Fire Substation Land and the Pump Station Land; (iii) the Developer's completion of the installation of the landscaping and hardscape described in the immediately preceding paragraph; and (iv) the City's approval of the legal descriptions described in the immediately following paragraph, the City and the Developer shall enter into an easement agreement (the "**Landscape Maintenance Easement and Agreement**") providing for the Developer's maintenance and repair of such landscaping and hardscape, which Landscape Maintenance and Easement Agreement shall be in the form of Exhibit B-25 attached hereto.

Not later than completion of the Developer's installation of such landscaping and hardscape, the Developer shall, at its sole cost and expense, cause a licensed surveyor to prepare proposed legal descriptions and survey drawings for the areas in which such landscaping and hardscape have been installed. Such proposed legal descriptions shall describe the land that is to be subject to the Landscape Maintenance Easement and Agreement. The Developer shall then present such proposed legal descriptions and survey drawings to the City for review and approval pursuant to this Section 17 (which approval shall not be unreasonably withheld). The City shall cause such proposed legal descriptions and survey drawings to be, in the City's reasonable

discretion, reviewed and approved or disapproved, and a written notice of approval or disapproval to be given to the Developer within fifteen (15) business days after the City's receipt of such proposed legal descriptions and survey drawings. Any notice of disapproval shall state the reasons for the City's disapproval. Any failure by the City to give written notice of approval or disapproval shall be deemed to be a notice of approval.

If the City disapproves any proposed legal descriptions or survey drawings submitted to the City pursuant to this Section 17, the Developer shall have the right to either (i) submit revised proposed legal descriptions and survey drawings to the City for review and approval pursuant to this Section 17, or (ii) submit the original proposed legal descriptions or survey drawings to a mutually acceptable local licensed surveyor for review and a recommendation regarding the City's disapproval of same.

Upon the City's approval of such legal descriptions, such descriptions shall be inserted in the Landscape Maintenance Easement and Agreement.

18. SCIP Program. The Parties acknowledge that portions of the infrastructure for the Project may qualify for the Statewide Community Infrastructure Program, and the City shall, at the Developer's request and at no out-of-pocket cost to and with no obligation being undertaken by the City, cooperate with the Developer in obtaining such financing.

19. CCRs. As part of the processing and approval of the Final Map(s), and in any event prior to the transfer or conveyance of any individual lot or unit in the Residential Parcels, the Developer shall cause to be prepared and recorded (i) a set of "master" covenants, conditions and restrictions governing all of the Residential Parcels, and (ii) one or more sets of covenants, conditions and restrictions for each community within the Residential Parcels (collectively, the "CCRs"). Prior to recording any of the CCRs, the Developer shall submit such CCRs to the City Attorney for the sole purpose of determining whether such CCRs are consistent with the terms of the Development Agreement and the Project Approvals. To assist the City Attorney in making the determination, and only for the purpose of making such determination, the City Attorney may, in his/her discretion, request Planning Commission review of any portion, or all, of the CCRs.

The CCRs shall collectively include at least the following:

- (i) provisions for the maintenance and upkeep of landscaping on the Residential Parcels, including any entrances, road corridors and other landscaped areas;
- (ii) designation of the building envelope, landscape zone and private open space for each lot and any common areas in each of the Residential Parcels, consistent with the PD District and the Tentative Map;
- (iii) general design guidelines and a mechanism for enforcement of the same;
- (iv) a mechanism (or mechanisms) for maintenance, repair and replacement of the Private Roads, the Private Sewer System and other common areas;

- (v) a vegetation management program for each of the structures and Private Roads corridors that complies with applicable Sonoma County Fire Code;
- (vi) provisions requiring that no owner or occupant of any of the Residential Parcels:

- (x) cut, damage, remove or trim any tree located in any common area relating to any of the Residential Parcels;

- (y) cut, damage, remove or trim any oak tree located in any portion of the lot owned or occupied by such owner or occupant that is located outside of the building envelope for such lot (as established in the CCRs and/or any recorded Final Map by which such lot was created), except and only to the extent directed to do so by any public authority or applicable law (including without limitation to comply with applicable fire management requirements), if required to avoid any danger to any person or property, or with respect to any dead or diseased oak tree; or

- (z) cut, damage, remove or trim any oak tree having a trunk diameter in excess of 6 inches inside such building envelope, except and only to the extent directed to do so by any public authority or applicable law, if required to avoid any danger, including but not limited to fire danger, to any person or property, or with respect to any dead or diseased oak tree.

In the event that a property owner or occupant cuts, removes, trims, or otherwise damages any tree in violation of these restrictions and covenants, with the result that the residence is more visible from public viewsheds, the property owner may be ordered by either the Association, the City, or both, to replace trees to mitigate the viewshed impairment. Any such replacement mitigation must be completed in accordance with a replacement plan prepared by a qualified professional and approved by the City following review of said replacement plan by the Planning Commission. Such mitigation shall result in viewshed screening that is superior to that existing prior to the cutting, removal, trimming or damage of the subject tree(s). All costs and expenses of achieving mitigation, including the cost of city staff time, shall be borne by and be charged to the property owner. In addition, the City shall be entitled to collect from such property owner, as a penalty for violation of said restrictions and covenants, a penalty equal to twice the cost of (i) tree replacement and (ii) actual costs and expenses incurred by the City in pursuing mitigation and enforcement. All costs, expenses and/or penalties, if any, incurred and imposed by the City pursuant to this section may be collected from such property owner through a lien or special assessment on the property or through litigation, at the election of the City. In the event litigation is initiated to recover such costs, expenses, and/or penalties, the prevailing party in such litigation shall be entitled to recover its costs of suit, including reasonable attorney's fees.

- (vii) the right, but not any obligation, of the City, as an express third-party beneficiary, to enforce such CCRs in accordance with their terms and conditions; provided, however, that the City shall not have the right to consent to any amendment of such CCRs unless such amendment will cause such CCRs to be or become inconsistent with any then applicable provision of the Development Agreement or the Project Approvals;
- (viii) in a manner and with language reasonably acceptable to the City, the designation of areas in the Resort Parcels (in the approximate locations shown on Exhibit B-26 attached hereto), the uses of which shall be restricted by the CCRs to agricultural use (including without limitation use as vineyards) (collectively, the “**Agricultural Reserve**”);
- (ix) assurances that the Private Trails will be, and shall remain, open to public pedestrian use during daylight hours, subject to such reasonable rules and regulations regarding the use thereof, as more fully described in Section 6, above;
- (x) The requirement that no modification of the CC&Rs to remove, eliminate or otherwise restrict public pedestrian access to Private Trails may be made without prior approval of the City;
- (xi) As required by Section 1(b) above, an express requirement, for the benefit of and enforceable by the City in its sole discretion, that the owners of any Residence that is made available for transient occupancy (as defined in the Transient Occupancy Agreement) purposes other than through the Resort shall pay directly to the City the transient occupancy taxes that are imposed by the City on such transient occupancy, which express requirement shall not be amended without the prior written consent of the City;
- (xii) A provision that requires the Resort to make available, following reasonable advance notice to the Resort, the Resort’s valet parking service for parking of vehicles of guests of an owner or occupant of a Residence while attending a special event (such as a party or family gathering) at such Residence; and
- (xiii) A provision that requires the Resort to make available to the guests of the Resort and the occupants of the Residential Parcels, to the extent and at such times as a demand therefor exists, a motor vehicle shuttle service from the main Resort building to and from the downtown Healdsburg area, with such capacity and on such schedule (which may vary during the day, during the week and during the seasons) as is reasonable under the circumstances, and for which the Resort may impose such charges on the users thereof as the Resort may from time-to-time deem appropriate.

- (xiv) A provision that requires the Resort to consider and implement a plan to provide transportation, at such time as a demand therefor exists, for Resort employees between the Resort complex and (i) the nearest public transit stop and (ii) the on-site affordable housing project.
- (xv) A provision prohibiting any lot or unit within the Residential Parcels to be advertised, listed, sold, transferred, conveyed or used as a time-share estate or a time-share use (as those terms are defined in California Business and Professions Code § 11212(x)) or any similar fractional ownership interest, other than as a permitted “vacation rental” pursuant to the Project Approvals.

20. City Processing.

(a) Processing of Applications. The City and the Developer agree to work together in a cooperative manner to implement the provisions of the Development Agreement. The Developer shall have the right to submit to the City, prior to obtaining the Project Approvals, applications for (i) plan checks for grading, excavation, infrastructure and building permits, and (ii) final map approvals. The City agrees to accept and process such applications, notwithstanding the fact that the related Project Approvals have not then been issued; provided, however, that the City shall have no obligation to issue any such permit or approve or sign any Final Map until (1) a completed application for such permit or Final Map has been submitted and reviewed by City and all comments have been addressed, and (2) all of the required related Project Approvals have been issued. City will use reasonable efforts to process applications and other submittals in a timely manner to carry out the intent of the Development Agreement, subject to the procedures described in Section 5(d), above, relating to Developer Deposit Account. The Developer acknowledges and agrees that the City’s processing of such applications shall not vest any rights in the Developer until such time as such applications are granted and all of the related Project Approvals have been issued, the intent of the Parties being to facilitate the processing of such applications while such Project Approvals are being processed, thereby allowing the Developer to avoid delaying the submission of such applications until after such Project Approvals have been issued.

(b) Expedited Application Processing Fees. The Developer has requested, and the City has agreed to use reasonable efforts to accomplish expedited processing of applications for various aspects of the approval process for the Project. Such expedited processing will require additional, and different, resources than currently work as part of City staff, including without limitation, plan checkers, inspectors (mechanical, electrical, plumbing, etc.), environmental engineers, geotechnical specialists, structural engineers, legal review of entitlement documents, and other related technical specialists, all of which are referred to hereinafter as “City Consultants”. All costs associated with expedited processing of applications for Project approvals, including City staff time and the City’s use of City Consultants, shall be borne by the Developer, as part of the Developer Deposit Account procedure described in Section 5(d), above. The Developer shall have the right to request additional City staff and/or City Consultants be hired or retained by the City, at the Developer’s expense, to further expedite processing of applications for various Project approvals, including full-time on-site inspectors. Any such

requests by the Developer will be considered by the City, using reasonable efforts and good faith to accommodate such requests.

(c) Project Scheduling. The Parties have discussed and agreed that it is in both the best interest of the City, as it relates to the timely generation of transient occupancy tax from the Project, and the Developer, as it relates to the economic efficiencies of an expedited build out, to each exercise reasonable efforts to expedite the processing of applications and plans associated with the build out of the Resort Parcels and Residential Parcels. The City and the Developer will, in order to compress processing timelines to the maximum feasible extent after the Developer gives the Development Notice, engage in a “pre-application process” whereby the Developer may submit plans, specifications, drawings, maps and other Project documents, prior to a formal “application”, for City review and comment to speed the application review process. Thereafter, upon 10 days written notice by either Party, the Parties will meet and confer as may be needed to continue to move the entitlement process forward as expeditiously as possible. The Parties acknowledge and agree that, while it is in the mutual interest of each to expedite processing of the various applications and plans associated with the build out of the Project, neither the City nor the Developer will control the actions and activities of third parties (including other governmental entities) whose actions and activities may affect the abilities of the Parties to comply with and implement expedited processing. Additionally, the Parties acknowledge and agree that nothing set forth in this section shall limit the exercise of discretion by the City in connection with any discretionary approvals which may be required in connection with build out of the Project.

(d) Regular Meetings. In recognition of (1) the importance to the Developer of prompt and efficient processing and completion of the applications and inspections, and (2) the importance to the City and the community of timely completion of the Public Park, the Fire Substation and development of the Affordable Housing Land (collectively, "the **Public Amenities**"), the Parties agree to conduct regular and periodic meetings after the Developer gives the Development Notice to review and discuss the status of all pending applications and inspections, and any additional applications that the Developer anticipates will be submitted to the City prior to the next scheduled meeting, and to evaluate progress on the Public Amenities. Depending on the topic(s) to be discussed, each such meeting shall be attended by representatives of Developer and City who are familiar with any pending applications and inspections, as well as the progress of the Public Amenities. If, during the course of such meetings, Developer and City representatives agree that additional personnel and/or the devotion of additional City staff time may be required to facilitate (1) the timely processing of any pending applications and/or the completion of any related inspections, or (2) satisfactory progress on the Public Amenities, they will diligently pursue development and implementation of an appropriate course of action to meet the scheduling goals of the project. In cases where an agreed-upon course of action requires prior management or legislative review and approval, including but not limited to the deployment of additional resources, the implementation of a course of action shall be subject to and dependent upon such prior additional review and approval, and upon Developer's written assurance of payment of any additional costs and expenses associated with implementing the agreed-upon course of action.

21. LEED, Build it Green and Tree Replacement Provisions.

(a) LEED. The Developer has registered the Resort with the U.S. Green Building Council in order to seek LEED (Leadership in Energy and Environmental Design) certification. The process of achieving LEED certification for the Resort will include evaluation of not only energy consumption, but also water conservation, indoor air quality and material and resources used during construction of the Resort. As the Resort design process continues, the Developer will be conducting the appropriate testing and evaluation to measure potential compliance with LEED guidelines.

The Developer shall evaluate and consider the incorporation into the Resort of appropriate design measures which follow applicable LEED standards and are consistent with the Resort as contemplated by the Development Agreement (including without limitation this Exhibit B) and to, in all events, include in the design of the Resort features and/or conditions that the Developer reasonably concludes will qualify for at least 33 points under the applicable LEED standards. The Developer shall, in its sole discretion, determine which features and/or conditions should be included in the Resort to qualify for at least 33 such points. The Developer shall, based on the fact the Resort will include such features and/or conditions, make application for and use commercially reasonable efforts (not including changing or adding additional features and/or conditions) to obtain at least a "silver" certification for the Resort from LEED. However, the LEED certification process and standards are administered, interpreted and controlled by a third party over which neither the City nor the Developer has any control. The City therefore acknowledges that the Developer can not guarantee that it will obtain a "silver" LEED certification, or meet any specific level of LEED certification, for the Resort or any portion thereof.

(b) Build it Green. The Developer agrees to make reasonable efforts to incorporate into the Residences appropriate design measures which follow the guiding principals of the "Build it Green" ("**BIG**") program and are consistent with the residential component of the Project as contemplated by the Development Agreement (including without limitation this Exhibit B). The Developer shall make reasonable efforts to achieve at least 100 points under the BIG program. However, the BIG program and standards are administered, interpreted and controlled by a third party over which neither the City nor the Developer has any control. The City therefore acknowledges that the Developer can not guarantee that it will obtain BIG certification, or achieve any specific number of BIG points, for the Residences.

(c) In pursuit of LEED and BIG points, as described above, the Developer shall, to an extent consistent with achieving the project objective of developing a luxury resort, place a priority on water and energy conservation. To reduce the Project's overall water demand, the landscape design will implement a native and adaptive plant palette consistent with LEED standards, and irrigation technologies that reduce irrigation consumption. To reduce water demand from the Resort's buildings, where it is not in conflict with the Project's goals of developing a five-star or equivalent quality luxury resort, water efficient fixtures such as toilets, urinals and lavatories consistent with LEED standards will be used. To reduce water demand from the Residences, where it is not in conflict with the Project's goals of developing a five-star or equivalent quality experience, water efficient fixtures such as low-flow toilets, shower heads, low-flow irrigation technologies, etc., will be used consistent with Build-It-Green standards. In

addition, the landscaping plans for all 70 Residences will incorporate native and drought resistant plantings within the landscaped areas.

(d) **Oak Tree Replacement.** In anticipation of planting replacement oak trees, the Developer has harvested and has arranged for the germination of seedlings from acorns from oak trees on the Resort Parcels and the Residential Parcels. The Developer and the City acknowledge that the Developer will, in connection with the development of the Resort Parcels and the Residential Parcels, identify oak trees having a trunk diameter of 6 or more inches that will be transplanted, relocated or removed as a result of the development contemplated by this Agreement. The Developer shall transplant, relocate or replace (on a one-for-one basis) each such oak tree as provided herein. To the extent the Developer does not in connection with such development transplant, relocate or replace such oak trees in sufficient numbers to provide for such one-for-one relocation, transplanting or replacement with another oak tree, then the Developer shall, at its sole cost and expense, plant such oak seedlings on the Resort Parcels and/or Residential Parcels in a number sufficient to cause each such removed oak tree to have been transplanted, relocated or replaced by an oak tree or such an oak seedling. The Developer shall retain a qualified arborist or ecologist to monitor replacement oak trees for a period of 10 years. All planted trees shall have no less than a 70% survival rate at the end of the 10-year monitoring period.

22. Assignees and Transferees Bound. Pursuant to Section 27 of the Development Agreement, the City will record a memorandum of the Development Agreement in the Official Records of Sonoma County. The Developer hereby represents and warrants to the City that the land that is to become the Affordable Housing Land, the Public Park Land, the Fire Substation Land and the Pump Station Land pursuant to the terms and conditions of this Exhibit B, together with the remainder of the land on which the Project will be developed, is (as of the date of the Development Agreement) owned by the Developer in fee and is not subject to any monetary encumbrance (other than the liens for taxes that are not yet due and payable), whether in the nature of a mortgage, deed of trust or otherwise. Pursuant to Section 14.1 of the Development Agreement, the Development Agreement is and shall remain superior to any such encumbrance hereafter created, and the holder of any such encumbrance will be subject to the Development Agreement, including without limitation the requirements for conveyances to the City of the Affordable Housing Land, the Public Park Land, the Fire Substation Land and the Pump Station Land as set forth in this Exhibit B.

23. Construction Contractors, Subcontractors and Suppliers. With respect to the construction of the Project, Developer agrees to use commercially reasonable efforts to identify responsible parties (as described below) who are (x) persons who reside, or (y) entities that have their main office, in the City, and in each case are qualified and capable of providing those goods, services or work that Developer intends to procure in order to construct the Project. Developer agrees that, to the extent commercially possible and reasonable, it shall give any responsible party who is a person who resides, or an entity that has its main office, in the City the first opportunity to provide such goods, services or work, provided that the price and other terms relating to such goods, services and work proposed by such responsible party are acceptable to the Developer, in its discretion, and are equal to or better than the prices and other terms proposed by responsible parties that are not persons who reside, or entities having their main office in, the City.

In addition, Developer agrees that in connection with the construction of the Project, Developer shall use commercially reasonable efforts to solicit a reasonable number of proposals from responsible parties, in order to maximize competition and increase opportunity for participation in the Project. Developer agrees to evaluate all such proposals by giving appropriate consideration to whether the party making a given proposal is a "responsible party," i.e. one that: (i) has adequate technical skills, experience and expertise to provide or perform the requested goods, services or work in a timely and proper manner; (ii) has adequate financial capacity, personnel and other resources to provide or perform the requested goods, services or work in a timely and proper manner; (iii) is in compliance with all applicable legal and regulatory requirements (including tax laws and licensing statutes); (iv) pays commercially reasonable wages and benefits to its employees; (v) has an acceptable history of past performance with respect to similar projects; (vi) has adequate and appropriate insurance and bonding capacity (if applicable); and (vii) is not the subject of outstanding claims or litigation regarding its performance on other projects.

Developer shall also require that (i) each general contractor for the construction of the Project and each subcontractor of such general contractor use commercially reasonable efforts to identify responsible parties (as described in the immediately preceding paragraph) and to solicit a reasonable number (given the nature of the work to be performed by such general contractor or subcontractor) of proposals from responsible parties who are persons who reside, or entities that have their main offices, in the City and are qualified and capable of providing those goods, services or work to be provided or performed by the suppliers or subcontractors or sub-subcontractors of such general contractor or subcontractor; and (ii) to the extent commercially possible and reasonable, such general contractor or subcontractor shall give any responsible party who responds to such solicitation and is a person who resides, or an entity that has its main office, in the City the first opportunity to provide or perform such goods, services or work; provided that the price and terms relating to such goods, services and work proposed by such responsible party are acceptable to Developer and such general contractor or subcontractor, each in its sole discretion, and are equal to or better than the prices and other terms proposed by responsible parties that are not persons who reside in, or entities that have their main office, in the City.

24. Resort Staffing. With respect to the initial staffing of employment positions for the Hotel, Developer agrees to use commercially reasonable efforts to identify persons who are residents of the City and are qualified and capable of performing the employment positions that Developer intends to hire in connection with the Hotel. Developer agrees that, to the extent commercially possible and reasonable, it shall give persons who are residents of the City the first opportunity to fill such positions, provided they are appropriately trained, experienced and qualified, in the opinion of Developer, and are willing to accept employment at such wages and other terms relating to the position as are acceptable to Developer, in its sole discretion, and are equal to wages and other terms offered by Developer to non-City residents, with similar training, experience and qualifications, seeking the same position.

In addition, Developer acknowledges the important goal of providing long-term, high-quality, stable jobs to the residents of the City of Healdsburg. As such, Developer agrees to continue to recognize this important goal in connection with the ongoing operation of the Hotel

and will in good faith endeavor to provide the residents of the City of Healdsburg ongoing opportunities for employment at the Hotel if Developer determines in its commercially reasonable judgment that there are appropriately trained, experienced and qualified residents of the City of Healdsburg available for positions that are being offered to the general public, so long as such persons are willing to accept employment at such wages and other terms which are acceptable to Developer, in its discretion.

Exhibit C
Assignment and Assumption of Developer's Interest Under Development Agreement
Between the City of Healdsburg and Sonoma Luxury Resort LLC

ASSIGNMENT AND ASSUMPTION OF DEVELOPER'S INTEREST UNDER
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF
HEALDSBURG AND SONOMA LUXURY RESORT LLC

This ASSIGNMENT AND ASSUMPTION OF DEVELOPER'S INTEREST UNDER DEVELOPMENT AGREEMENT BETWEEN THE CITY OF HEALDSBURG AND SONOMA LUXURY RESORT LLC (this "Assignment") is entered into this ____ day of _____, 20__, by and between _____, a _____, having an address at _____ ("Assignor"), and _____, a _____ having an address at _____ ("Assignee").

WHEREAS, Assignor is, as of the date hereof, the "Developer" under that certain Development Agreement between the City of Healdsburg and Sonoma Luxury Resort LLC (the "Agreement") dated as of _____, 20__, originally by and between the City of Healdsburg (the "City"), as the "City" thereunder, and Sonoma Luxury Resort LLC, as the "Developer" thereunder, with respect to the portion of the Property (as defined in the Agreement) described in Exhibit 1 attached hereto (the "Assignor Property");

WHEREAS, Assignor owns and is conveying the fee title to the Assignor Property to Assignee, and in connection with such conveyance desires to transfer and assign to Assignee, all of Assignor's rights, interest, duties and obligations in and under the Agreement as such rights, interest, duties and obligations relate to the Assignor Property; and

WHEREAS, Assignee is acquiring fee title to the Assignor Property from Assignor pursuant to such conveyance, and in connection with such conveyance desires to accept from Assignor and assume all of such rights, interest, duties and obligations;

NOW THEREFORE, pursuant to the foregoing and in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. Assignor hereby transfers and assigns to Assignee, effective as of the date hereof, all of Assignor's rights, interest, duties and obligations in and under the Agreement as such rights, interest, duties and obligations relate to the Assignor Property. Nothing in this Assignment is intended to release or relieve Assignor from (i) any obligation Assignor may have under the Agreement from and after the date hereof relating to any property other than the Assignor Property, or (ii) any obligation relating to the Assignor Property that arose prior to the date hereof, all of which shall remain the obligations and responsibility of Assignor notwithstanding this Assignment.

2. Assumption. Assignee hereby accepts such transfer and assignment of and assumes (and with respect to obligations agrees to perform), effective as of the date hereof, such rights, interest, duties and obligations as they relate to the Assignor Property. Nothing in this Assignment is intended to be an acceptance and assumption by Assignee of (i) any obligation Assignor may have under the Agreement from and after the date hereof relating to any property other than the Assignor Property, or (ii) any obligation relating to the Assignor Property that

arose prior to the date hereof, all of which shall remain the obligations and responsibility of Assignor notwithstanding this Assignment.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first stated above.

[Insert Signature Blocks for Assignor and Assignee]

Exhibit D
Memorandum of Development Agreement
Saggio Hills

RECORDING REQUESTED BY
and when recorded Mail to:

Maria Curiel, City Clerk
City of Healdsburg
401 Grove Street
Healdsburg, California 95448-4723

Exempt from recording fee (Govt. Code § 6103)

Space above for use by Recorder's office

A.P.N. _____

**MEMORANDUM OF DEVELOPMENT AGREEMENT
SAGGIO HILLS**

This MEMORANDUM OF DEVELOPMENT AGREEMENT is made and entered into by and between the City of Healdsburg, a municipal corporation ("City") and Sonoma Luxury Resort, LLC, a Delaware limited liability company (the "Developer") as of _____, 20__ with respect to the following facts:

City and Developer hereby agree to be bound by all of the terms and conditions contained in that certain "Development Agreement by and Between The City of Healdsburg and Sonoma Luxury Resort LLC" dated _____, 20__, the terms and conditions of which are made a part hereof as though fully set forth herein, and which Agreement controls the use and development of that certain real property, including any improvements and personal property, situated in the City of Healdsburg, County of Sonoma, State of California, described as follows:

Approximately 258.5 acres of undeveloped land in the unincorporated area of Sonoma County, commonly referred to as "Saggio Hills", and more particularly described in **Exhibit A** attached hereto.

Executed this _____ day of _____, 20__, at Healdsburg, Sonoma County, California.

CITY OF HEALDSBURG

SONOMA LUXURY RESORT LLC

By: _____
Marjie Pettus, City Manager

Printed Name: _____

ATTEST:

Maria Curiel, City Clerk

Printed Name: _____

Exhibit E
Transient Occupancy Tax Agreement
(Healdsburg, California)

TRANSIENT OCCUPANCY TAX AGREEMENT

(Healdsburg, California)

THIS TRANSIENT OCCUPANCY TAX AGREEMENT ("**Agreement**") is made and entered into as of this ___ day of _____, 20__ by and between SONOMA LUXURY RESORT LLC, a Delaware limited liability company ("**Owner**"); _____, [name, type and form of entity], who shall serve as property manager ("**Property Manager**") for the hotel/spa facility hereinafter described; and the City of Healdsburg, California ("**City**"). Owner, Property Manager and City may hereinafter be referred to individually as "**Party**" or collectively as "**Parties**".

RECITALS

WHEREAS, **Owner** is developing a combination hotel/spa and residential resort facility ("**Saggio Hills Project**") located on land as legally described in **Exhibit A** attached hereto and made a part of this Agreement; and

WHEREAS, **Owner** intends to construct as part of the Saggio Hills Project up to seventy (70) private residences ("**Private Residences**") and sell and transfer title to such Private Residences to third persons ("**Residential Homeowners**"); and

WHEREAS, the Parties acknowledge that some, or all, of the Private Residences may be made available by the owners thereof for occupancy by "transient" occupants on a temporary (30 days or less) basis, pursuant to an approved Area Plan and Development Agreement for the Saggio Hills Project; and

WHEREAS, in the event that Residential Homeowners choose to rent their individual Private Residences for temporary occupancy, they may elect (but will not be required) to use the services of the Property Manager to accomplish and manage such rentals; and

WHEREAS, City imposes a transient occupancy tax ("**TOT**") for temporary occupancy by non-owners of vacation resort units, pursuant to City's Municipal Code (the "**Code**"); and

WHEREAS, certain of the project approvals adopted by the City for the Saggio Hills Project specifically contemplate imposing TOT on Private Residences that are made available for transient occupancy (whether by the Residential Homeowners directly or through the Property Manager);

NOW WHEREFORE, in consideration of the recitals, covenants, agreements and stipulations contained herein, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows.

AGREEMENT

1. Application of the Code. Owner hereby agrees to subject the Private Residences to the collection and payment of TOT at the rate set forth in the Code upon execution of this Agreement, as and when described in this Agreement, and Owner hereby agrees to impose the obligation to collect and pay TOT as described herein as a recorded covenant and condition against any Private Residence sold or otherwise transferred to a Residential Homeowner. Any Private Residence that is rented on a transient (thirty days or less) basis will remain subject to collection and payment of TOT until such time as the Code is either amended or repealed, or such Private Residence is no longer offered for transient occupancy use subject to the Code.

2. Rent and TOT Calculations. The daily "Rent" on which the TOT rate is to be applied shall be equal to the nightly or weekly occupancy rate imposed by the Residential Homeowner or the Property Manager, as applicable, for each Private Residence occupied for a period of thirty (30) days or less. The TOT payable to City shall be determined by multiplying the Rent attributable to Private Residence occupied during any given reporting period for TOT under the Code by the TOT rate set forth in the Code, as the same may be amended from time to time.

3. Exemption from Payment of TOT. Each Residential Homeowner will be entitled to occupy his/her/their Private Residence without imposition of the TOT.

4. Reporting of TOT Due. On or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the city clerk, the Property Manager shall make a return to the city clerk, on forms provided by him or her, of the total rents charged and received by the Property Manager, and the amount of TOT collected by the Property Manager for transient occupancies made available through the Property Manager. At the time the return is filed, the full amount of the TOT collected shall be remitted to the city clerk. The city clerk may establish shorter reporting periods for the Property Manager if the city clerk deems it necessary in order to insure collection of the TOT and he or she may require further information in the return. All TOT collected by Property Manager pursuant to this Agreement shall be held in trust for the account of the city until payment thereof is made to the city clerk. In all other respects, Property Manager shall, with respect to transient occupancies of Private Residences made available through the Property Manager, be deemed an "operator" of such Private Residences for the purposes of the Code, and shall be subject to all other requirements set forth in the Code relating to the transient occupancy of such Private Residences.

5. Resort Subject to Payment of TOT. Nothing in this Agreement shall be construed as exempting the hotel resort/spa facility that is part of the Saggio Hills Project from collection and payment of TOT. The Parties expressly acknowledge that such hotel resort/spa is subject to collection and payment of TOT in accordance with the Code.

6. Miscellaneous.

(a) Headings and Captions. The headings and captions in this Agreement are for convenience only and shall not be referred to in the interpretation of this Agreement.

(b) Definitions. When used in this Agreement, the following terms shall have the meaning set forth herein:

(1) "Occupancy", for the purpose of calculating TOT, shall mean any portion of a day in which a Private Residence is occupied by an overnight guest, other than the Residential Homeowner.

(2) "Rent" shall refer to the amount of rent charged by the Residential Owner or the Property Manager, as applicable, to non-owner guests to occupy a Private Residence.

(c) Waiver. The failure of any Party to exercise any power given it hereunder or to insist upon strict compliance with the terms of this Agreement shall not constitute a waiver of that Party's right to demand exact compliance with the terms hereof. Waiver by a Party of any particular default by the other shall not affect or impair its rights with respect to any subsequent defaults of

the same or of a different kind; nor shall any delay or omission by a Party to exercise any rights arising from any default affect or impair its right as to such default or any future default.

(d) Severance. Should any part of this Agreement be declared invalid or unenforceable for any reason, it shall be adjusted rather than voided, if possible, to achieve the intent of the Parties.

(e) Governing Law. This Agreement shall be construed under the laws of the State of California and any action or proceeding brought to enforce, interpret, or otherwise arising out of, this Agreement shall be venued in Sonoma County.

(f) Indemnification. To the fullest extent permitted by law, the Parties agree to reimburse, indemnify, and hold the other Parties and their agents, employees, officers, elected officials, directors, representatives and affiliates harmless from and against all claims, damages, losses, fines, penalties, judgments, awards and expenses, including reasonable attorney's fees, arising out of or resulting from the indemnifying Party's breach of this Agreement or the indemnifying Party's negligence or intentional misconduct (including any breach, negligence or intentional misconduct by independent contractors hired by the indemnifying Party) relating to or arising out of the indemnifying Party's obligations under this Agreement.

(g) Attorneys' Fees. If legal action is commenced to enforce or to declare the effect of any provision of this Agreement, the prevailing party (as determined by the court or arbitrator) shall be entitled to an award of reasonable attorney's fees and costs incurred at trial, on appeal, on petition for review, or in any related bankruptcy matter. A prevailing party shall also be entitled to reasonable attorney's fees and costs incurred to enforce or collect a judgment or award.

(h) Entire Agreement. This Agreement contains the entire agreement between the Parties relating to the transient occupancy (as described herein) of any Private Residence. Any and all verbal or written agreements with respect to the subject matter hereof made prior to the date of this Agreement are superseded by this Agreement and shall have no further effect. No modification or change to the terms of this Agreement will be binding on a Party unless in writing and signed by an authorized representative of that Party.

(i) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same Agreement.

(j) Authorization. Each and every person executing this Agreement on behalf of any Party hereby warrants that he/she has the authority and is duly authorized to execute this Agreement on behalf of the Party he/she purports to represent.

IN WITNESS WHEREOF, this Transient Occupancy Tax Agreement has been executed as of the day and year first above written.

SONOMA LUXURY RESORT LLC
a Delaware limited liability company

CITY OF HEALDSBURG, CALIFORNIA

By: _____

By: _____

City Manager

Title: _____

[PROPERTY MANAGER]

ATTEST:

By: _____

City Clerk

Title: _____

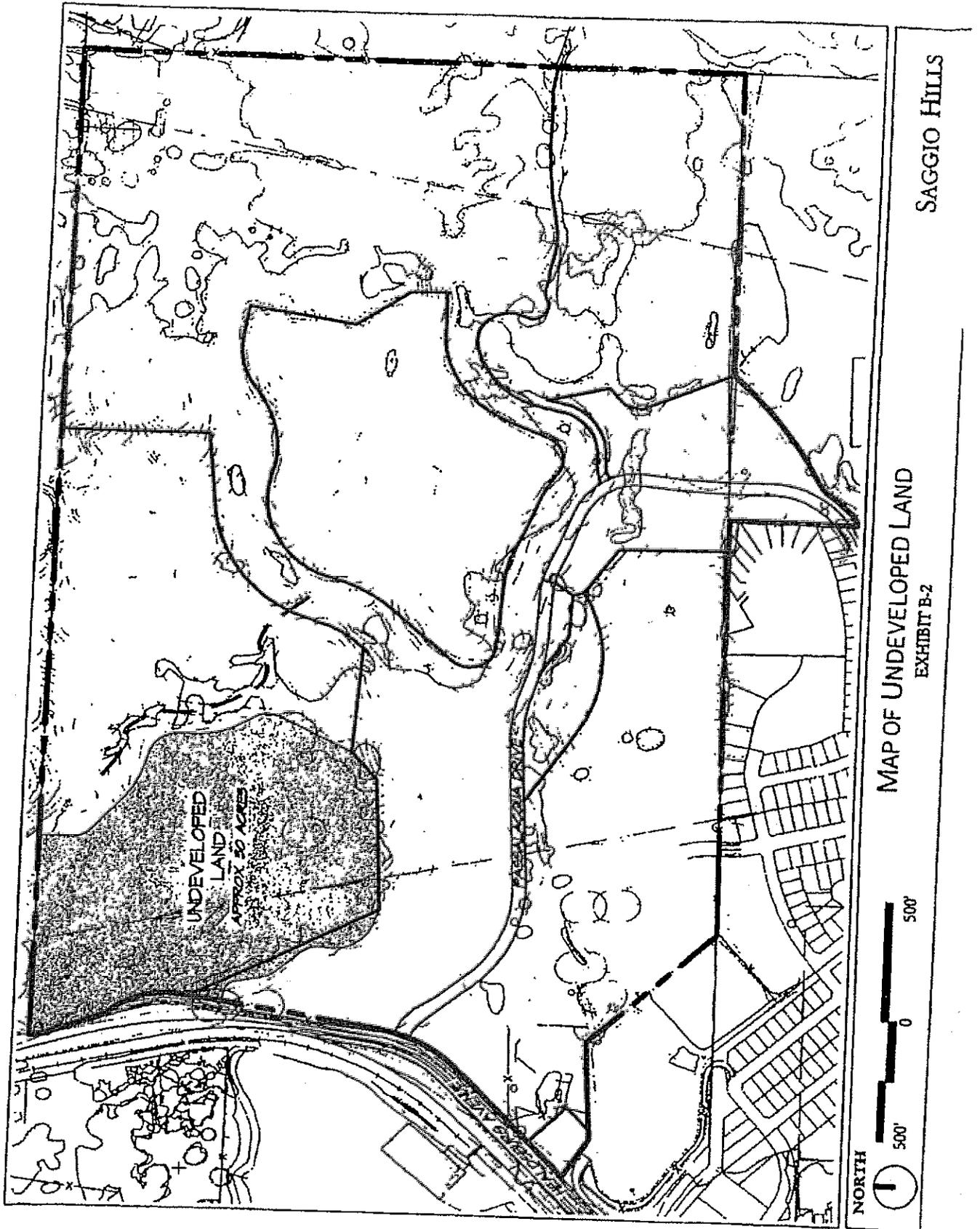
EXHIBIT "A"

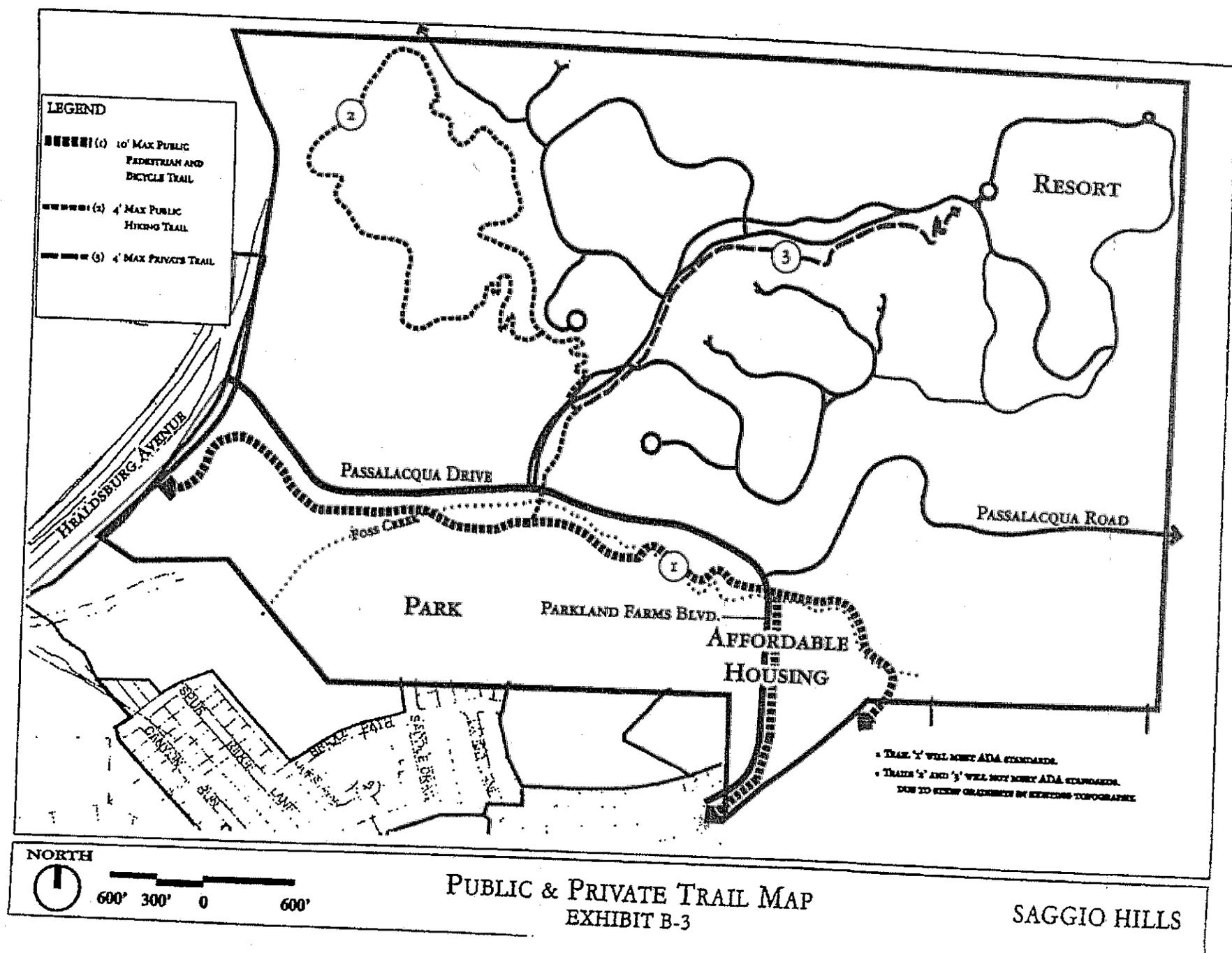
LEGAL DESCRIPTION OF THE PROPERTY

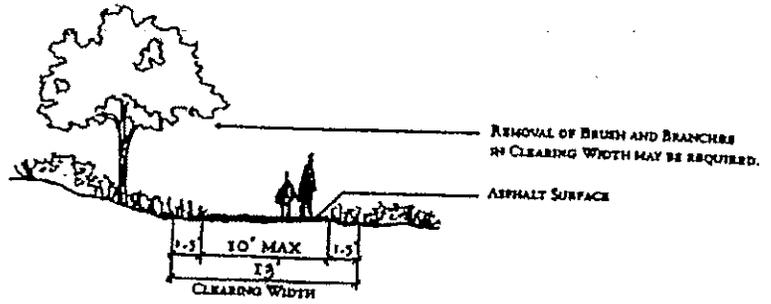
Exhibit B-1

Exhibit B-1

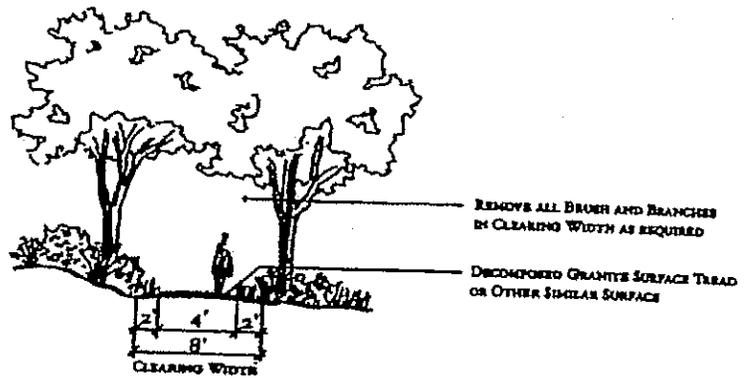
(Reserved)



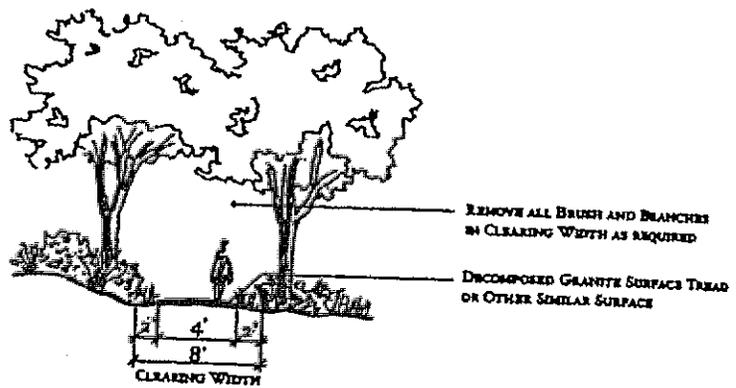




TRAIL 1 - PUBLIC PEDESTRIAN TRAIL (13' R.O.W.)



TRAIL 2 - PUBLIC HIKING TRAIL (8' R.O.W.)



TRAIL 3 - PRIVATE TRAIL TO RESORT

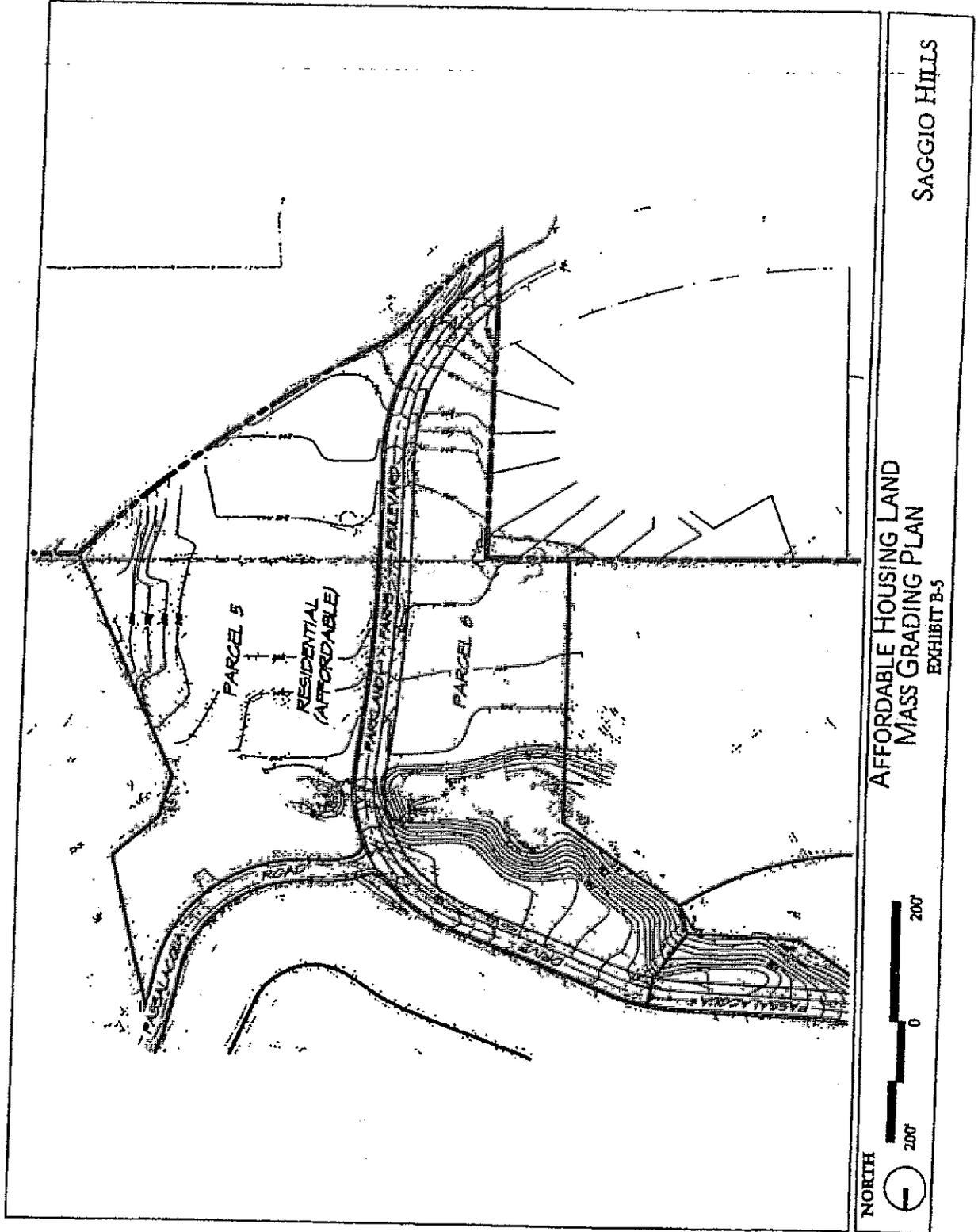
TRAIL 1 WILL MEET ADA STANDARDS.

TRAILS 2 AND 3 WILL NOT MEET ADA STANDARDS DUE TO STEEP GRADIENTS IN EXISTING TOPOGRAPHY.

NOT TO SCALE

PUBLIC & PRIVATE TRAIL STANDARDS
EXHIBIT B-4

SAGGIO HILLS



AFFORDABLE HOUSING LAND
MASS GRADING PLAN
EXHIBIT B-5

SAGGIO HILLS

NORTH



200' 0 200'

Order No.
Escrow No.

WHEN RECORDED MAIL TO:

EXHIBIT B-6

Space above this line reserved for recorder's use

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, SONOMA LUXURY RESORTS LLC, a Delaware limited liability company ("Grantor"), having an address of _____ hereby GRANTS AND CONVEYS unto CITY OF HEALDSBURG, a California municipal corporation ("Grantee"), having an address _____, the real property in the City of Healdsburg, County of Sonoma, State of California, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Together with all improvements, hereditaments, easements, rights, privileges, and appurtenances thereunto belonging, or in anyway appertaining, and the right, title, interest, claim or demand whatsoever, of Grantor, either in law or equity, of, in and to the above described premises (collectively, the "Property").

SUBJECT TO the easements, restrictions, conditions and covenants described in Exhibit "B", attached hereto and made a part hereof.

SUBJECT FURTHER TO a perpetual restriction, which by acceptance of this deed the Grantee accepts, that the Property shall be initially developed for and as affordable housing, as defined and described in the City of Healdsburg Zoning Ordinance, which initial development shall have a density of not to exceed 11 dwelling units per acre (calculated on the basis of the entire Property without regard to whether the density for any separate legal parcel that may be created after the date hereof by one or more subdivisions of the entire Property exceeds 11 dwelling units per acre). The Property shall thereafter be used for residential and related purposes only, with a density not to exceed 11 dwelling units per acre (calculated on the basis of the entire Property without regard to whether the density for any separate legal parcel that may be created after the date hereof by one or more subdivisions of the entire Property exceeds 11 dwelling units per acre). The restrictions contained in this paragraph shall run with the Property (and any and all separate legal parcels therein as may exist following any subsequent subdivision or subdivisions

thereof) and inure to the benefit of the land described in EXHIBIT "C", attached hereto and made a part hereof.

Grantor will WARRANT AND DEFEND the Property against all persons lawfully claiming or to claim the same or any part thereof, by through, or under Grantor. TO HAVE AND TO HOLD the Property, unto Grantee, its successors and assigns.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

EXHIBIT "A"

(Legal Description)

[To be inserted before closing based on final map description]

EXHIBIT "B"

(Easements, Restrictions, Conditions and Covenants)

[To be inserted before closing based on City's review of title report]

EXHIBIT "C"

(Benefited Land Legal Description)

[To be inserted before closing based on final map description]



NORTH



PUBLIC PARK & FIRE SUBSTATION LAND
MASS GRADING PLAN
EXHIBIT B-7

SAGGIO HILLS

Order No.
Escrow No.

WHEN RECORDED MAIL TO:

EXHIBIT B-8

Space above this line reserved for recorder's use

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, SONOMA LUXURY RESORTS LLC, a Delaware limited liability company ("Grantor"), having an address of _____ hereby GRANTS AND CONVEYS unto CITY OF HEALDSBURG, a California municipal corporation ("Grantee"), having an address of _____, the real property in the City of Healdsburg, County of Sonoma, State of California, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Together with all improvements, hereditaments, easements, rights, privileges, and appurtenances thereunto belonging, or in anyway appertaining, and the right, title, interest, claim or demand whatsoever, of Grantor, either in law or equity, of, in and to the above described premises (collectively, the "Property").

SUBJECT TO the easements, restrictions, conditions and covenants described in Exhibit "B", attached hereto and made a part hereof.

SUBJECT FURTHER TO a restriction, which by acceptance of this deed the Grantee accepts, that so long as (and only so long as) the land described in EXHIBIT "C" attached hereto and made a part hereof (the "Benefited Land") is used as a hotel or resort (or no hotel or resort improvements are being constructed, remodeled or reconstructed thereon in anticipation of such use upon completion of such construction, remodeling or reconstruction), (i) the Property shall be used for public community park, public recreational fields and/or open space and related purposes only; (ii) no building having a footprint that exceeds three thousand (3,000) square feet shall be placed, installed or constructed within the portion of the Property described in Exhibit "D" attached hereto; and (iii) the exterior design for any new building or structure placed on the Property shall be generally compatible with the development of the Benefited Land and shall comply with applicable laws. In the event the Benefited Land is not used as a hotel or resort (or hotel or resort improvements are being constructed, remodeled or reconstructed thereon in anticipation of such use upon completion of such construction, remodeling or reconstruction) for

a period in excess of thirty-six (36) months, then the restrictions contained in this paragraph shall, without further action, be terminated and of no further force and effect. The restrictions contained in this paragraph shall run with the Property and inure to the benefit of the Benefited Land.

Grantor will WARRANT AND DEFEND the Property against all persons lawfully claiming or to claim the same or any part thereof, by through, or under Grantor. TO HAVE AND TO HOLD the Property, unto Grantee, its successors and assigns.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

EXHIBIT "A"
(Legal Description)

[To be inserted before closing based on final map description]

EXHIBIT "B"
(Easements, Restrictions, Conditions and Covenants)

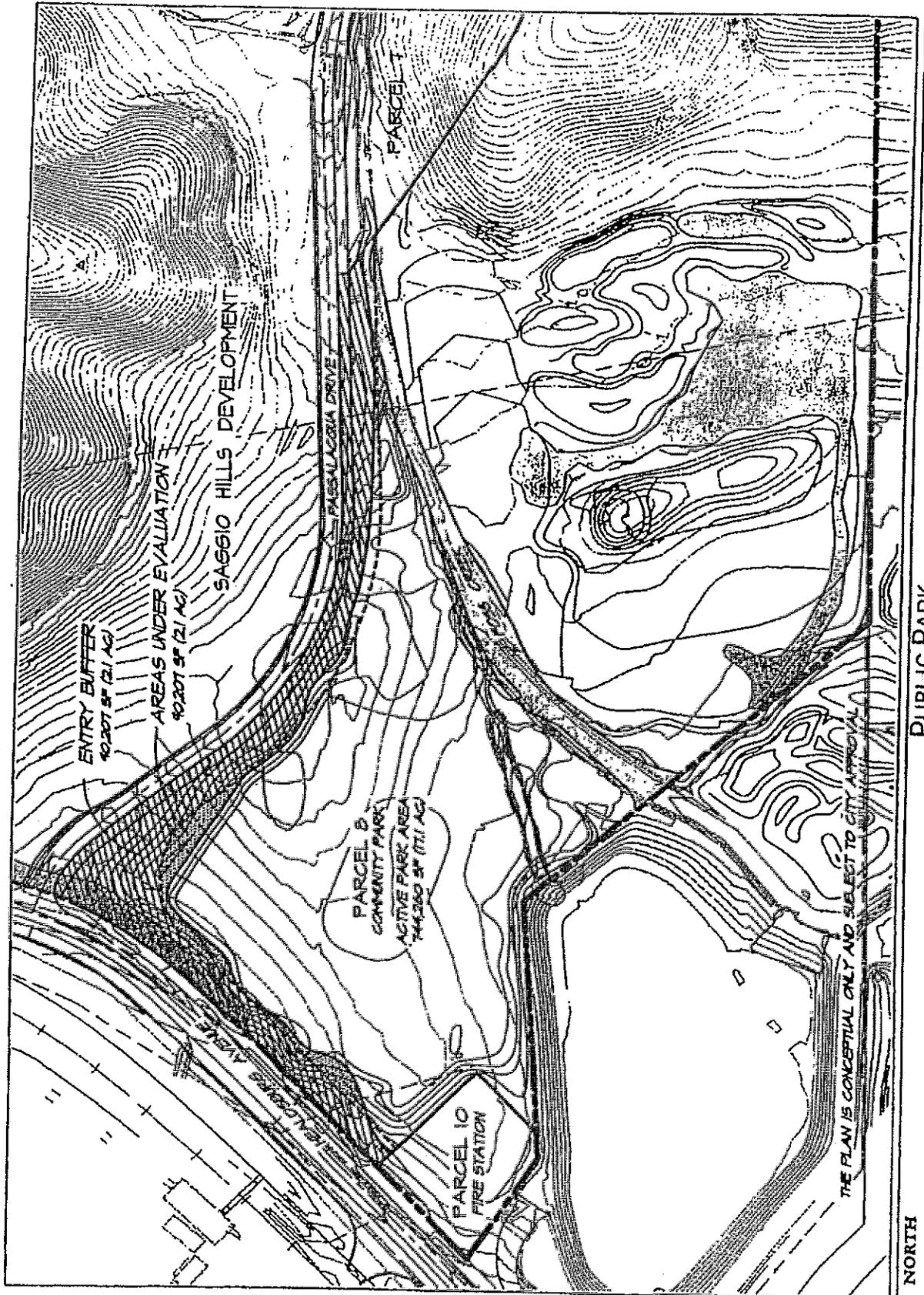
[To be inserted before closing based on City's review of title report]

EXHIBIT "C"
(Benefited Land Legal Description)

[To be inserted before closing based on final map description]

EXHIBIT "D"

*[Legal Description of Area West of Foss Creek to be inserted before closing
based on survey]*



THE PLAN IS CONCEPTUAL ONLY AND SUBJECT TO CITY APPROVAL

PRINTED ON NOVEMBER 8, 2007



NORTH



PUBLIC PARK
DESIGN PARAMETERS
EXHIBIT B-10

SAGGIO HILLS

Order No.
Escrow No.

WHEN RECORDED MAIL TO:

EXHIBIT B-11

Space above this line reserved for recorder's use

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, SONOMA LUXURY RESORTS LLC, a Delaware limited liability company ("Grantor"), having an address of _____ hereby GRANTS AND CONVEYS unto CITY OF HEALDSBURG, a California municipal corporation ("Grantee"), having an address of _____, the real property in the City of Healdsburg, County of Sonoma, State of California, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Together with all improvements (including without limitation the fire substation that has been constructed thereon), hereditaments, easements, rights, privileges, and appurtenances thereunto belonging, or in anyway appertaining, and the right, title, interest, claim or demand whatsoever, of Grantor, either in law or equity, of, in and to the above described premises (collectively, the "Property").

SUBJECT TO the easements, restrictions, conditions and covenants described in Exhibit, "B", attached hereto and made a part hereof.

SUBJECT FURTHER TO a perpetual restriction, which by acceptance of this deed the Grantee accepts, that the Property shall initially be used as a fire substation and related purposes only. In the event Grantee subsequently decides, in Grantee's sole discretion, not to use the Property as a fire substation, then the Property shall be used only for police station, public library, public park, recreational fields, open space and/or other public purposes; provided that (i) such use does not include the outdoor storage, maintenance and/or repair of vehicles, equipment and/or materials; (ii) such use does not include the construction of any building or other structure that exceeds two stories in height; and (iii) the exterior design of any new building or structure placed on the Property shall be generally compatible with the development of the land described on EXHIBIT "C", attached hereto and made a part hereof (the "Benefited Property"). The restrictions contained in this paragraph shall run with the Property and inure to the benefit of the Benefited Property.

Grantor will WARRANT AND DEFEND the Property against all persons lawfully claiming or to claim the same or any part thereof, by through, or under Grantor. TO HAVE AND TO HOLD the Property, unto Grantee, its successors and assigns.

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EXHIBIT "A"
(Legal Description)

[To be inserted before closing based on the final map description]

EXHIBIT "B"
(Easements, Restrictions, Conditions and Covenants)

[To be inserted before closing based on City's review of title report]

EXHIBIT "C"
(Benefited Land Legal Description)

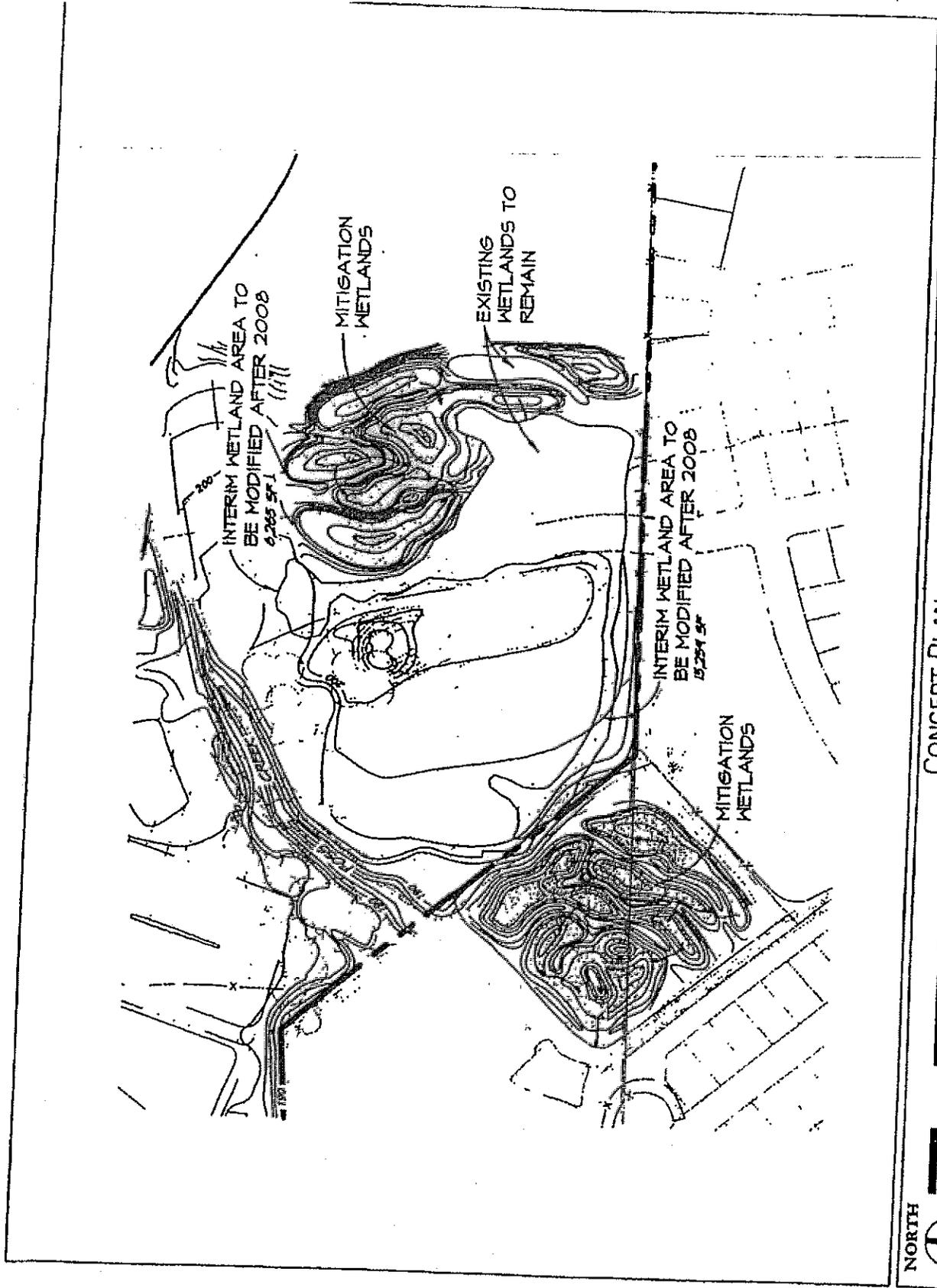
[To be inserted before closing based on final map description]

Exhibit B-12

(Reserved)

Exhibit B-13

(Reserved)

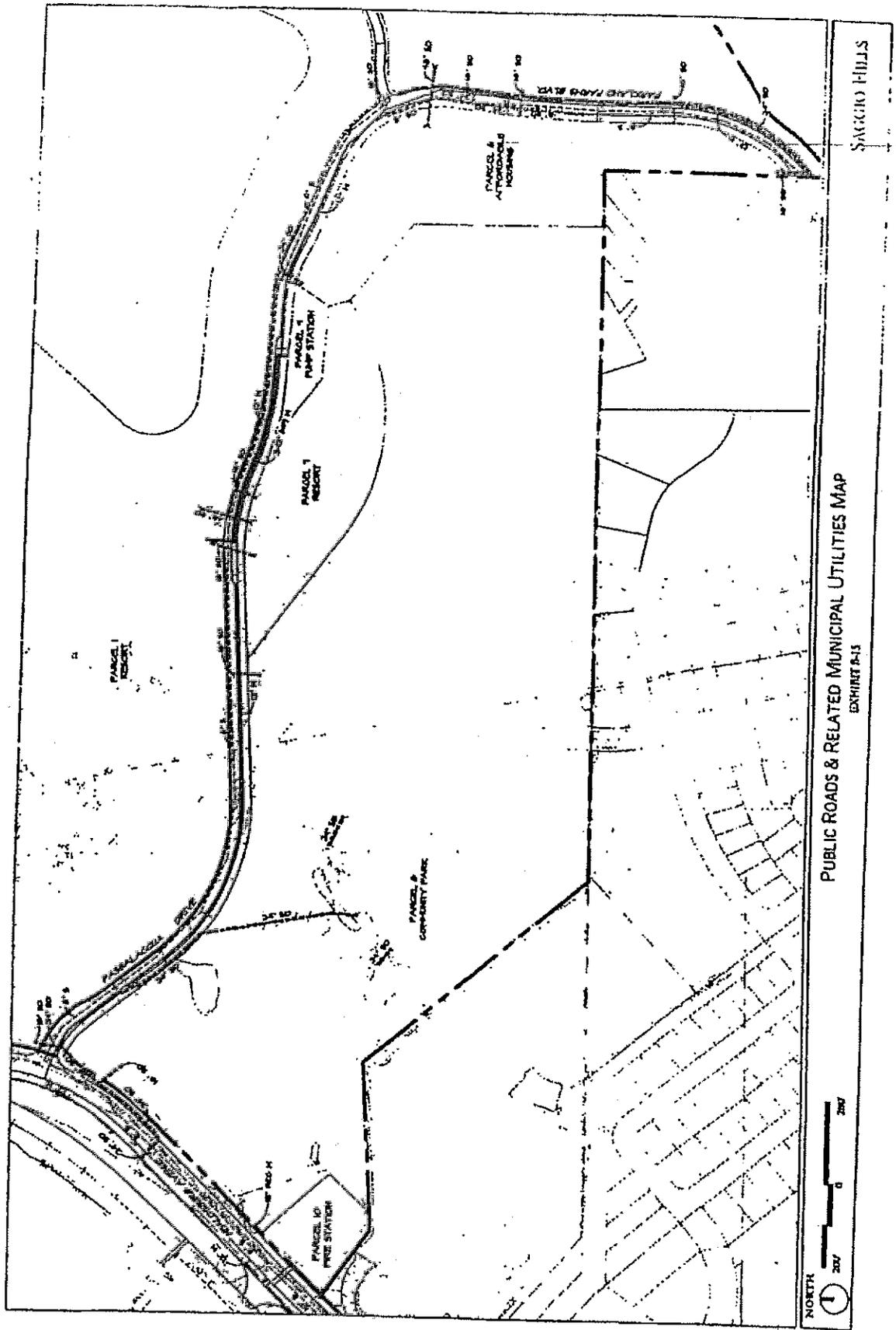


NORTH



CONCEPT PLAN
FOR WETLAND MITIGATION
EXHIBIT B-14

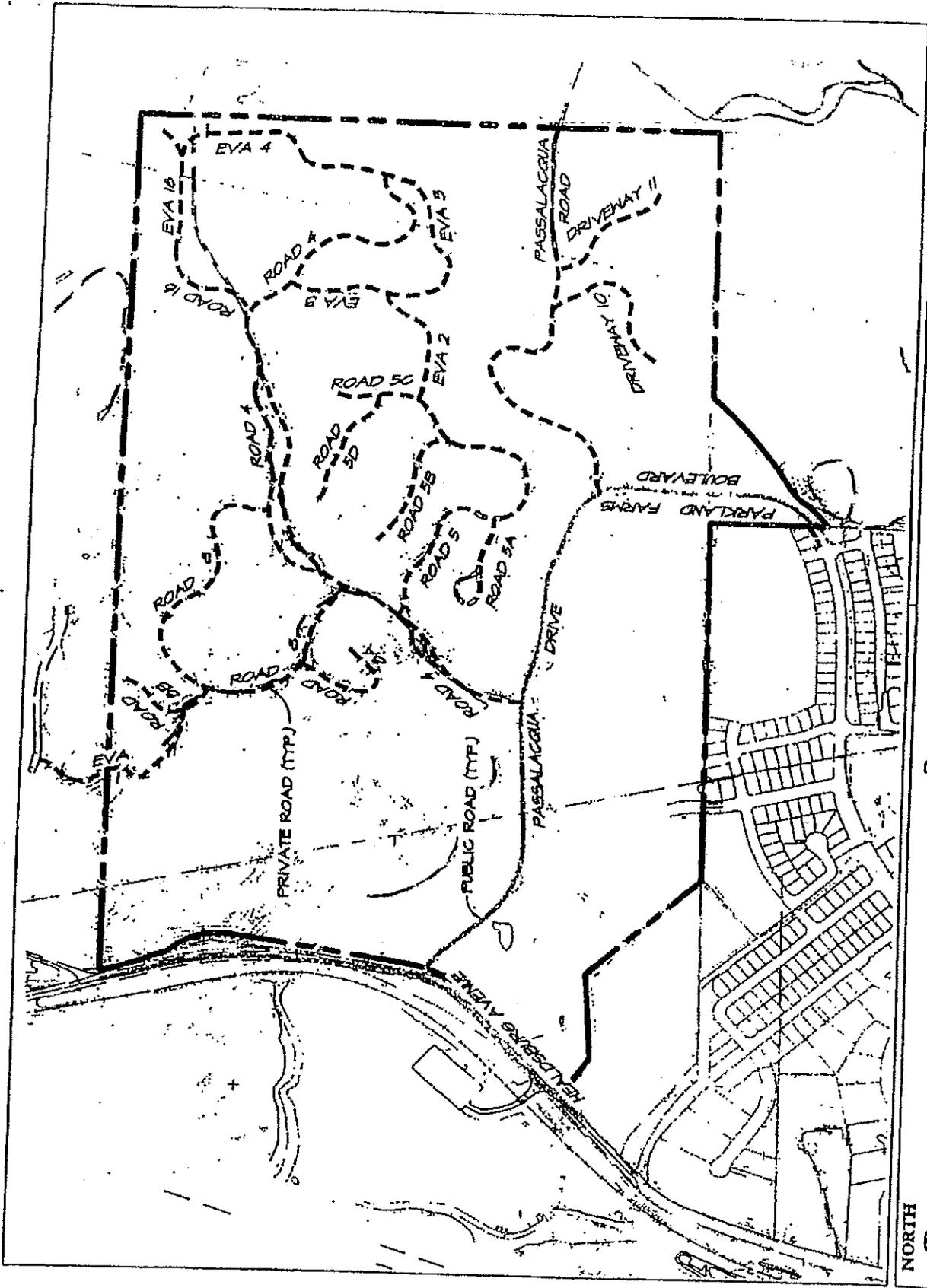
SAGGIO HILLS



PUBLIC ROADS & RELATED MUNICIPAL UTILITIES MAP
EXHIBIT B-15

SARGIO HILLS





SAGGIO HILLS

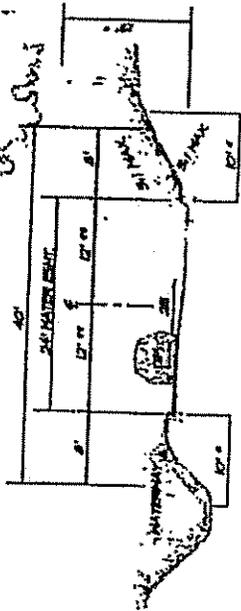
PRIVATE ROAD MAP

EXHIBIT B-17

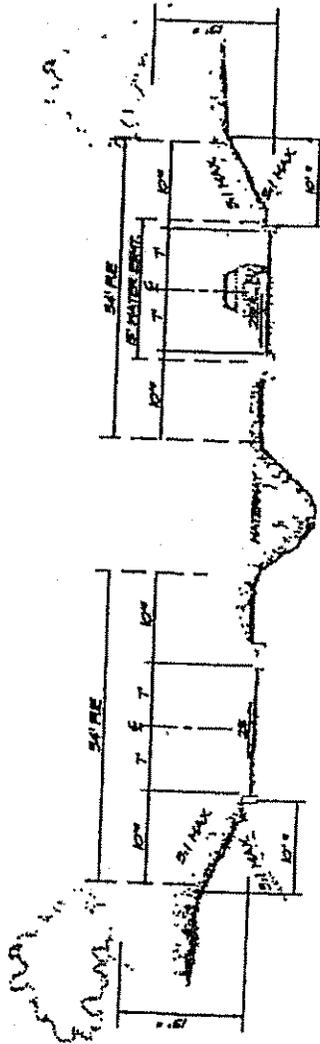
NORTH



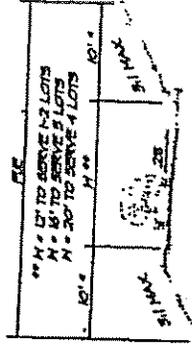
** MAY VARIATION TO 10' FOR SLOPE
LIMITS FOR TOPOGRAPHY OR
TREE CONSTRAINTS



PRIVATE STREET
10'



PRIVATE BRAIDED STREET
10'

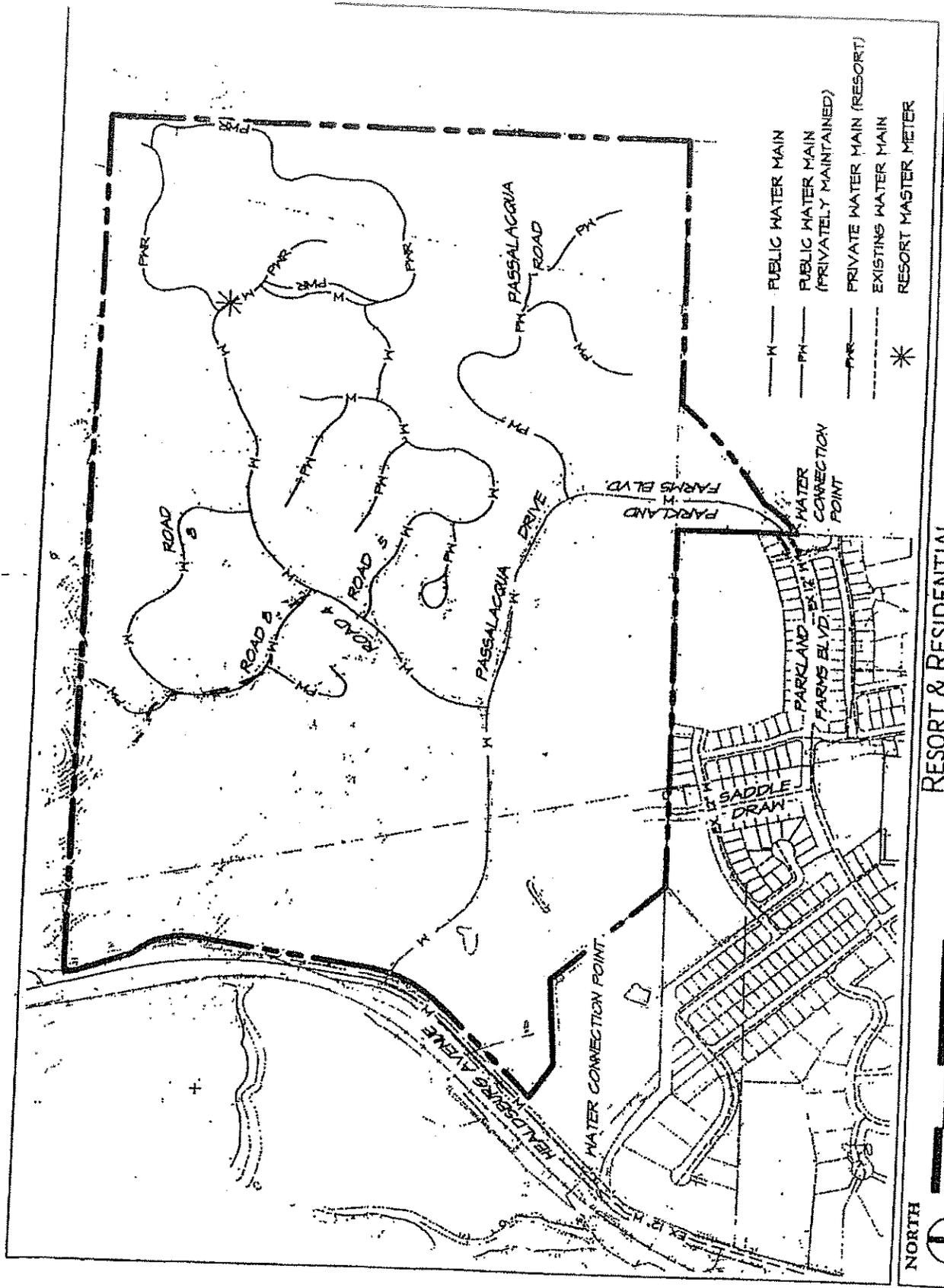


PRIVATE DRIVEWAY
10'

* VEGETATION CLEARANCE
REQUIREMENTS SHALL BE MET

PRIVATE ROAD DESIGN STANDARDS
EXHIBIT B-18

SAGGIO HILLS



SAGGIO HILLS

RESORT & RESIDENTIAL
WATER LINES

EXHIBIT B-20



SAGGIO HILLS BOOSTER PUMP STATION

Saggio Hills Development

October 12, 2007

Reviewed by: Craig Olson

Prepared by: Ryan Hougham

Introduction

The Saggio Hills Water System Upgrade Project is located within the jurisdiction of the City of Healdsburg, and as such is governed by the Water Systems Master Plan (completed in 2003). The existing infrastructure will not adequately provide the necessary water supply to the Saggio Project, thereby requiring a new pump station for the development. This new station will ultimately serve 70 large single-family lots, one affordable housing site, one resort, one public park, and two common areas.

Pump Station

The new pump station will be located along Passalacqua Drive within the Saggio Hills development site. The equipment will be housed inside an approximate 20' x 30' masonry building with architectural features. The pump station must be capable of supplying enough water to meet both domestic and fire flow requirements simultaneously. Vertical turbine pumps are being considered. The table below summarizes the pump dedications.

Service	# of Required Pumps
Domestic Flow (High Zone)	2 min. (1 full-time standby)
Fire Flow	2 min. (1 full-time standby)

As identified in the Carlile-Macy report (completed 2007), minimum fire flow to the furthest extent of the project will be 1,500 GPM. A maximum flow of 150,000 gallons per day is also required for the domestic water supply. A combination of the domestic flow pumps can supply water from the minimum up to the average flow. A combination of the fire flow pumps will also handle all required fire flow. Each condition has a standby pump for emergency cases. Dual high-pressure discharge points will be provided. The low demands will require the use of variable frequency drives (VFD's) and potentially a hydro-pneumatic tank. The hydropneumatic tank could potentially serve two purposes, the first of which is a surge suppression system. The hydropneumatic tank could also allow the flow into the system to be met while creating the most efficient pump cycle time. The table below summarizes the required pressures.

EXHIBIT B-21



Service	Required Pressure
Domestic Flow (High Zone)	Minimum: 40 PSI (● highest floor) Maximum: 80 PSI (● lowest floor) A pressure reducing valve is required for pressures exceeding 80 PSI
Fire Flow	20 PSI ● Hydrant Outlet 30 PSI ● Pump Station

Surge System

It is recommended that a water model be prepared for the distribution system of the Saggio Hills Pump Station. This water model will be vital in determining the need for a surge arrestor system at the pump station. During worst case scenarios (i.e. all pumps failing, quick valve closure, etc.) the possibility of a surge wave, and thus a vacuum, forming in the discharge piping is high. Such a scenario will result in possible damage to the pipeline.

The same hydro-pneumatic tank (a common surge relief device) from above will serve to dampen the surge wave pressure from normal pump starting and stopping and for power failure events. Packaged level controls with the tank will cycle an air compressor to maintain levels in the tank.

Electrical/SCADA Design

Due to the possibility of electrical failure at the Saggio Hills Pump Station site, a backup generator will be provided. In the event of such a failure, the diesel generator will provide 24 hours of backup power to the pump station. Additional fuel can be delivered to the site for outages longer than 24 hours. The generator will be housed in a sound attenuating weatherproof enclosure.

A SCADA system will provide full integration of the pump station with City of Healdsburg operations facilities. Local monitoring and control is provided by a graphic based OI. Graphic based units will allow Operators to troubleshoot issues at the site with minimal training.

Conclusion

The Saggio Hills Water System Upgrade Project will provide a comprehensive solution to the water demand issues posed by the area's expanding infrastructure. The project will include a pump station building, a potential hydropneumatic tank, a backup generator, and a fully integrated SCADA system. Upon completion of the project, the Saggio Hills Water System Upgrade will provide satisfactory domestic and fire flows to the new Saggio Hills development.

Order No.
Escrow No.

WHEN RECORDED MAIL TO:

EXHIBIT B-22

Space above this line reserved for recorder's use

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, SONOMA LUXURY RESORTS LLC, a Delaware limited liability company ("Grantor"), having an address of _____ hereby GRANTS AND CONVEYS unto CITY OF HEALDSBURG, a California municipal corporation ("Grantee"), having an address _____, the real property in the City of Healdsburg, County of Sonoma, State of California, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Together with all improvements, hereditaments, easements, rights, privileges, and appurtenances thereunto belonging, or in anyway appertaining, and the right, title, interest, claim or demand whatsoever, of Grantor, either in law or equity, of, in and to the above described premises (collectively, the "Property").

SUBJECT TO the easements, restrictions, conditions and covenants described in Exhibit "B", attached hereto and made a part hereof.

SUBJECT FURTHER TO a perpetual restriction, which by acceptance of this deed the Grantee accepts, that the Property shall be used for a water pump station and related purposes only. The restriction contained in this paragraph shall run with the Property and inure to the benefit of the land described in EXHIBIT "C", attached hereto and made a part hereof.

Grantor will WARRANT AND DEFEND the Property against all persons lawfully claiming or to claim the same or any part thereof, by through, or under Grantor. TO HAVE AND TO HOLD the Property, unto Grantee, its successors and assigns.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

EXHIBIT "A"
(Legal Description)

[To be inserted before closing based on final map description]

EXHIBIT "B"
(Easements, Restrictions, Conditions and Covenants)

[To be inserted before closing based on City's review of title report]

EXHIBIT "C"
(Benefited Land Legal Description)

[To be inserted before closing based on final map description]

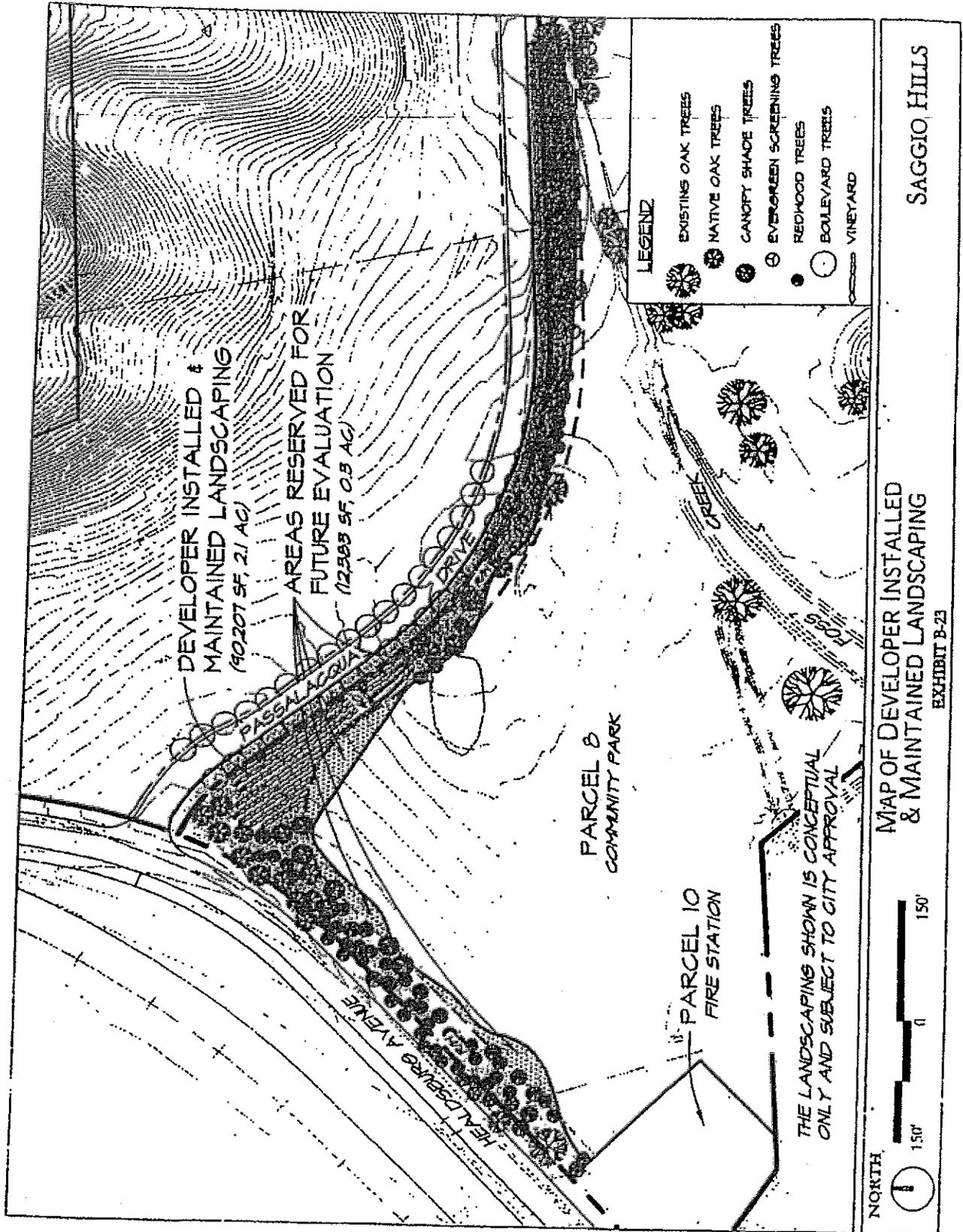


EXHIBIT B-24

INTENTIONALLY OMITTED

EXHIBIT B-25

FORM OF LANDSCAPE MAINTENANCE
AND REPAIR EASEMENT AND AGREEMENT

Order No.
Escrow No.

WHEN RECORDED MAIL TO:

Space above this line reserved for recorder's use

LANDSCAPE MAINTENANCE AND REPAIR EASEMENT AND AGREEMENT

THIS LANDSCAPE MAINTENANCE AND REPAIR EASEMENT AND AGREEMENT (the "Agreement") is made as of _____, 200__, by and between the City of Healdsburg, a California municipal corporation (the "City"), and Sonoma Luxury Resort LLC, a Delaware limited liability company (the "Resort").

RECITALS

A. The City and the Resort are the parties to that certain Development Agreement by and between the City of Healdsburg and Sonoma Luxury Resort LLC (the "Development Agreement") dated _____, 200__, a copy of which Development Agreement was recorded in the Official Records of the County Recorder for Sonoma County, California as Instrument No. _____.

B. Pursuant to the Development Agreement, the Resort has conveyed to the City, and the City now owns, the fee title to those certain tracts of land located in the City of Healdsburg, California and legally described as (i) *[insert legal description of the Public Park Land based on approved final map thereof]* the ("Public Park Land"); (ii) *[insert legal description of the Fire Substation Land based on approved final map thereof]* the ("Fire Substation Land"); and (iii) *[insert legal description of the Pump Station Land based on approved final map thereof]* the ("Pump Station Land").

C. The Resort is the fee owner of that certain tract of land located in the City of Healdsburg, California and legally described as *[insert legal description of the Resort Land based on approved final map thereof]* (the "Resort Land").

- D. Pursuant to the Development Agreement, the Resort has constructed on the Resort Land the "Resort" contemplated by the Development Agreement.
- E. In connection with the Resort's construction of the Resort, the Developer has, as required by Section 17 of the Development Agreement, installed landscaping and hardscape (including without limitation irrigation therefor) on the portions of the Public Park Land, the Fire Substation Land and the Pump Station Land described in Exhibit A attached hereto (collectively the "Resort Installed Landscape Area").
- F. Section 17 of the Development Agreement contemplates and requires that the City and the Resort, within ten (10) days after the satisfaction of the conditions described in such Section 17, enter into a "Landscape Maintenance and Repair Easement and Agreement" providing for the Resort's maintenance and repair of the landscaping and hardscape installed by the resort in the Resort Installed Landscape Area.
- G. Such conditions have been satisfied, and the City and the Resort intend and agree that this Agreement shall be the Landscape Maintenance and Repair Easement and Agreement to which Section 17 of the Development Agreement refers.

AGREEMENTS

NOW THEREFORE, in consideration of the foregoing and the covenants, agreements and obligations stated in this Agreement, the City and the Resort hereby enter into this Agreement and agree as follows:

1. Grant of Easement. The City hereby grants to the Resort, for the benefit of the Resort Land, a non-exclusive easement in, over and across the Resort Installed Landscape Area for the purpose of maintaining and repairing the landscaping and hardscape (including without limitation the irrigation facilities installed therein) thereon, subject to the terms and conditions of this Agreement).
2. Acceptance of Easement and Agreement to Maintain and Repair. The Resort hereby accepts such easement and agrees, so long as this Agreement remains in effect, to at the sole cost and expense of the Resort, maintain and repair such landscaping and hardscape in accordance with the requirements of this Agreement.
3. Standard of Maintenance. The Resort shall maintain the landscaping and hardscape (including the irrigation facilities installed therein) in the Resort Installed Landscape Area in a good and neat condition and to at least a standard that meets the standard of maintenance of the other portions of the Public Park Land by the City, free of debris and in accordance with applicable law. The Resort shall cause the plants in the Resort Installed Landscape Area to be maintained in a healthy condition, and shall cause the irrigation facilities described therein to be maintained in an operable condition. The Resort shall be responsible for all mowing, edging, raking, thatching, aeration, pruning, trimming, fertilization, irrigation and pest control required to maintain such landscaping and hardscape to the standard described in this Section 3.
4. Resort Insurance. The Resort shall, at all times during which this Agreement is in effect, maintain the following insurance coverages, in 2008 Dollars (as defined below), in full force and effect:

- (a) comprehensive general liability insurance coverage for personal injury, bodily injury, death and property damage, written on an occurrence basis to the extent available on commercially reasonable terms, covering the Resort's acts and omissions with respect to its maintenance and repair of the Resort Installed Landscape Area, whether conducted thereon or elsewhere, naming the City as an insured or additional insured, with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in aggregate;
- (b) workers compensation insurance covering the Resort's employees and in amounts required by or otherwise complying with applicable law; and
- (c) comprehensive automobile liability coverage, written on an occurrence basis to the extent available on commercially reasonable terms, naming the City as an insured or additional insured, with a minimum limit of One Million Dollars (\$1,000,000) per occurrence.

Any policy required to be maintained hereunder by the Resort may be maintained under a so-called "blanket policy" insuring other persons and other locations, so long as the amount of insurance required to be provided hereunder is not thereby diminished.

All insurance policies required to be provided under this Section 4 shall be issued by financially sound and reputable insurers, licensed to do business in the State of California, who have an A.M. Best Company rating of A or better, or an equivalent rating from another rating company if A.M. Best Company does not exist or publish ratings; provided, however, that if any such insurance policy is not available on commercially reasonable terms from an insurer with such rating, such insurance may be obtained from an insurer with a rating that is then generally regarded by prudent owners of similar properties as acceptable. Any policy of insurance required by this Section 4 shall provide that such policy may not be canceled or modified without at least thirty (30) days' prior written notice to the City; provided, however, that such policy may provide for cancellation or termination after not less than ten (10) days' notice in the event of nonpayment of any premium for, or other amount due from the insured under, such policy.

The Resort shall furnish to the City, within five (50) days after the date of this Agreement, a certificate or certificates evidencing the insurance required by this Section 4 (with copies of all required endorsements) evidencing that (i) such insurance is in full force and effect; (ii) the City has been designated as a named or additional insured to the extent required hereunder; and (iii) such insurance may not be canceled, not renewed or modified without prior written notice to the City as required by this Section 4. In the event a notice of cancellation, non-renewal or modification is issued with respect to any such policy, the Resort shall obtain replacement coverage meeting the requirements set forth in this Section 4 within ten (10) days, and if the Resort fails to do so, the City may obtain such coverage and recover the cost thereof, together with reasonable attorneys' fees and other collection costs, from the Resort.

The Resort shall, upon written request by the City, within thirty (30) days after receipt of such request, provide to the City a complete copy of the insurance policy evidenced by any certificate of insurance delivered to the City pursuant to the immediately preceding paragraph.

For the purposes of this Section 4, "2008 Dollars" means the amount as proportionately increased or decreased for each year (or portion thereof) after 2007 as follows: the base for

computing the adjustment is the CPI - All Urban Consumer Price Index for the Los Angeles/Long Beach Metropolitan Area (1982-1984 = 100), published by the United States Department of Labor, Bureau of Labor Statistics (the "Index"). If the Index published for January in the year in which the adjustment is to be made (the "Adjustment Index") has changed from the Index for January, 2008 (the "Beginning Index"), the amount to be adjusted shall be adjusted by multiplying such amount by a fraction, the numerator of which shall be the Adjustment Index and the denominator of which shall be the Beginning Index. If the Index is discontinued or revised, the City and the Resort shall designate a substitute index or procedure which reasonably reflects changes in consumer prices in a manner similar to the Index.

5. Indemnification. The Resort shall indemnify, defend and hold the City and its agents, employees, officers and officials (whether elected or appointed), harmless from and against any and all claims, expenses, liabilities, losses, damages and costs, including reasonable attorneys' fees, and any actions or proceedings in connection therewith (each, a "Claim"), incurred in connection with, arising from, due to or as a result of any death of any person or any accident, injury, loss or damage, and caused by or attributable to the negligence or willful act or omission of the Resort and/or its agents, employees or contractors with respect to the performance or non-performance of the Resort's obligations under this Agreement; provided, however, that the foregoing indemnity shall not apply to the extent any Claim results from the negligence or willful act or omission of the City or its agents, employees, officers and officials.

6. Resort's Failure to Maintain. If the Resort fails to maintain and/or repair such landscaping and hardscape in the manner required by this Agreement, and such failure is not cured within thirty (30) days after the Resort's receipt from the City of a written notice of such failure specifying such failure and the actions required to cure such failure), then the City shall have the rights to (i) terminate this Agreement by written notice of termination given to the Resort, and (ii) recover from the Resort such costs and expenses as the City incurs in restoring such landscaping and hardscape to the condition that would have existed had such failure not occurred.

Any notice to be given by the City to the Resort pursuant to this Section 6 shall be deemed effective (i) upon receipt if hand delivered or sent by overnight courier service; or (ii) upon delivery or the date of refusal if sent by U.S. certified mail, postage prepaid, return receipt requested, in either case addressed to *[insert then current address for the Resort when this Agreement is signed]*, or such other address as may be provided by the Resort in a written notice of address change addressed to the City Manager of the City at the then location of the City Manager's office.

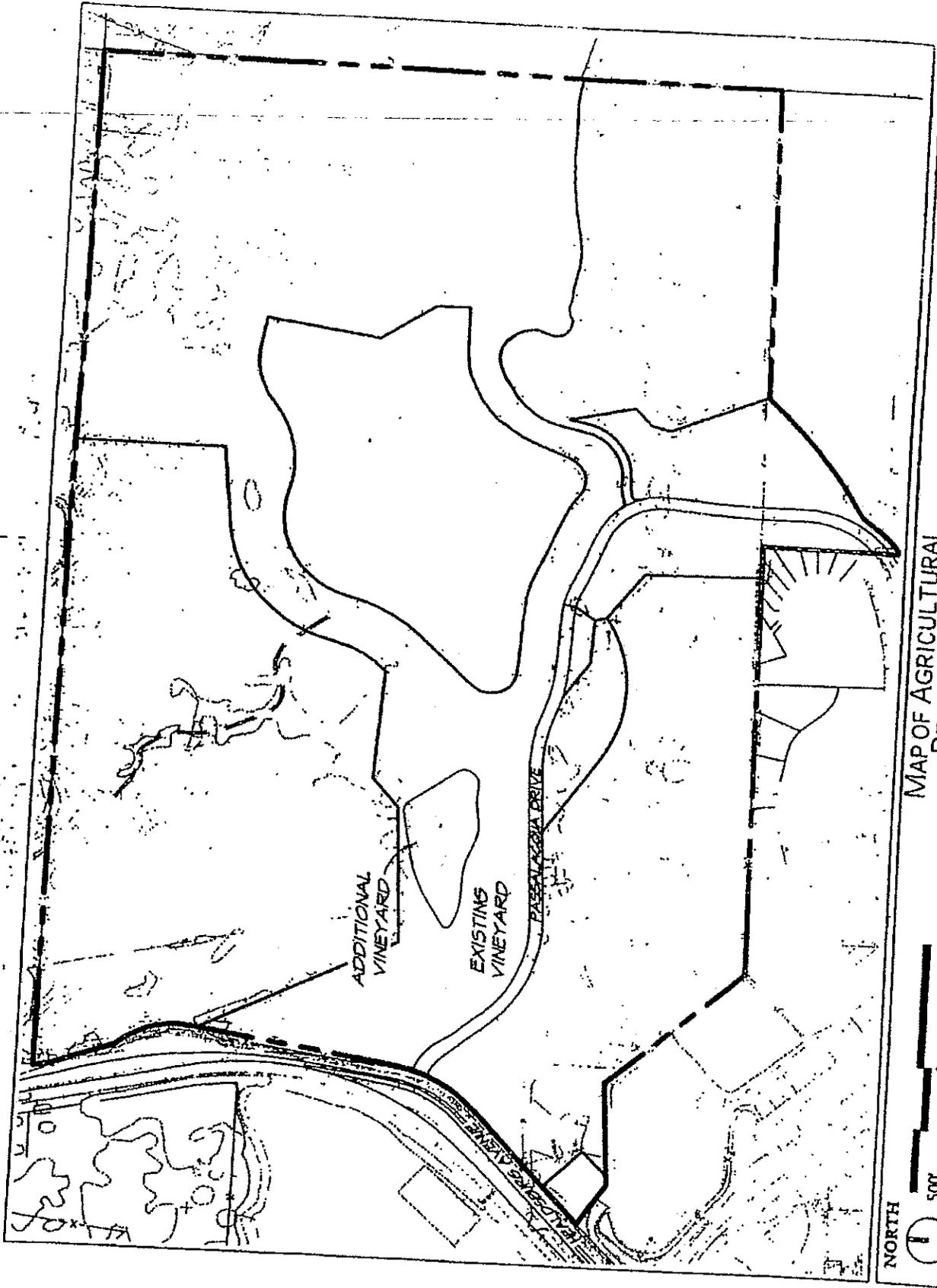
7. Easement Runs with Land. The easement set forth in this Agreement shall run with and bind the title of the lands benefited and burdened by such easement, and shall be binding upon and inure to the benefit of the successors and assigns of the Resort (with respect to the Resort Land) and the City (with respect to the Public Park Land).

8. Amendment. No alteration, amendment or modification of this Agreement shall be valid unless evidenced by a written instrument executed by the City and the Resort with the same formality as this Agreement.

9. Waiver. The failure of a party hereto to insist in any one or more instances upon the strict performance of any of the covenants, agreements, terms, provisions or conditions of this Agreement shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision or condition, but the same shall continue and remain in full force and effect. No waiver by a party hereto of any covenant, agreement, term, provision or condition of this Agreement shall be deemed to have been made unless expressed in writing and signed by such party.
10. Relationship of Parties. No partnership or joint venture is established by this Amendment between the City and the Resort. No party hereto (or its affiliates, employees, agents, contractors or guests) shall be considered an agent or employee of the other party, or to have been authorized to incur any expense on behalf of the other party, or to act for, or to bind, the other party.
11. Applicable Law. This Agreement shall be governed in all respects by the laws of the State of California.
12. Captions. The section headings or captions used herein are for convenience only and are not part of the substance of this Agreement and do not in any way limit, define or amplify the scope or intent of the provisions hereof.
13. No Third Party Beneficiaries. Except as otherwise expressly stated in this Agreement, no person or entity is intended, or shall be construed, to be a third party beneficiary under this Agreement.

IN WITNESS WHEREOF, the City and the Resort have entered into this Agreement as of the day and year first hereinabove written.

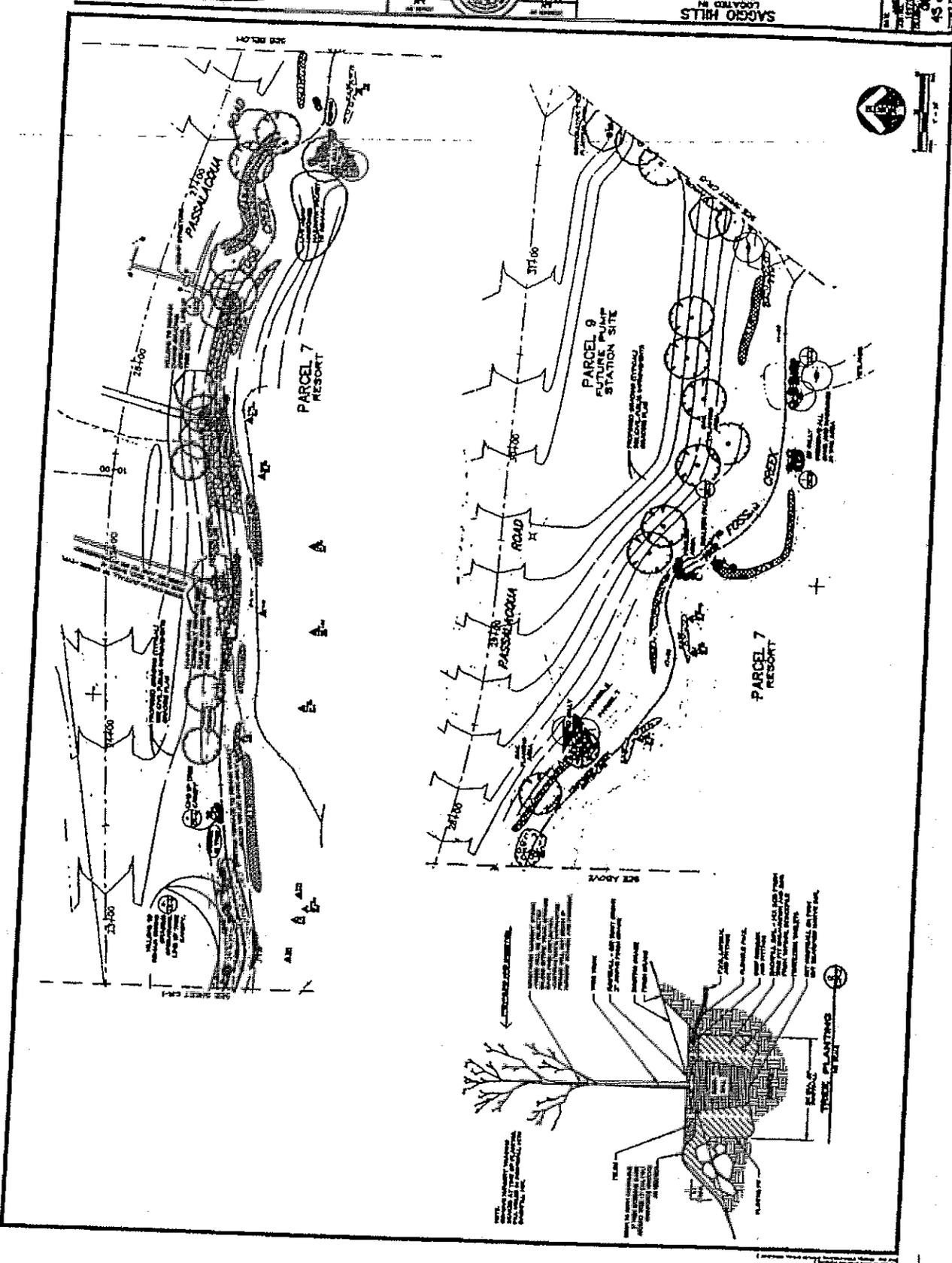
[Add current signature and notary provisions for the City and the Resort when signed]



MAP OF AGRICULTURAL RESERVE AREAS
EXHIBIT B-26

SAGGIO HILLS

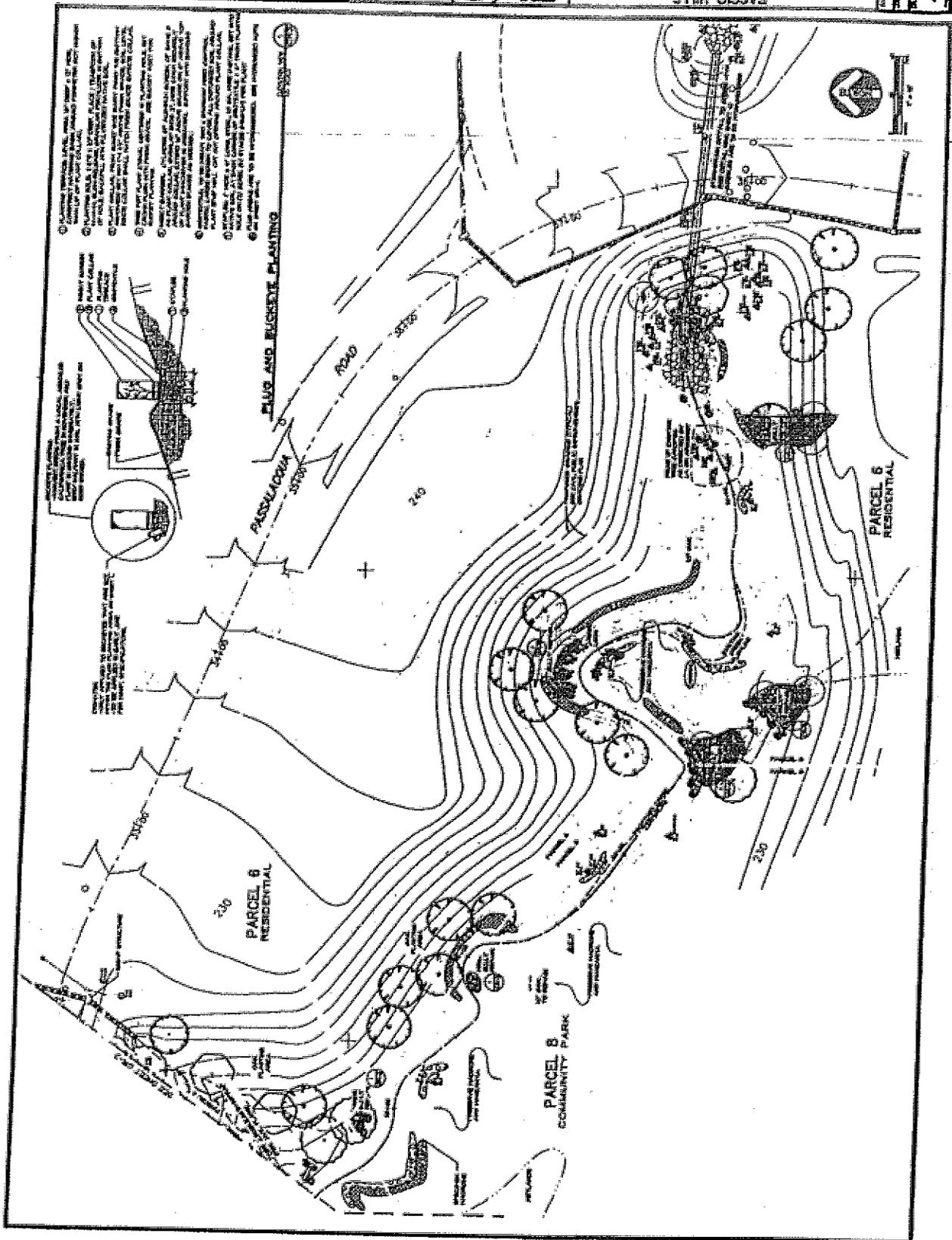
SAGGIO HILLS
 LOCATION OF PROJECT
 FOSS CREEK
 CREEK ENHANCEMENT, RETENTION & DISTRIBUTION PLAN
 DATE: 2008
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 PROJECT NO.: [Number]
 SHEET NO.: [Number]



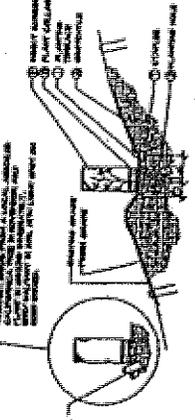
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- 1. ALL PLANTING SHALL BE DONE BY THE CONTRACTOR UNDER THE CLOSE SUPERVISION OF THE LANDSCAPE ARCHITECT.
- 2. PLANTING SHALL BE DONE IN ACCORDANCE WITH THE PLANTING SCHEDULE AND THE PLANTING SPECIFICATIONS.
- 3. PLANTING SHALL BE DONE IN ACCORDANCE WITH THE PLANTING SCHEDULE AND THE PLANTING SPECIFICATIONS.
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THE APACHINGO (EXTERIORS) IN THE

CHANNEL RESTRICTION

GRASSING APACHINGO WILLOW IN THE

USUAL PLANTING AREA

TYPICAL PARK REACH CREEK SECTION (CREEK STATION 0+00 TO 10+30) IN THE

GULLY REPAIRS IN THE

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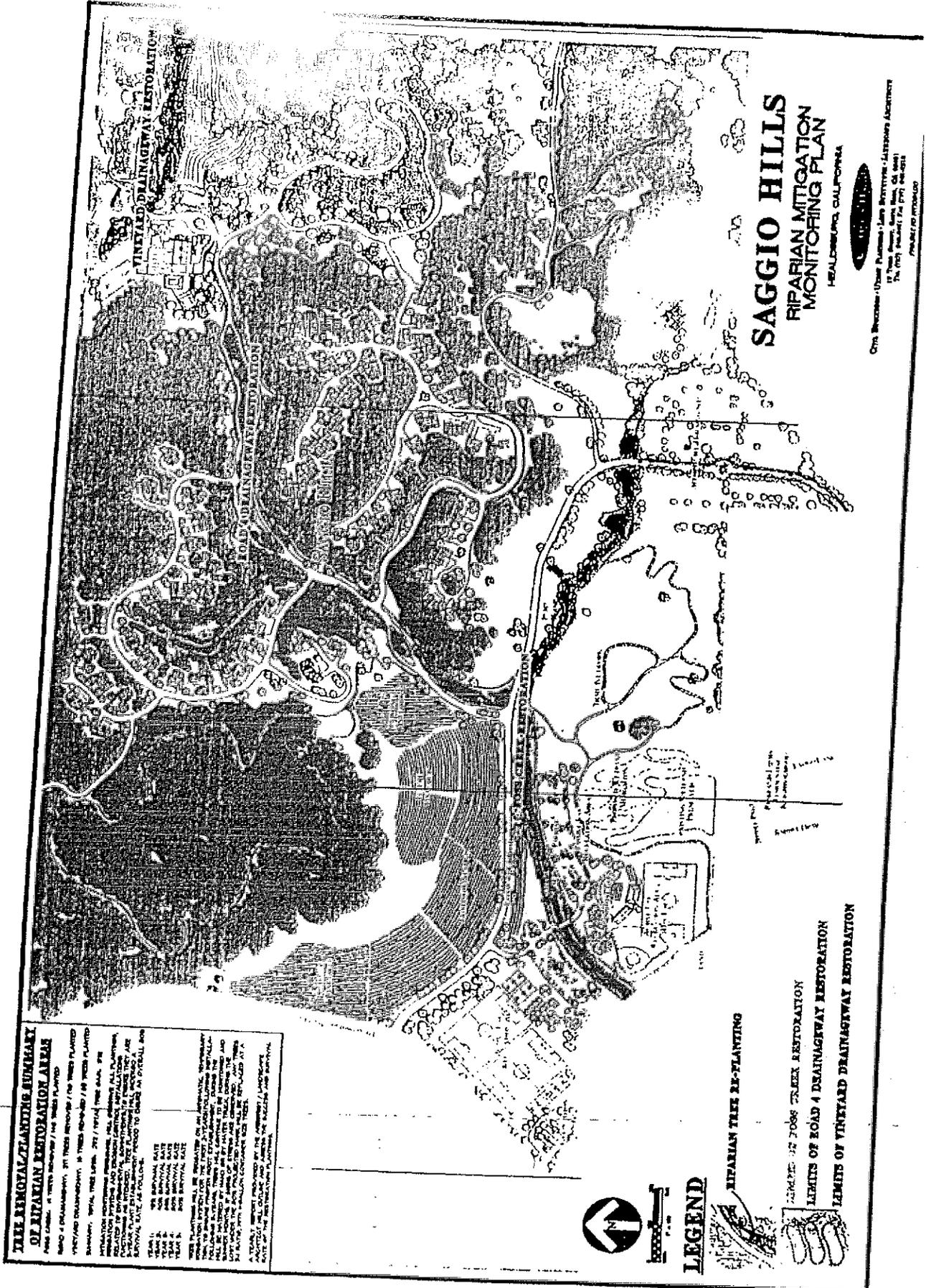
SOILS IN THE

LOG REQUIREMENTS TO THE

USUAL PLANTING AREA

TYPICAL PARK REACH CREEK SECTION (CREEK STATION 0+00 TO 10+30) IN THE

5 of 5



THE VINEYARD DRAINAGEWAY RESTORATION SUMMARY OF RIPARIAN RESTORATION AREAS

THIS SUMMARY IS INTENDED TO PROVIDE A GENERAL OVERVIEW OF THE RESTORATION AREAS AND THE PLANTING SCHEDULE. IT DOES NOT PROVIDE A DETAILED DESCRIPTION OF THE RESTORATION AREAS OR THE PLANTING SCHEDULE. FOR MORE INFORMATION, CONTACT THE RESTORATION AREA MANAGER.

RESTORATION AREAS:

- VINEYARD DRAINAGEWAY RESTORATION
- RIPARIAN TREE RE-PLANTING
- LIMITS OF ROAD 4 DRAINAGEWAY RESTORATION
- LIMITS OF VINEYARD DRAINAGEWAY RESTORATION

PLANTING SCHEDULE:

- Year 1: 100% Survival Rate
- Year 2: 80% Survival Rate
- Year 3: 60% Survival Rate
- Year 4: 40% Survival Rate
- Year 5: 20% Survival Rate

PLANTING SCHEDULE:

- Year 1: 100% Survival Rate
- Year 2: 80% Survival Rate
- Year 3: 60% Survival Rate
- Year 4: 40% Survival Rate
- Year 5: 20% Survival Rate



LEGEND



RIPARIAN TREE RE-PLANTING

LIMITS OF ROAD 4 DRAINAGEWAY RESTORATION

LIMITS OF VINEYARD DRAINAGEWAY RESTORATION

SAGGIO HILLS

RIPARIAN MITIGATION MONITORING PLAN

HEALINGWELL, CALIFORNIA

City of Healdsburg - Urban Planning & Land Development Department
1500 West Street, Healdsburg, CA 94921
Tel: (707) 438-1111 Fax: (707) 438-1111
PROJECT NO: 10000000