Landscape Maintenance Agreement
With Quarry Heights, LLC

This Landscape Maintenance Agreement ("**Agreement**") is entered into and effective on September 20, 2022 ("**Effective Date**"), by and between the City of Petaluma, a California charter city ("**City**") and Quarry Heights, LLC, a Delaware limited liability company ("**Developer**") (individually a "**Party**," and collectively, the "**Parties**").

Recitals

A. Developer is the owner of certain real property known as Sterling Hills at Quarry Heights ("**Subdivision**"), as shown on the final map entitled "Quarry Heights Subdivision," filed for record on September 17, 2010, in Book 742 of Maps at Pages 15 through 23, inclusive, in the Official Records of the County of Sonoma, State of California.

B. The Subdivision includes landscaping improvements to be installed and maintained on property owned by the State of California, acting by and through the Department of Transportation ("**State**"), in the vicinity of State Highway Route 101, as shown on **Exhibit A**, which is attached hereto and incorporated herein by reference ("**Landscape Area**").

C. In 2019, the Developer applied to the State for an encroachment permit (Encroachment Permit Number 0419-6LF-2744) ("**Encroachment Permit**") to request permission to install and maintain landscaping, planting, and irrigation systems within the Landscape Area ("**Landscape Improvements**"). In connection with its application for the Encroachment Permit, Developer has submitted preliminary plans and specifications for the installation of the Landscape Improvements to the State.

D. The State will not issue the Encroachment Permit or approve the plans and specifications for the installation of the Landscape Improvements unless and until the City and the State have executed a Landscape Maintenance Agreement for the installation and maintenance of the Landscape Improvements (the "**State LMA**"). The State will not contract directly with the Developer because the Developer is a private party. Thus, the State LMA identifies the maintenance responsibilities of the City for the Landscape Improvements, including, but not limited to, inspection, emergency repair, replacement, and maintenance. An unexecuted copy of the State LMA is attached hereto as **Exhibit B** and incorporated herein by reference.

E. The City is willing to execute the State LMA, as long as Developer agrees to perform the City's obligations thereunder, as set forth in this Agreement.

F. The Parties intend that upon Developer's completion of the installation of the Landscape Improvements, Developer will assign all of its rights and obligations under this Agreement to Sterling Hills at Quarry Heights Owners' Association, a California mutual benefit non-profit corporation ("**HOA**"), for its ongoing maintenance of the Landscape Improvements in accordance with the State LMA, as set forth in this Agreement. Until such assignment, the Developer will maintain the Landscape Improvements in accordance with the State LMA.

G. The intent of this Agreement is to ensure that the Developer, and thereafter, the HOA, are fully responsible for the City's obligations under the State LMA. The City will not execute the State LMA until the Developer has executed this Agreement, which fully incorporates the City's maintenance responsibilities for the Landscape Improvements pursuant to the State LMA.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

Terms and Conditions

1. Recitals. The Parties agree that the Recitals set forth above are true and accurate and are hereby made part of this Agreement.

2. Performance Obligation. Subject to the terms of this Agreement and the State LMA, Developer will perform all of the City's obligations under the State LMA, in accordance with the requirements of the State LMA, including, but not limited to, Sections 4, 6, and 9 of the State LMA, at its sole cost and expense, during the term of this Agreement, and will comply with all terms of the State LMA to the same extent as required of the City.

3. Landscape Plans. Following execution of this Agreement and the City's execution of the State LMA, Developer will submit the final plans and specifications for the installation of the Landscape Improvements to the State for review and approval. The landscape plans and specifications approved by the State are referred to herein as the "**Approved Landscape Plans**."

4. Installation. Following City's issuance of a notice to proceed with the installation of the Landscape Improvements, Developer will install the Landscape Improvements in accordance with the Approved Landscape Plans and all applicable terms and conditions of the State LMA.

5. Standard of Maintenance. Developer will, at its sole cost and expense, maintain the Landscape Improvements in good condition and repair and as required by the State LMA, including, but not limited to, ensuring that the Landscape Area is provided with adequate scheduled routine maintenance necessary to maintain a neat and attractive appearance, including providing for water, except during drought emergencies declared by the State of California or City, and fertilizer necessary to sustain healthy plant growth.

6. Inspection. City has the right to inspect the Landscape Improvements at any time to ensure that the Developer is properly maintaining the Landscape Improvements in accordance with the State LMA.

7. Alteration of Landscape Improvements. Developer will not materially alter the Landscape Improvements from their original condition as installed per the Approved Landscape Plans without the prior written approval of City and, to the extent required under the State LMA or Encroachment Permit, the State. If the City approves of the changes to the Approved Landscape Plans, City will, to the extent further approvals are required under the State LMA, submit such changes to the State for approval promptly after the City's approval of such changes.

8. Failure to Perform. If Developer fails to fulfill its maintenance responsibilities under this Agreement and the State LMA to the satisfaction of City or State, City may provide Developer with written notice of such failure describing the deficiencies in reasonable detail (the "**Deficiency Notice**"). If such deficiency is not corrected within ten business days of City's issuance of the Deficiency Notice, City will have the right, but not the obligation, to cure the deficiency; provided, however, that if the deficiency is of a type that cannot reasonably be cured within ten business days, it will be deemed cured if Developer commences to cure the deficiency within such period and proceeds diligently thereafter to complete the cure of such deficiency. If City elects to cure the deficiency, Developer will reimburse City for its costs incurred in curing the deficiency within 15 days of Developer's receipt of City's invoices for such costs, which invoice will be accompanied by copies of receipts evidencing the actual costs of cure incurred by City.

9. Liens. Developer will not suffer or permit to be enforced against the Landscape Area any mechanics, laborers, materialmen, contractors, subcontractors, or any other liens, claims or demands arising from any maintenance or other work performed by Developer within the Landscape Area, but Developer will pay or cause to be paid all of said liens, claims and demands before any action is brought to enforce the same against the Landscape Area.

10. Term and Termination. This Agreement is effective on the Effective Date and will remain in effect for so long as the State continues to reissue an encroachment permit to Developer for maintenance of the Landscape Improvements; provided, however, that the City may terminate this Agreement for any reason upon ten days' prior written notice to Developer. If this Agreement is terminated, and if requested by City, Developer must, at its sole cost, remove the Landscape Improvements and restore the Landscape Area to a safe and attractive condition acceptable to City.

11. Prevailing Wages. If any work performed under this Agreement is done under contract and falls within the Labor Code section 1720(a)(1) definition of "public works" or is maintenance work under Labor Code section 1771, Developer must conform to the provisions of Labor Code sections 1720 through 1815 and all applicable provisions of the California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7, with regard to the payment of prevailing wages, and include such prevailing wage requirements in its contracts for public works. Developer must also require its contractors to include prevailing wage requirements in all subcontracts when the work to be performed by the subcontractor under this Agreement is a "public works" as defined in Labor Code section 1720(a)(1) or maintenance work under Labor Code section 1771.

12. Assignment. Developer may assign its rights and obligations under this Agreement to HOA. Any such assignment must be in writing; must contain HOA's agreement to be fully bound by the terms and conditions of this Agreement, including its agreement to assume the obligation to maintain the Landscape Improvements in accordance with the requirements of the State LMA; and a copy of such assignment must be delivered to the City. No assignment will be effective until HOA provides the City with certificates of insurance verifying that HOA's insurance coverage complies with the insurance requirements of this Agreement. After the effective date of any such assignment by Developer, Developer will have no further rights or obligations hereunder.

13. Insurance. Developer must maintain in force, during the term of this Agreement, the insurance coverage required by this Section. Prior to executing this Agreement, Developer must provide proof of the insurance coverage and endorsements required by this Section in the form of certificates and endorsements acceptable to City. All required insurance must be issued by a company licensed to do business in the State of California, and each such insurer must have an A.M. Best's financial strength rating of "A-" or better and a financial size rating of "VII" or better.

13.1 Policies and Limits. The following insurance policies and limits are required under this Agreement:

(A) Commercial General Liability ("CGL") Insurance: The CGL insurance policy must be issued on an occurrence basis, written on a comprehensive general liability form, and must include coverage for liability arising from bodily injury and property damage, with limits of $1,000,000 per occurrence, $2,000,000 general aggregate, and $5,000,000 in excess. The CGL insurance coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth in this Section, including required endorsements.

(B) Automobile Liability Insurance: The automobile liability insurance policy must provide coverage of at least $1,000,000 combined single-limit per accident for bodily injury, death, or property damage, including hired and non-owned auto liability.

(C) Workers' Compensation Insurance and Employer's Liability: The workers' compensation and employer's liability insurance policy must comply with the requirements of the California Labor Code, providing coverage of at least $1,000,000 or as otherwise required by the statute.

13.2 Notice. Each certificate of insurance must state that the coverage afforded by the policy or policies will not be reduced, cancelled or allowed to expire without at least 30 days written

notice to City, unless due to non-payment of premiums, in which case ten days written notice must be made to City.

13.3 Waiver of Subrogation. Each required policy must include an endorsement providing that the carrier will waive any right of subrogation it may have against City.

13.4 Required Endorsements. The CGL policy and automobile liability policy must include the following specific endorsements:

(A) The City of Petaluma, its officers, officials, agents, employees, contractors and volunteers, and the State of California, its officers, agents, and employees (collectively, "**Additional Insureds**") must each be named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and the policy must protect the Additional Insureds against any and all liability for personal injury, death or property damage.

(B) The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

(C) The insurance provided by Developer is primary and no insurance held or owned by any Additional Insured may be called upon to contribute to a loss.

13.5 Minimum Requirements. This Section establishes the minimum requirements for Developer's insurance coverage under this Agreement, but is not intended to limit Developer's ability to procure additional or greater coverage. Developer is responsible for its own risk assessment and needs and is encouraged to consult its insurance providers to determine what coverage it may wish to carry beyond the minimum requirements of this Section. Developer is solely responsible for the cost of its insurance coverage, and no Additional Insured will be responsible of liable for any of the cost of Developer's insurance coverage.

13.6 Developer's Contractors. Developer must ensure that each contractor that performs work in connection with the Landscape Area is required to maintain the same insurance coverage required under this Section, including those requirements related to the Additional Insureds and waiver of subrogation. Developer must confirm that each contractor has complied with these insurance requirements before the contractor performs work in the Landscape Area. Upon request by the City, Developer must provide certificates and endorsements submitted by each contractor to prove compliance with this requirement. The insurance requirements for contractors do not replace or limit the Developer's insurance obligations.

14. Indemnification. To the fullest extent permitted by law, Developer must indemnify, defend, and hold harmless City, its Council, officers, officials, employees, agents, volunteers, and consultants (and to the extent required by the State LMA, the State) (individually, an "**Indemnitee**," and collectively the "**Indemnitees**") from and against any and all liability, loss, damage, claims, causes of action, demands, charges, fines, costs, and expenses (including, without limitation, attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration, and including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability) (collectively, "**Liability**") of every nature arising out of or in connection with: (a) Developer's design, installation, and maintenance of the Landscape Improvements, (b) the acts of Developer, its employees, its contractors, representatives, or agents within the Landscape Area, (c) Developer's performance of its obligations hereunder, and (d) Developer's compliance with the requirements of the State LMA; provided, however, that Developer's indemnity obligations hereunder will not apply (a) to the extent such Liability is caused by the active negligence, sole negligence, or willful misconduct of an Indemnitee, or (b) to any Liability that arises after the assignment by Developer of its rights and obligations under this Agreement to HOA, pursuant to Section 12, above, because upon assignment, HOA will be responsible for the indemnity obligations in this Section.

15. Notice. Any notice required by or pursuant to the Agreement must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF file. Notice is deemed effective upon delivery, except that service by U.S. Mail is deemed effective on the second working day after deposit for delivery. Notice for each party must be given as follows:

City:

City of Petaluma
11 English Street
<Petaluma, CA 94952
Attn: Jeff Stutsman, City Engineer
Jstutsman@cityofpetaluma.org

Copy to: Petaluma Planning Department
Petalumaplanning@cityofpetaluma.org

Developer:

KB Home North Bay LLC
4830 Business Center Drive, Suite 150
Fairfield, CA 94534
Attention: Oren Hershkovich
Telephone: (707) 389-7508
Email: ohershkovich@kbhome.com

With a copy to:

KB Home
5000 Executive Parkway, Suite 125
San Ramon, CA 94583
Attention: Michael L. MacDonald
Telephone: (925) 983-4507
Email: mmacdonald@kbhome.com

16. General Provisions.

16.1 Compliance with All Laws. Developer will comply with all applicable federal, state, and local laws and regulations in the performance of its responsibilities under this Agreement.

16.2 Assignment and Successors. Except as expressly specified in Section 12, Developer may not assign its rights or obligations under this Agreement, in part or in whole, without City's written consent. This Agreement is binding on Developer's and City's lawful heirs, successors and permitted assigns.

16.3 Attorney's Fees. If any legal action or proceeding is brought between the Parties arising out of, relating to or seeking the interpretation or enforcement of the terms of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs, including attorneys' fees and costs for any arbitration, appeal, or enforcement of judgment.

16.4 Governing Law and Venue. This Agreement will be governed by California law and venue will be in Sonoma County Superior Court, and no other place. Each Party waives any right it may have pursuant to Code of Civil Procedure § 394, to file a motion to transfer any action arising from or relating to this Agreement to a venue outside of Sonoma County, California.

16.5 Amendment. No amendment or modification of this Agreement will be binding unless it is in a writing duly authorized and signed by the Parties.

16.6 Integration. This Agreement and the Exhibits incorporated herein, including authorized amendments thereto, constitute the final, complete, and exclusive terms of the agreement between City and Developer.

16.7 Severability. If any provision of the Agreement is determined to be illegal, invalid, or unenforceable, in whole or in part, the remaining provisions of the Agreement will remain in full force and effect.

16.8 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

16.9 Authorization. Each individual signing below warrants that he or she is authorized to do so by the Party that he or she represents, and that this Agreement is legally binding on that Party. If a Party is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code § 313.

[*Signature page follows*.]

The Parties agree to this Agreement as witnessed by the signatures below:

CITY OF PETALUMA

DocuSigned by:
Peggy Flynn
03B999C70B247748C...
City Manager

ATTEST:

DocuSigned by:
Kendall Rose
City Clerk

APPROVED AS TO FORM:

DocuSigned by:
Dylan Brady
City Attorney

QUARRY HEIGHTS, LLC

By DocuSigned by:
Kevin Fredrickson
59F9DBAC3DEF4A4...

VP LAND
Name and Title

4830 Business Center Dr, Ste. 150
Address

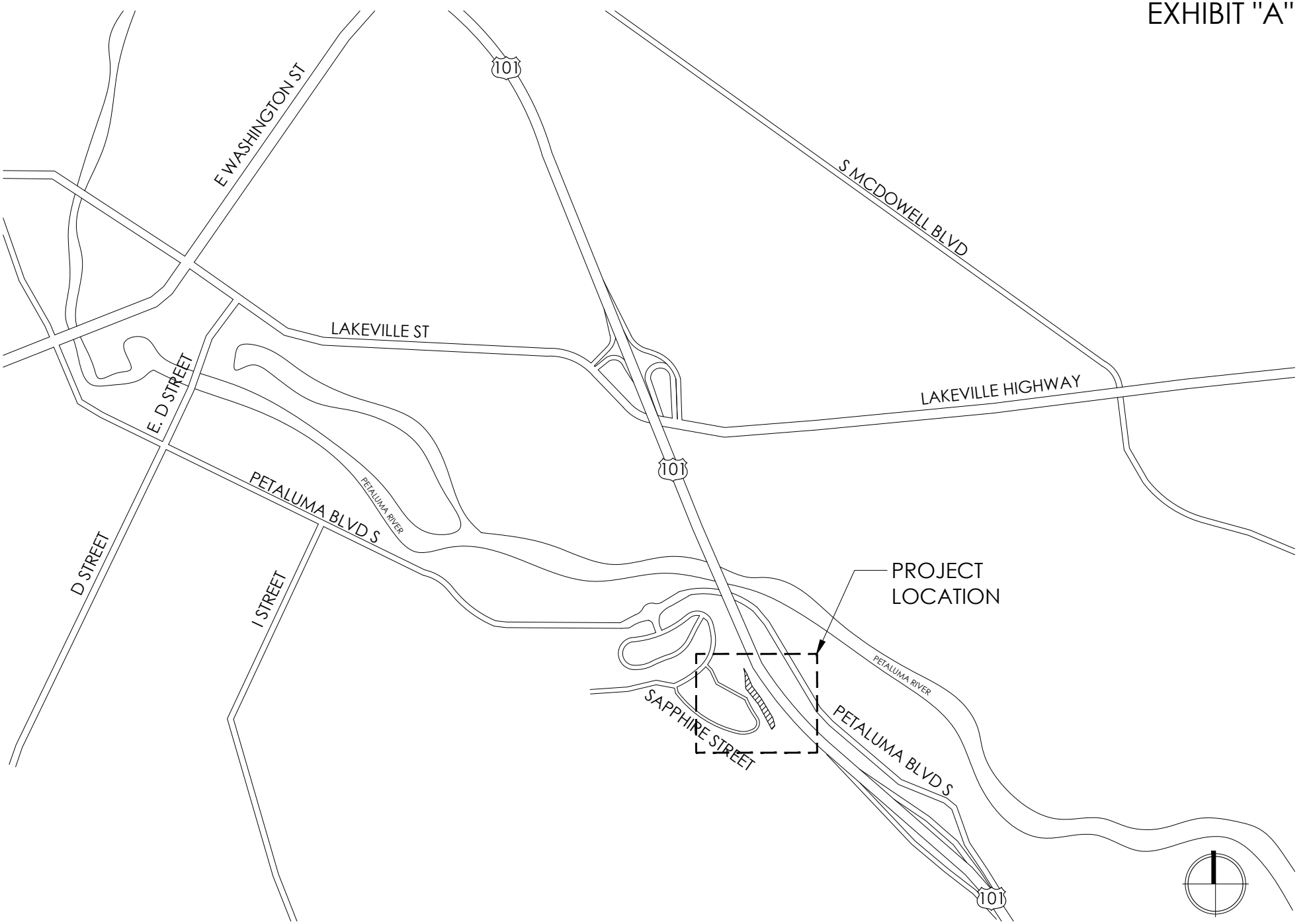
Fairfield, CA 94534
City State Zip

EXHIBIT A

Landscape Area

<insert the same Exhibit A that will be attached to the State LMA>

EXHIBIT "A"



AGREEMENT FOR LANDSCAPE MAINTENANCE WITH THE CITY OF PETALUMA

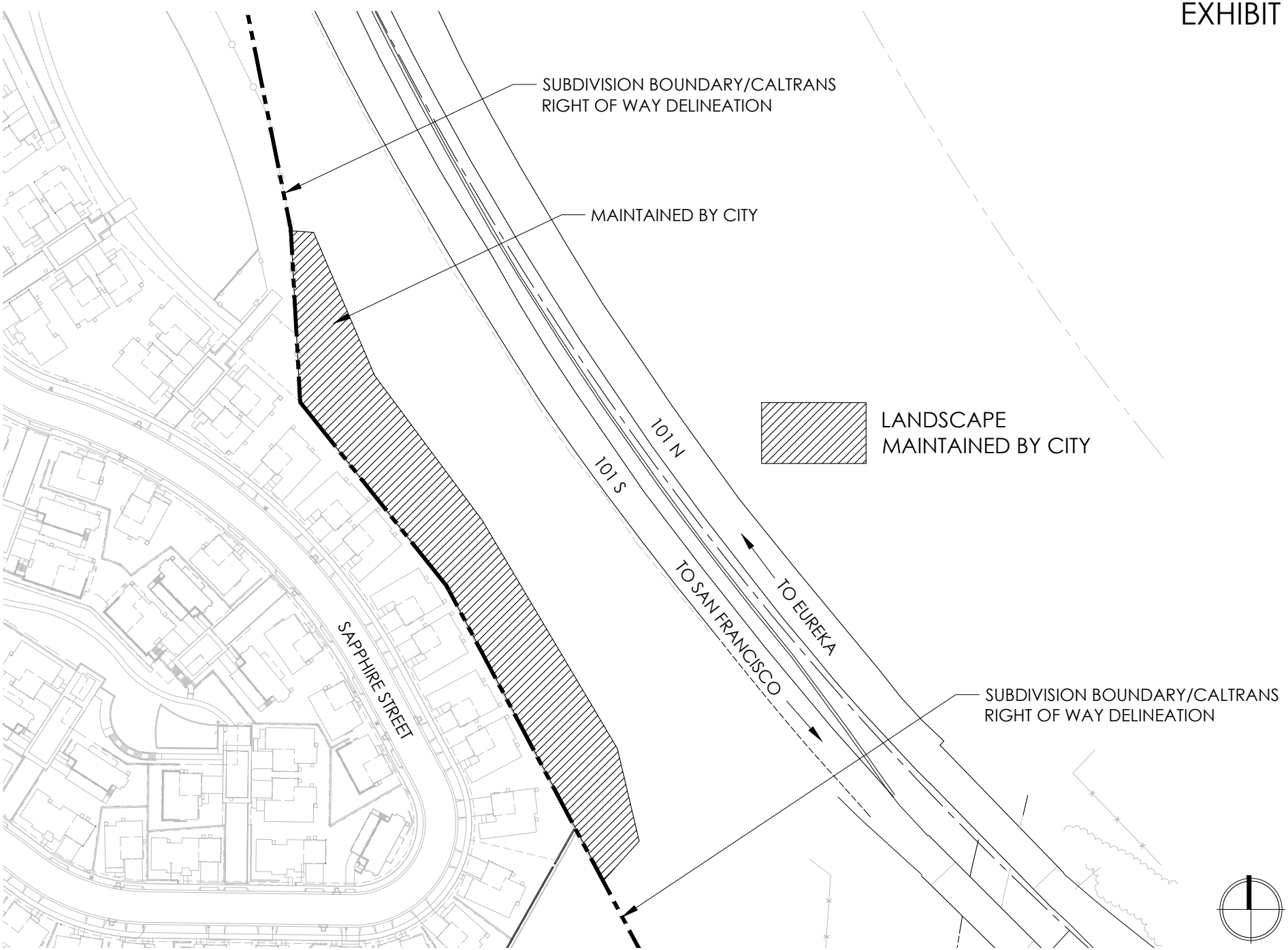
SON-101 POST MILES 2.96/3.08

QUADRIGA
landscape architecture and planning, inc.
SACRAMENTO | SANTA ROSA
707.546.3561 | www.quadriga-inc.com

SHEET: 1 OF 2

DATE: 1/10/2020

EXHIBIT "A"



AGREEMENT FOR LANDSCAPE MAINTENANCE WITH THE CITY OF PETALUMA

SON-101 POST MILES 2.96/3.08

QUADRIGA
landscape architecture and planning, inc.
SACRAMENTO | SANTA ROSA
707.546.3561 | www.quadriga-inc.com

SHEET:
2 OF 2

DATE: 1/10/2020

EXHIBIT B

State LMA

<insert unexecuted copy of State LMA>

LANDSCAPE MAINTENANCE AGREEMENT WITH THE CITY OF PETALUMA

THIS AGREEMENT is made effective this_____ day of_____, 20_, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the CITY of Petaluma, a California charter city; hereinafter referred to as "CITY" and collectively referred to as "PARTIES".

1. The PARTIES hereto mutually desire to identify the maintenance responsibilities of CITY for newly constructed or revised improvements within STATE's right of way Encroachment Permit Number(s) 0419-6LF-2744. The CITY's obligations under this Agreement are conditioned upon CITY entering into a separate agreement with the Sterling Hills at Quarry Heights Owners' Association, a California mutual benefit non-profit corporation, hereinafter referred to as the "HOA." The agreement between the CITY and HOA is hereinafter referred to as the "HOA AGREEMENT." This Agreement will not become effective until the HOA has executed the HOA AGREEMENT which fully incorporates the CITY's duties pursuant to Sections 4, 6 and 9 of this Agreement.

2. This Agreement addresses CITY responsibility for maintenance of the landscaping, planting and irrigation systems placed within State Highwayright of way on State Route 101, as shown on Exhibit A, attached to and made apart of this Agreement (collectively the "LANDSCAPING").

3. The maintenance responsibilities for the LANDSCAPING includes, but is not limited to, inspection, providing emergency repair, replacement, and maintenance, of the LANDSCAPING (collectively hereinafter "MAINTAIN/MAINTENANCE").

4. The degree or extent of the MAINTENANCE to be performed, and the standards, therefore, shall be in accordance with the provisions of Section 27 of the Streets and Highways Code and the then current edition of the State Maintenance Manual.

5. When a planned future improvement is constructed and/or a minor revision has been effected with STATE's consent or initiation within the limits of the STATE's right of way herein described which affects PARTIES' division of MAINTENANCE responsibility as described herein, PARTIES will agree upon and execute a new dated and revised Exhibit "A" which will be made a part hereof and will thereafter supersede the attached original Exhibit "A" to thereafter become a part of this Agreement.

   5.1. The new exhibit can be executed only upon written consent of the PARTIES hereto acting by and through their authorized representatives. No formal amendment to this Agreement will be required. However, CITY's consent may be conditioned upon execution of a commensurate amendment to the HOA AGREEMENT.

6. CITY agrees, at CITY expense, to do the following:
   6.1. CITY may install, or contract, authorizing a licensed contractor with appropriate class of license in the State of California, to install and thereafter will MAINTAIN LANDSCAPING conforming to those plans and specifications (PS&E) pre-approved by STATE.
   6.2. CITY will submit the final form of the PS&E, prepared, stamped and signed by a licensed landscape architect, for LANDSCAPING to STATE's District Permit Engineer for review and approval and will obtain and have in place a valid necessary encroachment permit prior to the start of any work within STATE'S right of way. All proposed LANDSCAPING must meet STATE's applicable standards.

      6.2.1. CITY contractors will be required to obtain an Encroachment Permit prior to the start of any work within STATE's right of way.

      6.2.2. An Encroachment Permit rider may be required for any changes to the scope of work allowed by this Agreement prior to the start of any work within STATE's right of way

   6.3. CITY shall ensure that LANDSCAPED areas designated on Exhibit "A" are provided with adequate scheduled routine MAINTENANCE necessary to MAINTAIN a neat and attractive appearance including providing for water, except during drought emergencies declared by the State of California or CITY, and fertilizer necessary to sustain healthy plant growth during the entire life ofthis Agreement.

      6.3.1. To prune shrubs, tree plantings, and trees to control extraneous growth and ensure STATE standard lines of sight to signs and corner sight distances are always maintained for the safety of the public.

      6.3.2. To replace unhealthy or dead plantings when observed or within 30 days when notified in writing by STATE that plant replacement is required.

      6.3.3. To expeditiously MAINTAIN, replace, repair or remove from service any LANDSCAPING system component that has become unsafe or unsightly.

   6.4. To MAINTAIN, repair and operate the irrigation systems in a manner that prevents water from flooding or spraying onto STATE highway, spraying parked and moving automobiles, spraying pedestrians on public sidewalks/bike paths, or leaving surface water that becomes a hazard to vehicular or pedestrian/bicyclist travel.

   6.5. To control weeds at a level acceptable to the STATE. Any weed control performed by chemical weed sprays (herbicides) shall comply with all laws, rules, and regulations established by the California Department of Food and

Agriculture. All chemical spray operations shall be reported quarterly (Form LA17) to the STATE to: District4 Maintenance Landscape Specialist. This report must include Date, Time, Herbicide, Rate, and Quantity.

6.6. CITY shall ensure LANDSCAPING within the Agreement limits provide an acceptable walking and riding surface, and will provide for the repair and removal of dirt, debris, graffiti, weeds, and any deleterious item or material on or about the LANDSCAPING in an expeditious manner.

6.7. To MAINTAIN all parking or use restrictions signs encompassed within the area of the LANDSCAPING.

6.8. To remove LANDSCAPING and appurtenances and restore STATE ownedareas to a safe and attractive condition acceptable to STATE in the event this Agreement is terminated as set forth herein.

6.9. To not enter the roadbed of State Route 101 during maintenance of LANDSCAPING, nor shall CITY enter or leave LANDSCAPING via the roadbed of the State Route 101, except as may be provided for in a separate encroachment permit obtained from STATE.

7. STATE may provide CITY with timely written notice of unsatisfactory conditions that require correction by the CITY. However, the non-receipt of notice does not excuse CITY from maintenance responsibilities assumed under this Agreement.

8. STATE shall Issue encroachment permits to CITY and CITY contractors at no cost to them.

9. LEGAL RELATIONS AND RESPONSIBILITIES:

9.1. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not party to this Agreement, except as specified herein with regard to the HOA AGREEMENT, or affect thelegal liability of either PARTY to this Agreement by imposing any standard of care respecting the design, construction and maintenance of these STATE highway improvements or CITY facilities different from the standard of care imposed by law.

9.2. If during the term of this Agreement, CITY should cease to MAINTAIN the LANDSCAPING_to the satisfaction of STATE as provided by this Agreement, STATE may either undertake to perform that MAINTENANCE on behalf of CITY at CITY's expense or direct CITY to remove or itself remove LANDSCAPING at CITY's sole expense and restore STATE's right of way to its prior or a safe operable condition. CITY hereby agrees to pay said STATE expenses, within thirty (30) days of receipt of billing by STATE. However, prior to STATE performing any MAINTENANCE or removing LANDSCAPING, STATE will provide written

notice to CITY to cure the default and CITY will have thirty (30) days within which to affect that cure.

9.3. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority or jurisdiction arising under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless CITY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement with the exception of those actions of STATE necessary to cure a noticed default on the part of CITY.

9.4. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction arising under this Agreement. It is understood and agreed that CITY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY under this Agreement.

9.5. PREVAILING WAGES:

9.5.1. Labor Code Compliance- If the work performed under this Agreement is done under contract and falls within the Labor Code section 1720(a)(1) definition of a "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under LaborCode section 1771. CITY must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. CITY agrees to include prevailing wage requirements in its contracts for public works. Work performed by CITY'S own forces is exempt from the Labor Code's Prevailing Wage requirements.

9.5.2. Requirements in Subcontracts - CITY shall require its contractors to include prevailing wage requirements in all subcontracts when the work to be performed by the subcontractor under this Agreement is a "public works" as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771. Subcontracts shall include all prevailing wage requirements set forth in CITY's contracts.

10. INSURANCE - CITY and its contractors shall maintain in force, during the term of this agreement, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured in an amount of $1 million per occurrence and $2 million in aggregate and $5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement.

    10.1. SELF-INSURED - CITY is self-insured. CITY agrees to deliver evidence of self-insured coverage providing general liability insurance, coverage of bodily injury liability and property damage liability, naming STATE, its officers, agents and employees as the additional insured in an amount of $1 million per occurrence and $2 million in aggregate and $5 million in excess. Coverage shall be evidenced by a certification of self-insurance letter ("Letter of Self-Insurance"), satisfactory to STATE, certifying that CITY meets the coverage requirements of this section. This Letter of Self-Insurance shall also identify the LANDSCAPING location as depicted in EXHIBIT A. CITY shall deliver to STATE the Letter of Self-Insurance with a signed copy of this AGREEMENT. A copy of the executed Letter of Self-Insurance shall be attached hereto and incorporate as Exhibit B.

    10.2. SELF-INSURED using Contractor - If the work performed under this AGREEMENT is done by CITY's contractor(s), CITY shall require its contractor(s) to maintain in force, during the term of this AGREEMENT, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming STATE, its officers, agents and employees as the additional insured in an amount of $1 million per occurrence and $2 million in aggregate and $5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement.

11. TERMINATION - This Agreement may be terminated by timely mutual written consent by PARTIES, and CITY's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.

12. TERM OF AGREEMENT -Subject to the condition set forth in Section 1, above, this Agreement shall become effective on the date first shown on its face sheet and shall remain in full force and effect until amended or terminated at any time upon mutual consent of the PARTIES or until terminated by STATE for cause.

PARTIES are empowered by Streets and Highways Code Sections 114 & 130 to enter intothis Agreement and have delegated to the undersigned the authority to execute this Agreement on behalf of the respective agencies and covenants to have followed allthe necessary legal requirements to validly execute this Agreement.

IN WITNESS WHEREOF, the PARTIES hereto have set their hands and seals the day and year first above written.

THE CITY OF PETALUMA

By:_____
Mayor

Initiated and Approved

By:_____
CITY Manager

ATTEST:

By:_____
CITY Clerk

Approved as to form:

By:_____
CITY Attorney

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

TOKS OMISHAKIN
Director of Transportation

By:_____
DAVID AMBUEHL Date
Deputy District Director
Maintenance District 4

As to Form and Procedure:

By:_____
Attorney
Department of Transportation