

AGREEMENT
BY AND BETWEEN
THE CITY OF DAVIS,
CONAGRA FOODS PACKAGED FOODS, LLC AND TNHC LAND COMPANY,
LLC

Relating to the Development
of the Property Commonly Known as The Cannery

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into this 10th day of December, 2013, by and between the CITY OF DAVIS, a municipal corporation (herein the "City"), and CONAGRA FOODS PACKAGED FOODS, LLC, a Delaware limited liability company ("Con Agra"), and TNHC LAND COMPANY, a Delaware limited liability company and its affiliates ("New Home"). Con Agra and New Home are sometimes collectively referred to as "Developers"). This Agreement is made pursuant to the authority of Section 65864 *et seq.* of the Government Code of the State of California. This agreement refers to the City and the Developers collectively as the "Parties" and singularly as the "Party."

Recitals

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864, *et seq.* of the *Government Code* which authorizes any city, county or city and county to enter into a development agreement with an applicant for a development project, establishing certain development rights in the property which is the subject of the development project application.

B. The Developers own in fee or have a legal or equitable interest in certain real property(ies) described in Exhibit A attached hereto and incorporated herein by this reference and located in the incorporated area the City of Davis (herein the "Property") which the Developers seek to develop as The Cannery project (the "Project"). The Cannery is a master-planned residential mixed-use development, including low, medium,

and high density residential uses; a mixed-use business park component; open spaces including greenbelts, stormwater detention, agricultural buffers, and an urban farm; parks; and a neighborhood center, and associated infrastructure.

C. This Agreement is voluntarily entered into by the Developers in order to implement the General Plan and in consideration of the rights conferred and the procedures specified herein for the development of the Property. This Agreement is voluntarily entered into by the City in the exercise of its legislative discretion in order to implement the General Plan and in consideration of the agreements and undertakings of the Developers hereunder.

D. City has granted the Developers the following land use entitlement approvals (hereinafter "Project Approvals") which are incorporated and made a part of this Agreement:

- (1) General Plan Amendment #01-11
- (2) Rezoning and Preliminary Planned Development #01-11
- (3) Final Planned Development #03-11
- (4) Tentative Subdivision Map #01-11
- (5) Affordable Housing Plan #01-11
- (6) Development Agreement #01-11 by and between the City of Davis and Developers.
- (7) Environmental Impact Report (SCH 2012032022), as certified by Resolution No. 13-159 and the Mitigation Monitoring and Reporting Program adopted therewith.

E. This Agreement will eliminate uncertainty in planning for and securing orderly development of the Project, provide the certainty necessary for the Developers to make significant investments in public infrastructure and other improvements, assure the timely and progressive installation of necessary improvements, provide public services appropriate to each stage of development, establish phasing for the orderly and measured build-out of the Project consistent with the desires of the City to maintain the City's small

city atmosphere and to have development occur at a pace that will assure integration of the new development into the existing community, and provide significant public benefits to the City that the City would not be entitled to receive without this Agreement.

F. In exchange for the benefits to the City, the Developers desire to receive the assurance that they may proceed with the Project in accordance with the existing land use ordinances, subject to the terms and conditions contained in this Agreement and to secure the benefits afforded the Developers by *Government Code* §65864.

AGREEMENT

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, THE CITY AND THE DEVELOPERS HEREBY AGREE AS FOLLOWS:

ARTICLE 1. General Provisions.

A. [Sec. 100] Property Description and Binding Covenants. The Property is that property described in Exhibit A, which consists of a map showing its location and boundaries and a legal description. The Developers represent that they have a legal or equitable interest in the Property and that all other persons holding legal or equitable interests in the Property (excepting owners or claimants in easements) agree to be bound by this Agreement. The Parties intend and determine that the provisions of this Agreement shall constitute covenants which shall run with said Property, and the burdens and benefits hereof shall bind and inure to all successors in interest to the Parties hereto.

B. [Sec. 101] Effective Date and Term. The effective date of this Agreement shall be the date the Ordinance adopting this Agreement is effective. The term of this Agreement (the "Term") shall commence upon the effective date and shall extend for a period of twenty (20) years thereafter, unless said Term is terminated, modified or extended by circumstances set forth in this Agreement or by mutual consent of the Parties, subject to the provisions of Section 105 hereof. Following the expiration of said Term, this Agreement shall be deemed terminated and of no further force and effect, subject, however, to the provisions of Section 408 hereof.

If this Agreement is terminated by the City Council prior to the end of the Term, the City shall cause a written notice of termination to be recorded with the County Recorder within ten (10) days of final action by the City Council.

This Agreement shall be deemed terminated and of no further effect upon entry, after all appeals have been exhausted, of a final judgment or issuance of a final order directing the City to set aside, withdraw or abrogate the City Council's approval of this Agreement or any material part of the Project Approvals;

In the event that Developers have not conducted demolition, site preparation, and grading over at least 50 percent of the area of the Project site defined as Phase I pursuant to permits issued by the City prior to the fifth anniversary of the Effective Date, the Term of this Agreement shall end 15 years after the Effective Date, unless otherwise agreed by the Parties.

C. [Sec. 102] Equitable Servitudes and Covenants Running With the Land. Any successors in interest to the City and the Developers shall be subject to the provisions set forth in *Government Code* §§ 65865.4 and 65868.5. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do, or refrain from doing, some act with regard to the development of the Property: (a) is for the benefit of and is a burden upon the Property; (b) runs with the Property and each portion thereof; and (c) is binding upon each Party and each successor in interest during ownership of the Property or any portion thereof. Nothing herein shall waive or limit the provisions of Section D, and no successor owner of the Property, any portion of it, or any interest in it shall have any rights except those assigned to the successor by the Developers in writing pursuant to Section D. In any event, no owner or tenant of an individual completed residential unit within Project shall have any rights under this Agreement.

D. [Sec. 103] Right to Assign; Non-Severable Obligations.

1 The Developers, or each of them, shall have the right to sell, encumber, convey, assign or otherwise transfer (collectively "assign"), in whole or in part, its rights,

interests and obligations under this Agreement to a third party during the term of this Agreement.

2. No assignment shall be effective until the City, by action of the City Council, approves the assignment. Approval shall not be unreasonably withheld provided:

(a) The assignee (or the guarantor(s) of the assignee's performance) has the financial ability to meet the obligations proposed to be assigned and to undertake and complete the obligations of this Agreement affected by the assignment; and

(b) The proposed assignee has adequate experience with residential or non-residential developments of comparable scope and complexity to the portion of the Project that is the subject of the assignment.

Any request for City approval of an assignment shall be in writing and accompanied by certified financial statements of the proposed assignee and any additional information concerning the identify, financial condition and experience of the assignee as the City may reasonably request; provided that, any such request for additional information shall be made, if at all, not more than fifteen (15) business days after the City's receipt of the request for approval of the proposed assignment. All detailed financial information submitted to the City shall constitute confidential trade secret information if the information is maintained as a trade secret by the assignee and if such information is not available through other sources. The assignee shall mark any material claimed as trade secret at the time it is submitted to the City. If City receives a public records request for any information designated a "trade secret" City shall notify the assignee of such request prior to releasing the material in question to the requesting party. If the assignee directs the City not to release the material in question, the assignee shall indemnify the City for any costs incurred by City, including but not limited to staff time and attorney's fees, as a result of any action brought by the requesting party to obtain release of the information and/or to defend any lawsuit brought to obtain such information. If the City wishes to disapprove any proposed assignment, the City shall

set forth in writing and in reasonable detail the grounds for such disapproval. If the City fails to disapprove any proposed assignment within forty-five (45) calendar days after receipt of written request for such approval, such assignment shall be deemed to be approved.

3. The provisions of subsection 2 do not apply to the sale of: (i) ten or fewer finished residential lots to an individual buyer or builder; (ii) finished parcels designated for non-residential uses; or (iii) parcels to be developed in accordance with the affordable housing obligations set forth in this Agreement.

4. The specific development obligations set forth in Article II, Section B [Sec. 201], are not severable, and any sale of the Property, in whole or in part, or assignment of this Agreement, in whole or in part, which attempts to sever such conditions shall constitute a default under this Agreement and shall entitle the City to terminate this Agreement in its entirety.

5. Notwithstanding subsection 2 above, mortgages, deeds of trust, sales and lease-backs or any other form of conveyance required for any reasonable method of financing are permitted, but only for the purpose of securing loans of funds to be used for financing the acquisition of the Property, the development and construction of improvements on the Property and other necessary and related expenses. The holder of any mortgage, deed of trust or other security arrangement with respect to the Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but shall otherwise be bound by all of the terms and conditions of this Agreement. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

6. Nothing in this Section shall be deemed to constitute or require City consent to the approval of any subdivision or parcelization of the Property, in addition to

the subdivision maps identified in Exhibit D. The Parties recognize and acknowledge that any such actions must comply with applicable City laws and regulations and be consistent with the General Plan, the Project Approvals and this Agreement. Nothing in this Section shall be deemed to constitute or require City consent to an assignment that consists solely of a reorganization of the Developers' business structure.

E. [Sec. 104] Notices. Formal written notices, demands, correspondence and communications between the City and the Developers shall be sufficiently given if dispatched by certified mail, postage prepaid, to the principal offices of the City and the Developers, as set forth in Article 8 hereof. Such written notices, demands, correspondence and communications may be directed in the same manner to such other persons and addresses as either Party may from time to time designate. The Developers shall give written notice to the City, at least thirty (30) days prior to the close of escrow, of any sale or transfer of any portion of the Property larger than five (5) acres (i.e., not a *de minimis* portion) and any assignment of this Agreement, specifying the name or names of the transferee, the transferee's mailing address, the amount and location of the land sold or transferred, and the name and address of a single person or entity to whom any notice relating to this Agreement shall be given, and any other information reasonably necessary for the City to consider approval of an assignment or any other action City is required to take under this Agreement.

F. [Sec. 105] Amendment of Agreement. This Agreement may be amended from time to time by mutual consent of the Parties, in accordance with the provisions of Government Code Sections 65867 and 65868.

G. [Sec. 106] [Reserved]

H. [Sec. 107] Major Amendments and Minor Amendments.

1. Major Amendments. Any amendment to this Development Agreement which affects or relates to (a) the term of this Development Agreement; (b) permitted uses of the Property; (c) provisions for the reservation or dedication of land; (d) conditions, terms, restrictions or requirements for subsequent discretionary actions;

(e) the density or intensity of use of the Property or the maximum height or gross square footage of proposed non-residential buildings; or (f) monetary contributions by Developer, shall be deemed a "Major Amendment" and shall require giving of notice and a public hearing before the Planning Commission and City Council. Any amendment which is not a Major Amendment shall be deemed a Minor Amendment subject to Section 107(2) below. The City Manager or his or her delagee shall have the authority to determine if an amendment is a Major Amendment subject to this Section 107(1) or a Minor Amendment subject to Section 107(2) below. The City Manager's determination may be appealed to the City Council.

2. Minor Amendments. The Parties acknowledge that refinement and further implementation of the Project may demonstrate that certain minor changes may be appropriate with respect to the details and performance of the Parties under this Agreement. The Parties desire to retain a certain degree of flexibility with respect to the details of the Project and with respect to those items covered in the general terms of this Agreement. If and when the Parties find that clarifications, minor changes, or minor adjustments are necessary or appropriate and do not constitute a Major Amendment under Section 107(1), they shall effectuate such clarifications, minor changes or minor adjustments through a written Minor Amendment approved in writing by the Developers and City Manager. Unless otherwise required by law, no such Minor Amendment shall require prior notice or hearing, nor shall it constitute an amendment to this Agreement.

I. [Sec. 108] Automatic Termination as to Residential Lots/ Notice of Termination as to Other Parcels. This Agreement shall automatically be terminated, without any further action by any party or need to record any additional document, with respect to any single-family residential lot within a parcel designated by the Approvals for residential use, upon completion of construction and issuance by City of a final occupancy permit for a dwelling unit upon such single-family residential lot and conveyance of such improved residential lot and dwelling unit to a bona-fide good faith purchaser thereof. In connection with its issuance of a final inspection for such single-family residential lot and dwelling unit, City shall confirm that all improvements which are required to serve the residential lot, as determined by City, have (1) been accepted by

City, or (2) in the discretion of the City, adequate security for certain improvements has been provided, and that the dwelling is ready for occupancy by the homebuyer. Termination of this Agreement for any single-family residential lot as provided for in this Section 108 shall not in any way be construed to terminate or modify any assessment district, fee district, public financing district, special tax district, tax and/or any Mello Roos Community Facilities District lien affecting such lot at the time of termination. With regard to other parcels or lots which are not improved individual single-family residential lots, upon a Property Owner's request with respect to any such non-single family residential parcel or lot at the Property that has had a building constructed upon it or is a finished lot, City shall record a notice of termination that the Agreement has been terminated as to that lot or parcel. The aforesaid notice may specify, and Developers agree, that termination shall not affect in any manner any continuing obligation to pay an item specified by this Agreement. Termination of this Agreement as to an individual parcel or lot with a building constructed upon it shall not affect Developers' rights or obligations under any of the Approvals applicable to the remainder of the Project at the Property.

ARTICLE 2. Development of the Property.

A. [Sec. 200] Permitted Uses and Development Standards. In accordance with and subject to the terms and conditions of this Agreement, the Developers shall have a vested right to develop the Property for the uses and in accordance with and subject to the terms and conditions of this Agreement and the Project Approvals attached hereto as Exhibit C and incorporated herein by reference, and any amendments to the Project Approvals or Agreement as may, from time to time, be approved pursuant to this Agreement.

The Developers hereby agree to develop the Project in accordance with the Project Approvals, including the conditions of approval and the mitigation measures for the Project as adopted by the City, and any amendments to the Project Approvals or Agreement as may, from time to time, be approved pursuant to this Agreement. Nothing

in this section shall be construed to restrict the ability to make minor changes and adjustments in accordance with Section 107, *supra*.

B. [Sec. 201] Specific Development Obligations. In addition to the conditions of approval contained in the Project Approvals, the Developers and the City have agreed that the development of the Property by the Developers is subject to certain specific development obligations, described herein and also described and attached hereto as Exhibits E through M and incorporated herein by reference. These specific development obligations, together with the other terms and conditions of this Agreement, provide the incentive and consideration for the City entering into this Agreement.

1. Environmental Sustainability. The City and the Developers have agreed that environmental concerns and energy efficiency are critical issues for new developments. Therefore, the Developers and the City have agreed to the sustainability strategy set forth in Exhibit E.

2. Cannery Farm. The Developers shall develop, and subsequently dedicate to the City, the Cannery Farm on the eastern edge of the Project, as set forth in Exhibit F.

3. Transportation and Circulation Improvements, Additional Financial Contributions. In addition to the street and roads requirements set forth in the Project Approvals and required as part of the subdivision map approvals and EIR mitigation measures, the Developers shall make financial contributions toward additional transportation, bicycle and pedestrian improvements set forth in Exhibit G, at the time and in the manner set forth in Exhibit M.

4. Housing Universal Design and Visitability. The Developers shall make provision for housing universal design and visitability in private development as set forth in Exhibit H.

5. Affordable Housing. The Developers shall provide affordable housing as set forth in Exhibit I.

6. Community Enhancements. The Developers shall provide for further contributions to community enhancements, as set forth in Exhibit J.

7. Architectural Diversity.

a. The General Plan includes goals, policies and actions (Urban Design) that promote design standards for new single family residential development that create variability of lot sizes, floor area ratios, setbacks, building height floor plans, and architectural styles/treatments within each new development area. The Project would be consistent with these General Plan goals and policies. The Project shall include a diversity of housing types, densities, lot sizes, a variety of setbacks, and diverse architectural treatments throughout the subdivision. The Project will provide a diverse, yet cohesive neighborhood with complementary housing types, sizes, and elevations, as set forth in the Project Approvals.

b. Small Builder Lots shall be required in the Project in the manner provided in this Agreement, to encourage the development of architecturally diverse neighborhoods, with a mix of housing types, densities, prices and rents and designs. The Project shall identify and provide 30 Small Builder Lots, as identified on Exhibit K. The Small Builder Lots shall be comprised of 16 Cannery Village lots and 14 Park Home lots. In accordance with the Affordable Housing Program, accessory dwelling units shall be constructed on all Cannery Village lots. No more than ten percent (10%) of small builder lots may be sold to a single small builder, except up to four (4) Small Builder Lots in the Cannery Village may be sold to a single builder in a calendar year. The Small Builder Lots must be sold to qualifying small builders or owner/builders. Developers shall not be required to offer any Small Builder Lot at a discounted price or value to ensure a sale during any particular timeframe or phase of project development. Small Builder Lots are and shall remain subject to project development standards and design guidelines adopted as Project Approvals, including the Sustainability Plan and other obligations as set forth in this Agreement.

c. Single-Story Homes. Developers will fully design house plans and construction drawings for single-family detached housing at the following locations:

(1) The Courts: One single-story plan and one alternative of the plan will be designed and offered for sale that fits on the smallest Court Home Lot. The purpose of the alternative plan is to allow for more variety in the event a group of buyers wishes to purchase all single story plans in a common court.

(2) The Cottages: One single-story plan will be designed and offered for sale that fits on the smallest Cottage lot.

(3) The Park Homes: One single-story plan will be designed and offered for sale that fits on the smallest Park Home lot.

All of the homes shall be offered for sale at market rate on the standard price sheet. One of the single-story plans shall be modeled within the Cannery neighborhood with the house plan and location to be determined by the Developers. All other plans shall be modeled through a virtual walk-through program (i.e. Focus 360) in the sales office and available for purchase.

8. Bicycle Connection. Developers shall construct a grade-separated bike path connection from the southwest portion of the Project site across Covell Boulevard. The alignment and the design and construction shall be reviewed and approved by the Director of the Public Works and the Director of Community Development and Sustainability (the Directors). Developers shall construct a ten-foot wide bicycle connection path from the Project site which shall meet all ADA requirements including currently proposed requirements for multi-use paths. The path shall also meet City requirements to provide two feet of clearance on each side of the bike path, unless the Directors approve adjustments to dimensions based on physical constraints. Lighting shall be provided along the path and shall also be kept two feet clear from the path, unless otherwise approved by the Directors. The preferred route is to connect to the H Street Tunnel as studied in the project Environmental Impact Report (EIR). The H Street Tunnel route requires offsite easements and/or right-of-way acquisition. Developers shall diligently pursue acquisition of the necessary easements and/or right-of-way, consistent with parameters established in Section 204 of the Development Agreement. If the Developers have not secured the easements and/or right-of-way acquisition by April 30, 2014, the Developers shall so inform the City and provide detailed documentation of the

efforts taken to acquire and the City Council shall determine whether to obtain the easements and/or right-of-way through condemnation or otherwise. Should the City Council determine not to proceed with acquisition of the easements and/or right-of-way, the Developers shall be required to construct the Southwest Connection to the Covell Boulevard Multi-Use Path as studied in the EIR (Bike Path Option 1). All acquisition expenses and construction costs for completion of the connection shall be borne by the Developers. Associated improvements shall include, but are not necessarily limited to: street, sidewalk, bike path, lighting, landscaping, irrigation, and drainage improvements. Should the right-of-way and/or easements for the preferred H Street Tunnel connection be secured by April 30, 2014 or the City Council chooses not to pursue acquisition, the improvements to make the applicable bike connection shall be commenced prior to issuance of a certificate of occupancy for the 100th market rate unit proposed for development in the Project (model homes excluded). Should the City Council choose to pursue acquisition, the improvements shall be commenced by the latter of (1) one year after such right-of-way and/or easements are obtained or proceedings abandoned, or (2) prior to issuance of a certificate of occupancy for the 100th market rate unit proposed for development in the Project (model homes excluded). The City agrees to diligently process and approve improvements plans associated with the applicable bike connection in a period less than 60 days. The one-year construction requirement associated with right-of-way acquisition and/or easements being obtained through condemnation shall be extended for each day that the 60-day processing and approval requirement is not met.

C. [Sec. 202] Subsequent Discretionary Approvals. The Developers' vested right to develop pursuant to this Agreement may be subject to subsequent discretionary approvals for portions of the Project. In reviewing and acting upon these subsequent discretionary approvals, and except as set forth in this Agreement, the City shall not impose any conditions that preclude the development of the Project for the uses or the density and intensity of use set forth in this Agreement. Any subsequent discretionary approvals, except conditional use permits, shall become part of the Project Approvals once approved and after all appeal periods have expired or, if an appeal is filed, if the appeal is decided in favor of the approval. The known subsequent approvals are set forth on Exhibit D, attached hereto and incorporated herein.

In reviewing and approving applications for subsequent discretionary approvals, the City may exercise its discretionary review and may attach such conditions and requirements as may be deemed necessary or appropriate to carry out the policies, goals, standards and objectives of the General Plan and to comply with legal requirements and policies of the City pertaining to such reserved discretionary approvals, so long as such conditions and requirements do not preclude the uses or the density and intensity of use set forth in this Agreement.

Pursuant to California *Government Code* §66452.6(a) the term of any parcel map or tentative subdivision map shall automatically be extended for the term of this Agreement. Design review approvals and Final Planned Development approvals are subject to review pursuant to the procedures as set forth in Chapter 40 of the City's Municipal Code, and shall remain in effect for the term of the Agreement.

Conditional Use Permits may be reviewed and approved by the City during the term of this Agreement. However, these permits shall not "vest" under this Agreement and shall terminate if not used, as set forth in the City's Municipal Code, including its Zoning Ordinance. The term of any conditional use permit shall be determined by the City's Zoning Regulations or the conditions of approval of the conditional use permit but shall not be extended by reason of this Agreement.

D. [Sec. 203] Development Timing. The Developers shall be obligated to comply with the terms and conditions of the Project Approvals and this Development Agreement at those times specified in either the Project Approvals or this Development Agreement. The parties acknowledge that the Developers cannot at this time predict with certainty when or the rate at which phases of the Property would be developed. Such decisions depend upon numerous factors which are not all within the control of the Developers, such as market orientation and demand, interest rates, competition and other factors. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development controlling the parties' agreement, it is the intent of City and the Developers

to hereby acknowledge and provide for the right of the Developers to develop the Project in such order and at such rate and times as the Developer deems appropriate within the exercise of its sole and subjective business judgment, subject to the terms, requirements and conditions of the Project Approvals and this Development Agreement. City acknowledges that such a right is consistent with the intent, purpose and understanding of the parties to this Development Agreement, and that without such a right, the Developers' development of the Project would be subject to the uncertainties sought to be avoided by the Development Agreement Statute, (California *Government Code* § 65864 *et seq.*), City Council Resolution 1986-77 and this Development Agreement. The Developers shall use their best efforts, in accordance with their business judgment and taking into consideration market conditions and other economic factors influencing the Developers' business decision, to commence or to continue development, and to develop the Project in a regular, progressive and timely manner in accordance with the provisions and conditions of this Development Agreement and with the Project Approvals.

Subject to applicable law relating to the vesting provisions of development agreements, Developers and City intend that except as otherwise provided herein, this Agreement shall vest the Project Approvals against subsequent City resolutions, ordinances, growth control measures and initiatives or referenda, other than a referendum that specifically overturns City's approval of the Project Approvals, that would directly or indirectly limit the rate, timing or sequencing of development, or would prevent or conflict with the land use designations, permitted or conditionally permitted uses on the Property, design requirements, density and intensity of uses as set forth in the Project Approvals, and that any such resolution, ordinance, initiative or referendum shall not apply to the Project Approvals and the Project. Notwithstanding any other provision of this Agreement, Developers shall, to the extent allowed by the laws pertaining to development agreements, be subject to any growth limitation ordinance, resolution, rule, regulation or policy which is adopted and applied on a uniform, city-wide basis and directly concerns an imminent public health or safety issue. In such case, City shall apply such ordinance, resolution, rule, regulation or policy uniformly, equitably and

proportionately to Developers and the Property and to all other public or private owners and properties directly affected thereby.

The orderly and measured build-out of the Project will allow for the absorption of the new development into the community and the integration of the Project into the community. Therefore, the City and Developers have agreed to the timing and number of residential building permits that may be issued annually for market rate single family housing as set forth in the Phasing Plan and Permit Allocation, Exhibit L. These limitations do not apply to designated affordable housing (whether ownership or rental), designated Small Builder Lots, approved accessory dwelling units, residential units within vertical mixed use structures, or non-residential structures.

The infrastructure phasing and the physical phases of the Project accomplished through the approval of final maps shall be governed by the Phasing Plan and Permit Allocation (Exhibit L), the conditions of approval of any applicable Tentative Map(s) and the other Project Approvals. Consistent with this Agreement and the Project Approvals, each Final Map shall include a detailed description of the infrastructure improvements and other requirements for the phase shown in the particular final map. As necessary for orderly development, the City may modify the infrastructure requirements, such as water, sewer, utilities, and roads and road improvements, necessary to serve each phase as shown on particular final maps so long as such modifications substantially comply with this Agreement.

E. [Sec. 204] Property Acquisition for Off-site Infrastructure. The Developers shall, in a timely manner as determined by City and consistent with the requirements of the Project and the conditions of approval of the Project, acquire the property rights necessary to construct or otherwise provide the public improvements contemplated by this Agreement and the Project Approvals. In any instance where the Developers are required to construct any public improvement on land to which neither the Developers nor the City has sufficient title or interest, including an easement or license determined necessary by the City, the Developers shall at their sole cost and expense provide or cause to be provided, the real property interests necessary for the

construction of such public improvements. In the event the Developers are unable, after exercising all reasonable efforts as determined by the City, to acquire the real property interests necessary for the construction of such public improvements by the time any final map is filed with the City, and upon the Developers' provision of adequate security for costs the City may reasonably incur, the City shall negotiate the purchase of the necessary real property interests to allow the Developers to construct the public improvements as required by this Agreement and, if necessary, in accordance with the procedures established by law, use its power of eminent domain to acquire such required real property interests. For the purposes of this Section, "reasonable efforts" shall include proof that the Developers made a written offer to purchase the property interest at fair market value, in accordance with an appraisal conducted by an MAI appraiser. The Developers shall pay all costs associated with such acquisition or condemnation proceedings including but not limited to attorneys' fees, expert witness fees, and jury awards of any kind. If and to the extent this section 204 conflicts with Section 66462.5 of the Subdivision Map Act, this section shall control over the statute. Upon acquisition of the necessary interest in land, or upon obtaining a right of entry, either by agreement or court order, the Developers shall commence and complete the public improvements. This requirement shall be included, and, if necessary, detailed, in any subdivision improvement agreement entered into between the Developers and the City pursuant to *Government Code § 66462*.

F. [Sec. 205]. Credits and/or Reimbursement for Dedication of Property or Construction of Infrastructure for "Oversizing". To the extent the Developers dedicate land, funds or construct public facilities that exceed the size or capacity required to serve the Property for the benefit of other properties or the City, the City shall enter into an agreement to reimburse the Developers to the extent of such benefit as determined by the City. The Developers, at the City's election, may be reimbursed for oversizing: (1) under a separate agreement between the City and the Developers which shall provide that if and when a particular property benefiting from the oversizing is developed, the City shall require the benefiting property to reimburse the Developers their pro rata share of the costs of the oversizing, as set forth in the agreement. A written agreement under this

provision shall have a term of no longer than twenty-five (25) years; or (2) as credits against impact fees that the Developers or the Project would otherwise be required to pay for the type of infrastructure (e.g. sewers, roads) or payments from impact fees paid by other properties developed in the City for the type of infrastructure. If the mitigation fees paid by other persons or entities, or the credit available from the impact fees to be paid by the Developers in the particular category of infrastructure, are insufficient to repay the Developers in full for the cost of oversizing, the Developers shall have no recourse against the City. Similarly, if the benefiting property fails to reimburse the Developers for oversizing, the Developers shall have no recourse against the City; however, the Developers shall retain all their rights against the benefiting property and its owners, if any. In no case shall the City reimburse the Developers from general funds of the City.

Whenever in this Agreement or in future reimbursement agreements, the City is making reimbursements to the Developers, the reimbursements shall be made on a quarterly basis.

The City shall not reimburse the Developers for costs of interim temporary improvements (improvements with a service life of less than 5 years) as determined by City.

G. [Sec. 206] Rules, Regulations and Official Policies.

1. For the term of this Agreement, the rules, regulations, ordinances and official policies governing the permitted uses of land, the density and intensity of use, design, improvement and construction standards and specifications applicable to the development of the Property, including the maximum height and size of proposed buildings, shall be those rules, regulations and official policies in force on the effective date of the ordinance enacted by the City Council approving this Agreement. Except as otherwise provided in this Agreement, to the extent any future changes in the General Plan, zoning codes or any future rules, ordinances, regulations or policies adopted by the City purport to be applicable to the Property but are inconsistent with the terms and conditions of this Agreement, the terms of this Agreement shall prevail, unless the Parties

mutually agree to amend or modify this Agreement pursuant to Section 105 hereof. To the extent that any future changes in the General Plan, zoning codes or any future rules, ordinances, regulations or policies adopted by the City are applicable to the Property and are not inconsistent with the terms and conditions of this Agreement or are otherwise made applicable by other provisions of this Article 2, such future changes in the General Plan, zoning codes or such future rules, ordinances, regulations or policies shall be applicable to the Property.

(a) This section shall not preclude the application to development of the Property 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 the event state or federal laws or regulations enacted after the date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, this Agreement shall be modified, extended or suspended as may be necessary to comply with such state or federal laws or regulations or the regulations of such other governmental jurisdiction

To the extent that any actions of federal or state agencies (or actions of regional and local agencies, including the City, required by federal or state agencies) have the effect of preventing, delaying or modifying development of the Property, the City shall not in any manner be liable for any such prevention, delay or modification of said development. The Developers are required, at their cost and without cost to or obligation on the part of the City, to participate in such regional or local programs and to be subject to such development restrictions as may be necessary or appropriate by reason of such actions of federal or state agencies (or such actions of regional and local agencies, including the City, required by federal or state agencies).

(b) Nothing herein shall be construed to limit the authority of the City to adopt and apply codes, ordinances and regulations which have the legal effect of protecting persons or property from conditions which create a health, safety or physical risk.

2. All project construction, improvement plans and final maps for the Project shall comply with the rules, regulations and design guidelines in effect at the time the construction, improvements plan or final map is approved. Unless otherwise expressly provided in this Agreement, all city ordinances, resolutions, rules regulations and official policies governing the design and improvement and all construction standards and specifications applicable to the Project shall be those in force and effect at the time the applicable permit is granted. Ordinances, resolutions, rules, regulations and official policies governing the design, improvement and construction standards and specifications applicable to public improvements to be constructed by Developers shall be those in force and effect at the time the applicable permit approval for the construction of such improvements is granted. If no permit is required for the public improvements, the date of permit approval shall be the date the improvement plans are approved by the City or the date construction for the public improvements is commenced, whichever occurs first.

3. Uniform Codes applicable. This Project shall be constructed in accordance with the prohibitions of the Uniform Building, Mechanical, Plumbing, Electrical, and Fire Codes, city standard construction specifications and details and Title 24 of the California *Code of Regulations*, relating to Building Standards, in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Project. If no permits are required for the infrastructure improvements, such improvements shall be constructed in accordance with the provisions of the codes delineated herein in effect at the start of construction of such infrastructure.

4. The Parties intend that the provisions of this Agreement shall govern and control as to the procedures and the terms and conditions applicable to the development of the Property over any contrary or inconsistent provisions contained in Section 66498.1 *et seq.* of the *Government Code* or any other state law now or hereafter enacted purporting to grant or vest development rights based on land use entitlements (herein "Other Vesting Statute"). In furtherance of this intent, and as a material inducement to the City to enter into this Agreement, the Developers agree that:

(a) Notwithstanding any provisions to the contrary in any Other Vesting Statute, this Agreement and the conditions and requirements of land use entitlements for the Property obtained while this Agreement is in effect shall govern and control the Developers' rights to develop the Property;

(b) The Developers waive, for themselves and their successors and assigns, the benefits of any Other Vesting Statute insofar as they may be inconsistent or in conflict with the terms and conditions of this Agreement and land use entitlements for the Property obtained while this Agreement is in effect; and

(c) The Developers shall not make application for a land use entitlement under any Other Vesting Statute insofar as said application or the granting of the land use entitlement pursuant to said application would be inconsistent or in conflict with the terms and conditions of this Agreement and prior land use entitlements obtained while this Agreement is in effect.

5. This section shall not be construed to limit the authority or obligation of the City to hold necessary public hearings, to limit discretion of the City or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use which require the exercise of discretion by the City or any of its officers or officials, provided that subsequent discretionary actions shall not conflict with the terms and conditions of this Agreement.

H. [Sec. 207]. Fees, Exactions, Conditions and Dedications.

1. Except as provided herein, the Developer shall be obligated to pay only those fees, in the amounts and/or with increases as set forth below, and make those dedications and improvements prescribed in the Project Approvals and this Agreement and any Subsequent Approvals. Unless otherwise specified herein, City-imposed development impact fees and sewer and water connection fees shall be due and payable by the Developers prior to the issuance of a certificate of occupancy for the residential unit or non-residential building in question. Certain impact fees and credits applicable to

development of the Project shall be as set forth in Exhibit M, and paid in the manner specified.

2. As to the fees required to be paid, the Developers shall pay the amount in effect at the time the payment is made. The City retains discretion to revise such fees as the City deems appropriate, in accordance with applicable law. If the City revises such fees on a city-wide basis (as opposed to revising such fees on an *ad hoc* basis that applies solely to the Project), then the Developers shall thereafter pay the revised fee. The Developers may, at their sole discretion, participate in any hearings or proceedings regarding the adjustment of such fees. Nothing in this Agreement shall constitute a waiver by the Developers of their right to challenge such changes in fees in accordance with applicable law provided that the Developers hereby waive their right to challenge the increased fees solely on the basis of any vested rights that are granted under this Agreement and any tentative maps approved pursuant to this Agreement.

3. The City may charge and the Developers shall pay processing fees for land use approvals, building permits, and other similar permits and entitlements which are in force and effect on a citywide basis at the time the application is submitted for those permits, as permitted pursuant to California *Government Code* § 54990 or its successor sections(s).

4. Except as specifically permitted by this Agreement or mandated by state or federal law, the City shall not impose any additional capital facilities or development impact fees or charges or require any additional dedications or improvements through the exercise of the police power, with the following exception:

(a) The City may impose reasonable additional fees, charges, dedication requirements or improvement requirements as conditions of the City's approval of an amendment to the Project Approvals or this Agreement, which amendment is either requested by the Developers or agreed to by the Developers; and

(b) The City may apply subsequently adopted development exactions to the Project if the exaction is applied uniformly to development either throughout the

city or with a defined area of benefit that includes the Property if the subsequently adopted development exaction does not physically prevent development of the Property for the uses and to the density and intensity of development set forth in this Agreement. In the event that the subsequently adopted development exaction fulfills the same purpose as an exaction or development impact fee required by this Agreement or by the Project Approvals, the Developers shall receive a credit against the subsequently adopted development exaction for fees already paid that fulfill the same purpose.

(c) Developers agree to grant a 40-foot wide easement to the City along Covell Boulevard for a future waterline (as shown on the Tentative Map or in an alternative location as agreed upon by the Parties) upon the City's request, but in no event later than prior to or concurrently with the recordation of the first Final Subdivision Map. Developers' grant of this easement is subject to fee credit as described on Exhibit M.

5. Compliance with Government Code § 66006. As required by *Government Code* § 65865(e) for development agreements adopted after January 1, 2004, the City shall comply with the requirements of *Government Code* § 66006 pertaining to the payment of fees for the development of the Property.

6. School Facilities Fees. Developers have agreed to the annexation of the Project into Davis Joint Unified School District Community Facilities District #2 (DJUSD CFD#2), and have entered into an annexation agreement with the Davis Joint Unified School District related thereto. So long as Developers are not in default under the DJUSD CFD#2 annexation agreement, the City shall not condition the issuance of permits or approvals for the Project upon payment of school facilities fees pursuant to *Government Code* §65995 *et. seq.* Nothing in this Agreement shall preclude Developers from entering into a separate agreement with the DJUSD to allow for the payment of school facilities fees to the DJUSD as an alternative to special taxes imposed pursuant to DJUSD CFD#2.

7. Agricultural Well and Water Supply. Developers shall construct and grant to the City a well to provide non-potable water to serve certain irrigation demands of the

Project, including but not limited to City-maintained landscaping, park areas and the Cannery Farm. Such well shall be designed to, and shall provide, sufficient capacity and flow, to the satisfaction of the City's Director of Public Works. The Developers shall construct a secondary connection system to allow irrigation water to be supplied by potable water from the City's municipal supply in the event that the agricultural well is temporarily or permanently taken out of service. Prior to any connection of the Project's irrigation system to the City's municipal water system, appropriate backflow restrictors and other measures must be installed to the satisfaction of the City's Director of Public Works. Developers' grant of this agricultural well and associated irrigation system is subject to fee credit as described on Exhibit M.

(8) Wastewater Treatment Capacity. The City and the Developers agree that there is capacity in the wastewater treatment facility to serve (1) existing residents and businesses that are already hooked up to the facility, (2) anticipated residents and businesses through build-out of the City's existing General Plan, and (3) the Project. The City and the Developers acknowledge and agree that reserving this capacity for the Project, such that sewer hookups shall be available at such time as they are needed as the Project builds out, is a material element of the consideration provided by the City to the Developers in exchange for the benefits provided to the City under this Agreement. The Parties recognize the availability of sufficient sewer capacity may be affected by regulatory or operational constraints that are not within the City's discretion. To the extent the availability of sewer capacity is within the City's discretion (e.g., whether to extend sewer service to areas *not* currently within the City's service area), the City shall not approve providing such capacity to areas currently outside the City's service area if this approval would prevent or delay the ability of the City to provide sewer hookups to the Project as the Project requires hook-ups or connections. This provision shall not affect the City's ability to provide sewer service within its service boundaries or within the existing City boundaries as they exist on the effective date of this Agreement, and as to such connections, the Parties requesting sewer service shall be connected on a first come first served basis. The Developers shall pay the applicable connection charge in effect pursuant to City-wide ordinance at the time of building permit issuance. The

Developers acknowledges that connection charge may increase substantially over time and that the cost to comply with the City's new NPDES permit, as they may be approved from time to time during the term of this Agreement, may be substantial.

(9) Parks and Greenbelts. Parks and greenbelt space shall be installed concurrently with home construction on adjacent residential parcels, as depicted on a final map. Each final map shall set forth the parks and green spaces to be constructed with that final map, as shown on the phasing plan. The City shall review and approve the design, construction, and landscaping of the parks, greenbelts, and other green spaces in the project area. Park and open space amenities shall include the following:

- Net Zero Electric Outdoor Lighting
- LED Street Lights
- Dog Exercise Area
- Power & Fiber to Amphitheater
- Restroom in Neighborhood Park
- Overlook at Detention Basin
- Interpretive Signage
- Pollinator & Native Plantings
- Bird, Owl & Bat Boxes

I. [Sec. 208] Completion of Improvements. City generally requires that all improvements necessary to service new development be completed prior to issuance of building permits (except model home permits as may be provided by the Municipal Code). However, the parties hereto acknowledge that some of the backbone or in-tract improvements associated with the development of the Property may not need to be completed to adequately service portions of the Property as such development occurs. Therefore, as and when portions of the Property are developed, all backbone or in-tract infrastructure improvements required to service such portion of the Property in accordance with the Project Approvals (e.g., pursuant to specific tentative map conditions or other land use approvals) shall be completed prior to issuance of any building permits within such portion of the Property (except permits for model homes, which may be issued sooner in accordance with the Municipal Code). Provided, however, the Public Works Director may approve the issuance of building permits prior to completion of all such backbone or in-tract improvements if the improvements necessary to provide

adequate service to the portion of the Property being developed are substantially complete to the satisfaction of the Public Works Director, or in certain cases at the discretion of the City, adequate security has been provided to assure the completion of the improvements in question.

ARTICLE 3. Obligations of the Developer.

A. [Sec. 300] Improvements. The Developers shall develop the Property in accordance with and subject to the terms and conditions of this Agreement, the Project Approvals and the subsequent discretionary approvals referred to in Section 202, if any, and any amendments to the Project Approvals or this Agreement as, from time to time, may be approved pursuant to this Agreement. The failure of the Developers to comply with any term or condition of or fulfill any obligation of the Developers under this Agreement, the Project Approvals or the subsequent discretionary approvals or any amendments to the Project Approvals or this Agreement as may have been approved pursuant to this Agreement, shall constitute a default by the Developers under this Agreement. Any such default shall be subject to cure by the Developers as set forth in Article 4 hereof.

B. [Sec. 301] Developers' Obligations. Except as otherwise provided herein, the Developers shall be responsible, at its sole cost and expense, to make the contributions, improvements, dedications and conveyances set forth in this Agreement and the Project Approvals.

C. [Sec. 302] City's Good Faith in Processing. Subject to the reserved discretionary approvals set forth in Section 201 and the provisions of Section 207(3) hereof, the City agrees that it shall accept, in good faith, for processing, review and action, all complete applications for zoning, special permits, development permits, tentative maps, subdivision maps or other entitlements for use of the Property in accordance with the General Plan and this Agreement.

The City shall inform the Developers, upon request, of the necessary submission requirements for each application for a permit or other entitlement for use in advance,

and shall review said application and schedule the application for review by the appropriate authority.

The Developers and the City shall comply with the time frames set forth in the Subdivision Map Act, and, if applicable, the Permit Streamlining Act, for the processing of parcel and tentative subdivision maps and final maps.

Upon receipt of a Final Planned Development (FPD) application for the mixed use portion of the Project, City shall process same and bring the application before the Planning Commission in as expeditious a timeframe as is reasonable as determined by the City Manager. The scope of review by staff and the Planning Commission shall be focused on those technical issues typically associated with review of a Final Planned Development, such as internal circulation, site parking, building setbacks, and building floor area ratios (FAR). The types of uses allowed within the mixed use area shall be governed by those set forth in the Preliminary Planned Development (PPD) approvals. Design Review of buildings proposed within the mixed use area shall be processed administratively by the Department of Community Development & Sustainability pursuant to the procedures set forth in Chapter 40 of the City's Municipal Code, or concurrently with the FPD by mutual agreement of the Parties.

With City approval, the Developers may utilize an expedited plan check process for the review of improvement plans and building plans for the Project. Within two (2) weeks of a written request by the Developers, the City shall determine whether expedited plan check is feasible for the requested work. If the City determines that expedited plan check is feasible, the City shall retain an outside consultant for review of the Developers' improvement plans and building plans. Such outside consultant shall be at the sole selection of the City and shall be paid for at the sole cost and expense of the Developers. Upon written request, the Developers shall advance a deposit sufficient to cover the City's estimated costs of retaining the outside consultant. Such deposit shall be replenished as necessary, from time to time, to assure that the City shall not bear any of the cost of the outside consultant.

ARTICLE 4. Default, Remedies, Termination.

A. [Sec. 400] General Provisions. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either Party to perform any term or provision of this Agreement shall constitute a default. In the event of default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party not less than thirty (30) days notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30) day period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other Party to this Agreement may at its option:

1. Terminate this Agreement, in which event neither Party shall have any further rights against or liability to the other with respect to this Agreement or the Property; or
2. Institute legal or equitable action to cure, correct or remedy any default, including but not limited to an action for specific performance of the terms of this Agreement;

In no event shall either Party be liable to the other for money damages for any default or breach of this Agreement.

B. [Sec. 401] Intentionally Deleted.

C. [Sec. 402] Developers' Default; Enforcement. No building permit shall be issued or building permit application accepted for the building shell of any structure on the Property if the permit applicant owns or controls any property subject to this Agreement and if such applicant or any entity or person controlling such applicant is in default under the terms and conditions of this Agreement unless such default is cured or this Agreement is terminated. The Developers shall cause to be placed in any covenants,

conditions and restrictions applicable to the Property, or in any ground lease or conveyance thereof, express provision for an owner of the Property, lessee or City acting separately or jointly to enforce the provisions of this Agreement and to recover attorneys' fees and costs for such enforcement.

D. [Sec. 403] Annual Review. The City Manager shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by the Developers with the terms and conditions of this Agreement. Such periodic review shall be limited in scope to compliance with the terms and conditions of this Agreement pursuant to California Government Code Section 65865.1.

The City Manager shall provide thirty (30) days prior written notice of such periodic review to the Developers. Such notice shall require the Developers to demonstrate good faith compliance with the terms and conditions of this Agreement and to provide such other information as may be reasonably requested by the City Manager and deemed by him or her to be required in order to ascertain compliance with this Agreement. Notice of such annual review shall include the statement that any review may result in amendment or termination of this Agreement. The costs of notice and related costs incurred by the City for the annual review conducted by the City pursuant to this Section shall be borne by the Developers.

If, following such review, the City Manager is not satisfied that the Developers have demonstrated good faith compliance with all the terms and conditions of this Agreement, or for any other reason, the City Manager may refer the matter along with his or her recommendations to the City Council.

Failure of the City to conduct an annual review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement nor shall the Developers have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

E. [Sec. 404] Enforced Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental entities, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, moratoria or similar bases for excused performance. If written notice of such delay is given to the City within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

In the event litigation is initiated by any party other than Developers that challenges any of the approvals for the Project or the environmental document for those approvals and an injunction or temporary restraining order is not issued, Developers may elect to have the term of this Agreement tolled, i.e., suspended, during the pendency of said litigation, upon written notice to City from Developers. The tolling shall commence upon receipt by the City of written notice from Developers invoking this right to tolling. The tolling shall terminate upon the earliest date on which either a final order is issued upholding the challenged approvals or said litigation is dismissed with prejudice by all plaintiffs. In the event a court enjoins either the City or the Developers from taking actions with regard to the Project as a result of such litigation that would preclude any of them from enjoying the benefits bestowed by this Agreement, then the term of this Agreement shall be automatically tolled during the period of time such injunction or restraining order is in effect

F. [Sec. 405] Limitation of Legal Actions. In no event shall the City, or its officers, agents or employees, be liable in damages for any breach or violation of this Agreement, it being expressly understood and agreed that the Developers' sole legal remedy for a breach or violation of this Agreement by the City shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement.

G. [Sec. 406] Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. The Developers acknowledge and agree that the City has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity or meaning of this Agreement shall be that accorded legislative acts of the City. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing Party of such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the Court.

H. [Sec. 407] Invalidity of Agreement.

1. If this Agreement shall be determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment.

2. If any provision of this Agreement shall be determined by a court to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any law which becomes effective after the date of this Agreement and either Party in good faith determines that such provision is material to its entering into this Agreement, either Party may elect to terminate this Agreement as to all obligations then remaining unperformed in accordance with the procedures set forth in Section 400, subject, however, to the provisions of Section 408 hereof.

I. [Sec. 408] Effect of Termination on Developer Obligations. Termination of this Agreement shall not affect the Developers' obligations to comply with the General Plan and the terms and conditions of any and all Project Approvals and land use entitlements approved with respect to the Property, nor shall it affect any other covenants of the Developers specified in this Agreement to continue after the termination of this Agreement.

ARTICLE 5. Hold Harmless Agreement.

A. [Sec. 500] Hold Harmless Agreement. The Developers hereby agree to and shall hold the City, its elective and appointive boards, commissions, officers, agents and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage, which may arise from the Developers' or the Developers' contractors, subcontractors, agents or employees operations under this Agreement, whether such operations be by the Developers, or by any of the Developers' contractors, subcontractors, or by any one or more persons directly or indirectly employed by or acting as agent for the Developers or any of the Developers' contractors or subcontractors.

In the event of any legal action instituted by a third party or any governmental entity or official arising out of the approval, execution or implementation of this Agreement (exclusive of any such actions brought by the Developers), the Developers agree to and shall cooperate fully and join in the defense by the City of such action; provided, however, that the City and the Developers shall each bear their own respective costs, if any, arising from such defense. Such agreement by the Developers does not include any agreement to indemnify the City and its elective and appointive boards, commissions, officers, agents and employees from any such legal actions.

B. Prevailing Wages. Without limiting the foregoing, Developers acknowledge the requirements of California *Labor Code* §1720, *et seq.*, and 1770 *et seq.*, as well as California *Code of Regulations*, Title 8, Section 1600 *et seq.* ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects, as defined. If work pursuant to this Agreement is being performed by Developer as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation under the contract in question is \$1,000 or more, Developers agree to fully comply with such Prevailing Wage Laws. Upon Developers' request, the City shall provide a copy of the then current prevailing rates of per diem wages. Developers shall make available to interested parties upon request, copies of the prevailing rates of

per diem wages for each craft, classification or type of worker needed to execute the work subject to Prevailing Wage Laws, and shall post copies at the Developers' principal place of business and at the Project site. Developers shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless pursuant to the indemnification provisions of this Agreement from any claim or liability arising out of any failure or alleged failure by Developers to comply with the Prevailing Wage Laws associated with any "public works" or "maintenance" projects associated with Project development.

ARTICLE 6. Project as a Private Undertaking.

A. [Sec. 600] Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties hereto that the development of the Property is a separately undertaken private development. No partnership, joint venture or other association of any kind between the Developers and the City is formed by this Agreement. The only relationship between the City and the Developers is that of a governmental entity regulating the development of private property and the owner of such private property.

ARTICLE 7. Consistency With General Plan.

A. [Sec. 700] Consistency With General Plan. The City hereby finds and determines that execution of this Agreement is in the best interest of the public health, safety and general welfare and is consistent with the General Plan, as amended by the General Plan Amendment approved as part of the Project Approvals.

ARTICLE 8. Notices.

A. [Sec. 800] Notices. All notices required by this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, to the addresses of the Parties as set forth below.

Notice required to be given to the City shall be addressed as follows:

City Manager
City of Davis
23 Russell Boulevard
Davis, CA 95616

Notice required to be given to the Developers shall be addressed as follows:

Con Agra
One Con Agra Drive
Omaha, NE 68102
Attn: Vice President – Real Estate (1 copy)
Attn: Legal Department – Real Estate (1 copy)

The New Home Company
2220 Douglas Blvd., Suite 240
Roseville, CA 95661
Attn: Ashley J. Feeney
Bonnie Chiu

With a copy to:

Phillips Land Law, Inc
5301 Montserrat Lane
Loomis, California 95650
Attn: George E. Phillips

Either Party may change the address stated herein by giving notice in writing to the other Party, and thereafter notices shall be addressed and transmitted to the new address.

ARTICLE 9. Recordation.

A. [Sec. 900] When fully executed, this Agreement shall be recorded in the official records of Yolo County, California. Any amendments to this Agreement shall also be recorded in the official records of Yolo County.

ARTICLE 10. Estoppel Certificates.

A. [Sec. 1000] Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such party to certify in writing that, to the knowledge of the certifying Party, (a) this Development Agreement is in full force and effect and a binding obligation of the Parties, (b) this Development Agreement has not been amended or modified or, if so amended or modified, identifying the amendments or modifications, and (c) the requesting Party is not in default in the performance of its obligations under this Development Agreement, or if in default, to describe therein the nature and extent of any such defaults. The requesting Party may designate a reasonable form of certificate (including a lender's form) and the Party receiving a request hereunder shall execute and return such certificate or give a written, detailed response explaining why it will not do so within thirty (30) days following the receipt thereof. The City Manager shall be authorized to execute any certificate requested by Developers hereunder. Developers and City acknowledge that a certificate hereunder may be relied upon by tenants, transferees, investors, partners, bond counsel, underwriters, and other mortgages. The request shall clearly indicate that failure of the receiving Party to respond within the thirty (30) day period shall lead to a second and final request and failure to respond to the second and final request within fifteen (15) days of receipt thereof shall be deemed approval of the estoppel certificate. Failure of Developers to execute an estoppel certificate shall not be deemed a default, provided that in the event Developers do not respond within the required thirty (30) day period, City may send a second and final request to Developers and failure of Developers to respond within fifteen (15) days from receipt thereof (but only if City's request contains a clear statement that failure of Developers to respond within this fifteen (15) day period shall constitute an approval) shall be deemed approval by Developers of the estoppel certificate and may be relied upon as such by City, tenants, transferees, investors, bond counsel, underwriters and bond holders. Failure of City to execute an estoppel certificate shall not be deemed a default, provided that in the event City fails to respond within the required thirty (30) day period, Developers may send a second and final request to City, with a copy to the City Manager and City Attorney, and failure of City to respond within fifteen (15) days from receipt

thereof (but only if Developers' request contains a clear statement that failure of City to respond within this fifteen (15) day period shall constitute an approval) shall be deemed approval by City of the estoppel certificate and may be relied upon as such by Developers, tenants, transferees, investors, partners, bond counsel, underwriters, bond holders and mortgagees.

ARTICLE 11. Special District Formation.

A. [Sec. 1100] Community Facilities District for Public Facilities and/or Services. Developers and City may form a Community Facilities District or Districts (or other public finance district under State law, as appropriate) for the purpose of financing the construction and/or acquisition of public infrastructure and facilities within the Project area or for the provision of services ("Project CFD(s)"). If requested by Developers, City may determine whether to form one or more Project CFD(s) for the purpose of providing services or financing the acquisition or construction of some or all of the improvements and facilities eligible for CFD financing within and associated with the Project, including those improvements which will mitigate impacts of the Project upon areas inside and outside of the Project with a useful life of 5 years or longer, and will be owned, operated or maintained by the City or another public agency as authorized under *Government Code 53311 et seq.* and City policy.

ARTICLE 12. Provisions Relating to Lenders

A. [Sec. 1201] Lender Rights and Obligations.

1. Prior to Lender Possession. No Lender shall have any obligation or duty under this Agreement prior to the time the Lender obtains possession of all or any portion of the Property to construct or complete the construction of improvements, or to guarantee such construction or completion, and shall not be obligated to pay any fees or charges which are liabilities of Developers or Developers' successors-in-interest, but such Lender shall otherwise be bound by all of the terms and conditions of this Agreement which pertain to the Property or such portion thereof in which Lender holds an interest. Nothing in this Section shall be construed to grant to a Lender rights beyond

those of the Developers hereunder or to limit any remedy City has hereunder in the event of a breach by Developers, including termination or refusal to grant subsequent additional land use Approvals with respect to the Property.

2. Lender in Possession. A Lender who comes into possession of the Property, or any portion thereof, pursuant to foreclosure of a mortgage or deed of trust, or a deed in lieu of foreclosure, shall not be obligated to pay any fees or charges which are obligations of Developers and which remain unpaid as of the date such Lender takes possession of the Property or any portion thereof. Provided, however, that a Lender shall not be eligible to apply for or receive Approvals with respect to the Property, or otherwise be entitled to develop the Property or devote the Property to any uses or to construct any improvements thereon other than the development contemplated or authorized by this Agreement and subject to all of the terms and conditions hereof, including payment of all fees (delinquent, current and accruing in the future) and charges, and assumption of all obligations of Developers hereunder; provided, further, that no Lender, or successor thereof, shall be entitled to the rights and benefits of the Developers hereunder or entitled to enforce the provisions of this Agreement against City unless and until such Lender or successor in interest qualifies as a recognized assignee of this Agreement and makes payment of all delinquent and current City fees and charges pertaining to the Property.

3. Notice of Developers' Breach Hereunder. If City receives notice from a Lender requesting a copy of any notice of breach given to Developers hereunder and specifying the address for notice thereof, then City shall deliver to such Lender, concurrently with service thereon to Developers, any notice given to Developers with respect to any claim by City that Developers have committed a breach, and if City makes a determination of non-compliance, City shall likewise serve notice of such non-compliance on such Lender concurrently with service thereof on Developers.

4. Lender's Right to Cure. Each Lender shall have the right, but not the obligation, for the same period of time given to Developers to cure or remedy, on behalf of Developers, the breach claimed or the areas of non-compliance set forth in

City's notice. Such action shall not entitle a Lender to develop the Property or otherwise partake of any benefits of this Agreement unless such Lender shall assume and perform all obligations of Developers hereunder.

5. Other Notices by City. A copy of all other notices given by City to Developers pursuant to the terms of this Agreement shall also be sent to any Lender who has requested such notices at the address provided to City pursuant to Section 1201(4) above.

B. [Sec. 1202] Right to Encumber. City agrees and acknowledges that this Agreement shall not prevent or limit the owner of any interest in the Property, or any portion thereof, at any time or from time to time in any manner, at such owner's sole discretion, from encumbering the Property, the improvements thereon, or any portion thereof with any mortgage, deed of trust, sale and leaseback arrangement or other security device. City acknowledges that any Lender may require certain interpretations of the agreement and City agrees, upon request, to meet with the owner(s) of the property and representatives of any Lender to negotiate in good faith any such request for interpretation. City further agrees that it shall not unreasonably withhold its consent to any interpretation to the extent such interpretation is consistent with the intent and purpose of this Agreement

ARTICLE 13. Entire Agreement.

A. [Sec. 1300] Entire Agreement. This Agreement is executed in duplicate originals, each of which is deemed to be an original. This Agreement consists of 40 pages and 13 Exhibits which constitute the entire understanding and agreement of the Parties. Unless specifically stated to the contrary, the reference to an exhibit by designated letter or number shall mean that the exhibit is made a part of this Agreement. Said exhibits are identified as follows:

Exhibit A:	Description of the Property
Exhibit B:	General Plan Amendment Resolution
Exhibit C:	Project Approvals
Exhibit D:	Subsequent Discretionary Approvals

- Exhibit E: Environmental Sustainability
- Exhibit F: Cannery Farm
- Exhibit G: Transportation and Circulation Commitments
- Exhibit H: Housing Visitability
- Exhibit I: Affordable Housing Plan
- Exhibit J: Community Enhancements
- Exhibit K: Small Builder Lots
- Exhibit L: Phasing Plan and Permit Allocation
- Exhibit M: Impact Fees and Credits

IN WITNESS WHEREOF, the City and the Developer have executed this Agreement as of the date set forth above.

CITY OF DAVIS

By


Joseph F. Krovoza

Mayor

Attest


Zoe S. Mirabile, CMC

City Clerk

"CITY"

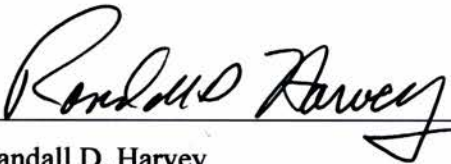
APPROVED AS TO FORM:



Harriet Steiner

City Attorney

CONAGRA FOODS PACKAGED FOODS, LLC,
a Delaware limited liability Company

By 

Randall D. Harvey

Vice President

TNHC LAND COMPANY, LLC, a Delaware
Limited Liability Company

By 

Authorized Signatory

Exhibit A

EXHIBIT "A"
LEGAL DESCRIPTION

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF YOLO, CITY OF DAVIS, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

REAL PROPERTY SITUATE IN THE COUNTY OF YOLO, STATE OF CALIFORNIA, BEING A PORTION OF SECTION 3, TOWNSHIP 8 NORTH, RANGE 2 EAST, M.D.B. & M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY LINE OF LAND (100 FEET WIDE) OF SOUTHERN PACIFIC COMPANY DISTANT THEREON 1503.2 FEET NORTHERLY FROM THE POINT OF INTERSECTION THEREOF WITH THE CENTER LINE OF COUNTY ROAD NO. 31; THENCE NORTHERLY, ALONG SAID EASTERLY LINE 1503.2 FEET; THENCE EASTERLY PARALLEL WITH SAID CENTER LINE OF COUNTY ROAD NO. 31, A DISTANCE OF 1500.0 FEET; THENCE SOUTHERLY, PARALLEL WITH SAID EASTERLY LINE OF LAND OF SOUTHERN PACIFIC COMPANY, 1503.2 FEET TO A POINT IN A LINE PARALLEL WITH SAID CENTER LINE COUNTY ROAD NO. 31, AND DRAWN THROUGH THE POINT OF BEGINNING; THENCE WESTERLY, ALONG LAST SAID PARALLEL LINE 1500.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION THEREOF INCLUDED WITHIN PARCEL A, OF PARCEL MAP NO. 2356, AS PER PLAT FILED FOR RECORD JULY 25, 1974 IN BOOK 2 OF PARCEL MAPS, PAGE 53, YOLO COUNTY RECORDS.

ASSESSOR'S PARCEL NUMBER: 035-970-034

PARCEL TWO:

ALL OF PARCEL "A" IN THE CITY OF DAVIS, COUNTY OF YOLO, STATE OF CALIFORNIA AS SHOWN ON PARCEL MAP NO. 2356, AS FILED JULY 25, 1974 IN BOOK 2 OF PARCEL MAPS, PAGE 53, YOLO COUNTY RECORDS.

EXCEPTING THEREFROM THAT PORTION OF SAID PROPERTY LYING BELOW A DEPTH OF FIVE HUNDRED FEET (500') MEASURED VERTICALLY FROM THE CONTOUR OF THE SURFACE THEREOF; PROVIDED, HOWEVER, THAT GRANTOR, ITS SUCCESSORS AND ASSIGNS SHALL NOT HAVE THE RIGHT FOR ANY PURPOSE WHATSOEVER TO ENTER UPON, INTO OR THROUGH THE SURFACE OF THE PROPERTY GRANTED HEREIN OR ANY PART THEREOF LYING BETWEEN SAID SURFACE AND FIVE HUNDRED FEET (500') BELOW SAID SURFACE.

ASSESSOR'S PARCEL NUMBER: 035-970-035

PARCEL THREE:

THAT CERTAIN PARCEL OF LAND, SITUATE LYING AND BEING IN SECTION 3, TOWNSHIP 8 NORTH, RANGE 2 EAST, M.D.B. & M., COUNTY OF YOLO, STATE OF CALIFORNIA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 8 NORTH, RANGE 2 EAST, M.D.B. & M., AND RUNNING THENCE ALONG THE SOUTH LINE OF SAID SECTION 3

EXHIBIT "A"
LEGAL DESCRIPTION continued

NORTH 89 DEGREES 57' 30" EAST 1874.52 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY LINE OF THE SOUTHERN PACIFIC RAILROAD COMPANY'S RIGHT OF WAY FOR THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE ALONG SAID RIGHT OF WAY LINE NORTH 14 DEGREES 51' 50" WEST, 1503.2 FEET; THENCE PARALLEL WITH THE SAID SOUTH LINE OF SECTION 3, NORTH 89 DEGREES 57' 30" EAST, 1500.00 FEET TO A PROPERTY CORNER; THENCE ALONG A PROPERTY LINE AND PARALLEL WITH SAID RAILROAD RIGHT OF WAY, SOUTH 14 DEGREES 51' 50" EAST, 1503.2 FEET TO A POINT ON THE SOUTH LINE OF SECTION 3 DISTANT THEREON 1500.0 FEET EASTERLY FROM THE POINT OF BEGINNING; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 3, SOUTH 89 DEGREES 57' 30" WEST 1500.0 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCELS TO WIT:

PARCEL A:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 8 NORTH, RANGE 2 EAST, M.D.B. & M., AND RUNNING THENCE ALONG THE SOUTH LINE OF SAID SECTION 3, NORTH 89 DEGREES 57' 30" EAST 1874.52 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY LINE OF THE SOUTHERN PACIFIC RAILROAD COMPANY'S RIGHT OF WAY; THENCE ALONG SAID RIGHT OF WAY NORTH 14 DEGREES 51' 50" WEST, 1503.20 FEET; THENCE PARALLEL WITH SAID SOUTH LINE OF SECTION 3 NORTH 89 DEGREES 57' 30" EAST, 1500.00 FEET TO A PROPERTY CORNER; THENCE ALONG A PROPERTY LINE AND PARALLEL WITH SAID RAILROAD RIGHT OF WAY, SOUTH 14 DEGREES 51' 50" EAST 104.00 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY, SOUTH 75 DEGREES 08' 10" WEST 237.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION, AND EXTENDING THENCE FROM SAID TRUE POINT OF BEGINNING, PARALLEL WITH SAID RAILROAD RIGHT OF WAY, SOUTH 14 DEGREES 51' 50" 1284.76 FEET TO A POINT THAT IS 50.00 FEET NORTHERLY FROM THE SOUTH LINE OF SAID SECTION 3, SAID 50.00 FEET BEING MEASURED AT RIGHT ANGLES TO SAID SECTION LINE; THENCE PARALLEL WITH SAID SECTION LINE AND 50 FEET DISTANT THEREON SOUTH 89 DEGREES 57' 30" WEST 56.89 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY, NORTH 14 DEGREES 51' 50" WEST 56.89 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY NORTH 14 DEGREES 51' 50" WEST 717.55 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY SOUTH 75 DEGREES 08' 10" WEST 771.66 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY NORTH 14 DEGREES 51' 50" WEST 552.66 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY, NORTH 75 DEGREES 08' 10" EAST 826.66 FEET TO THE POINT OF BEGINNING.

PARCEL B:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 8 NORTH, RANGE 2 EAST, M.D.B. & M., AND RUNNING THENCE ALONG THE SOUTH LINE OF SAID SECTION 3 NORTH 89 DEGREES 57' 30" EAST, 1874.52 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY LINE OF THE SOUTHERN PACIFIC RAILROAD COMPANY'S RIGHT OF WAY; THENCE ALONG SAID RIGHT OF WAY LINE NORTH 14 DEGREES 51' 50" WEST, 1503.20 FEET; THENCE PARALLEL WITH SAID SOUTH LINE OF SECTION 3, NORTH 89 DEGREES 57' 30" EAST 1500.00 FEET TO A PROPERTY CORNER; THENCE ALONG A PROPERTY LINE AND PARALLEL WITH SAID RAILROAD RIGHT OF WAY, SOUTH 14 DEGREES 51' 50" EAST 104.00 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY, SOUTH 75 DEGREES 08' 10" WEST 237.00 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY

LEGAL.0

EXHIBIT "A"
LEGAL DESCRIPTION continued

SOUTH 14 DEGREES 51' 50" EAST, 1284.76 FEET TO A POINT THAT IS 50.00 FEET NORTHERLY FROM THE SOUTH LINE OF SAID SECTION 3 SAID 50.00 FEET BEING MEASURED AT RIGHT ANGLES TO SAID SECTION LINE; THENCE PARALLEL WITH SAID SECTION LINE AND 50 FEET DISTANT THEREFROM, SOUTH 89 DEGREES 57' 30" WEST 56.89 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY NORTH 14 DEGREES 51' 50" WEST 287.55 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION AND EXTENDING THENCE FROM SAID TRUE POINT OF BEGINNING AND PARALLEL WITH SAID RAILROAD RIGHT OF WAY, NORTH 14 DEGREES 51' 50" WEST 430.00 FEET; THENCE AT RIGHT ANGLES TO SAID RIGHT OF WAY SOUTH 75 DEGREES 08' 10" WEST, 930.66 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY SOUTH 14 DEGREES 51' 50" EAST 430.00 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY, NORTH 75 DEGREES 08' 10" EAST, 930.66 FEET TO THE POINT OF BEGINNING.

PARCEL C:

AND EXCEPTING THEREFROM ALL THAT PROPERTY GRANTED TO THE CITY OF DAVIS IN THE GRANT DEED RECORDED SEPTEMBER 15, 2008, AS INSTRUMENT NO. 2008-0027667-00, YOLO COUNTY RECORDS.

ASSESSOR'S PARCEL NUMBER: 035-970-051

PARCEL FOUR:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 8 NORTH, RANGE 2 EAST, M.D.B. & M., AND RUNNING THENCE ALONG THE SOUTH LINE OF SAID SECTION 3 NORTH 89 DEGREES 57' 30" EAST 1874.52 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY LINE OF THE SOUTHERN PACIFIC RAILROAD COMPANY'S RIGHT OF WAY; THENCE ALONG SAID RIGHT OF WAY LINE NORTH 14 DEGREES 51' 50" WEST, 1503.20 FEET; THENCE PARALLEL WITH SAID SOUTH LINE OF SECTION 3 NORTH 89 DEGREES 57' 30" EAST, 1500.00 FEET TO A PROPERTY CORNER; THENCE ALONG A PROPERTY LINE AND PARALLEL WITH SAID RAILROAD RIGHT OF WAY, SOUTH 14 DEGREES 51' 50" EAST 104.00 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY, SOUTH 75 DEGREES 08' 10" WEST 237.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION AND EXTENDING THENCE FROM SAID TRUE POINT OF BEGINNING. PARALLEL WITH SAID RAILROAD RIGHT OF WAY, SOUTH 14 DEGREES 51' 50" EAST 1284.76 FEET TO A POINT THAT IS 50.00 FEET NORTHERLY FROM THE SOUTH LINE OF SAID SECTION 3, SAID 50.00 FEET BEING MEASURED AT RIGHT ANGLES TO SAID SECTION LINE; THENCE PARALLEL WITH SAID SECTION LINE AND 50 FEET DISTANT THEREFROM, SOUTH 89 DEGREES 57' 30" WEST 56.89 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY, NORTH 14 DEGREES, 51'50" WEST 717.55 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY SOUTH 75 DEGREES 08' 10" WEST, 771.66 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY NORTH 14 DEGREES 51' 50" WEST 552.66 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY NORTH 75 DEGREES 08' 10" EAST 826.66 FEET TO THE POINT OF BEGINNING.

ASSESSOR'S PARCEL NUMBER: A PORTION OF 035-970-037

PARCEL FIVE:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 8 NORTH, RANGE 2

LEGAL.0

EXHIBIT "A"
LEGAL DESCRIPTION continued

EAST, M.D.B. & M., RUNNING THENCE ALONG THE SOUTH LINE OF SAID SECTION 3 NORTH 89 DEGREES 57' 30" EAST, 1874.52 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY LINE OF THE SOUTHERN PACIFIC RAILROAD COMPANY'S RIGHT OF WAY; THENCE ALONG SAID RIGHT OF WAY LINE NORTH 14 DEGREES 51' 50" WEST, 1503.20 FEET; THENCE PARALLEL WITH SAID LINE OF SECTION 3 NORTH 89 DEGREES 57' 30" EAST, 1500.00 FEET TO A PROPERTY CORNER; THENCE ALONG A PROPERTY LINE AND PARALLEL WITH SAID RAILROAD RIGHT OF WAY, SOUTH 14 DEGREES 51' 50" EAST 104.00 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY, SOUTH 75 DEGREES 08' 10" WEST, 237.00 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY, SOUTH 14 DEGREES 51' 50" EAST, 1284.76 FEET TO A POINT THAT IS 50.00 FEET NORTHERLY FROM THE SOUTH LINE OF SAID SECTION 3, SAID 50.00 FEET BEING MEASURED AT RIGHT ANGLES TO SAID SECTION LINE; THENCE PARALLEL WITH SAID SECTION LINE AND 50 FEET DISTANT THEREFROM SOUTH 89 DEGREES 57' 30" WEST, 56.89 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY NORTH 14 DEGREES 51' 50" WEST, 287.55 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION AND EXTENDING THENCE FROM SAID TRUE POINT OF BEGINNING AND PARALLEL WITH SAID RAILROAD RIGHT OF WAY, NORTH 14 DEGREES 51' 50" WEST 430.00 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY SOUTH 75 DEGREES 08' 10" WEST 930.66 FEET; THENCE PARALLEL WITH SAID RAILROAD RIGHT OF WAY SOUTH 14 DEGREES 51' 50" EAST 430.00 FEET; THENCE AT RIGHT ANGLES TO SAID RAILROAD RIGHT OF WAY, NORTH 75 DEGREES 08' 10" EAST 930.66 FEET TO THE POINT OF BEGINNING.

ASSESSOR'S PARCEL NUMBER: A PORTION OF 035-970-037

Exhibit B

RESOLUTION NO. 13-160, SERIES 2013

**RESOLUTION AMENDING THE GENERAL PLAN OF THE CITY OF DAVIS
FOR THE CANNERY DEVELOPMENT PROJECT**

WHEREAS, the City of Davis General Plan includes visions to maintain Davis as a cohesive, compact, university-oriented city surrounded by and containing farmland, greenbelts, natural habitats and natural resources; and to reflect Davis' small town character in urban design that contributes to and enhances livability and social interaction; and

WHEREAS, the City Council goals for 2012-2014 include guiding principles to support market-rate affordability, varying house sizes and models to meet needs and desires of a wide range of demographics and multiple income levels; and to promote reduction of resource consumption and waste generation, preserve agriculture, promote local food production, reduce automobile and energy use, foster a healthy and vibrant economic climate based on green technologies, and create a people-centric urban design environment; and

WHEREAS, the City of Davis General Plan identifies the property at 1111 Covell Boulevard for Industrial uses;

WHEREAS, the property has been unused since the closure of the Hunt-Wesson Cannery in 1999; and

WHEREAS, the City wishes to change the use of the property to a mix of residential and non-residential uses, with parks, greenbelts, and a community farm;

WHEREAS, The City has prepared Environmental Impact Report SCH #2012032022 to assess the impacts of the project on the environment, pursuant to the requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, Resolution No. 13-159, Series 2013, makes the appropriate findings under CEQA; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 25, 2013 to receive comments and consider amendments of the General Plan, the Zoning Ordinance, and other actions; and

WHEREAS, the City Council held a duly noticed public hearing on November 12, 2013, and based on oral testimony and documentary evidence reviewed during the public hearing, determined that Environmental Impact Report SCH #2012032022 prepared for The Cannery Project adequately identifies the potential environmental impacts of the project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Davis that the General Plan of the City of Davis is hereby amended to add the following Land Use Category:

T. Neighborhood Mixed Use

Intent: To provide a mix of non-residential and residential uses in areas conveniently located to neighborhoods and to facilitate transit and bicycle/pedestrian travel through a blending of retail, job-generating, and residential uses. This land use category is distinguished from the other General Plan land use categories (including Neighborhood Retail, Office, Business Park, and Residential) in that this category expects a mix of the uses allowable in the other categories.

Allowable Uses:

1. Retail and service uses to serve the daily needs for goods and services of surrounding City residents and businesses such as groceries, restaurants, pharmaceuticals, dry cleaning printing, office supplies, and similar uses.
2. Office, research, and research / development uses.
3. Business park and light industrial uses (see Business Park land use category).
4. Commercial service uses.
5. Residential uses, including home occupations and live/work uses.
6. Public and institutional buildings and facilities.
7. Open space, including greenbelts, squares, and plazas.

The specific uses, maximum amounts of the specific uses, and the preliminary site plan in a Neighborhood Mixed-Use designated site shall be:

- Established in the site's zoning, anticipated to be a Planned Development district.
- Compatible with surrounding development.

Maximum Floor Area Ratio: 50 percent, with a potential total of 80 percent through the following:

- A 15 percent increase if the project consists of both residential and non-residential components, and the residential component consists of a minimum of 15 percent and a maximum of 70 percent of the total floor area; and/or
- A 15 percent increase if a minimum of 70 percent of the required off-street parking spaces in the project is provided below-grade.


AND BE IT FURTHER RESOLVED that the figures for the Land Use Map (Figures 11A & 11B), Street Classifications (Figure 16), Primary Bicycle Network (Figure 23), Park & School Sites (Figure 30) and Open Space (Figures 31A & 31B) are hereby amended as shown in the Attachments to this resolution.

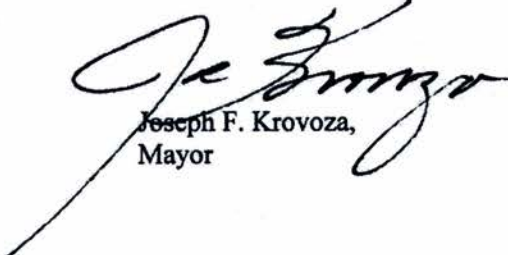
PASSED AND ADOPTED by the City Council of the City of Davis on this 19th day of November, 2013, by the following vote:

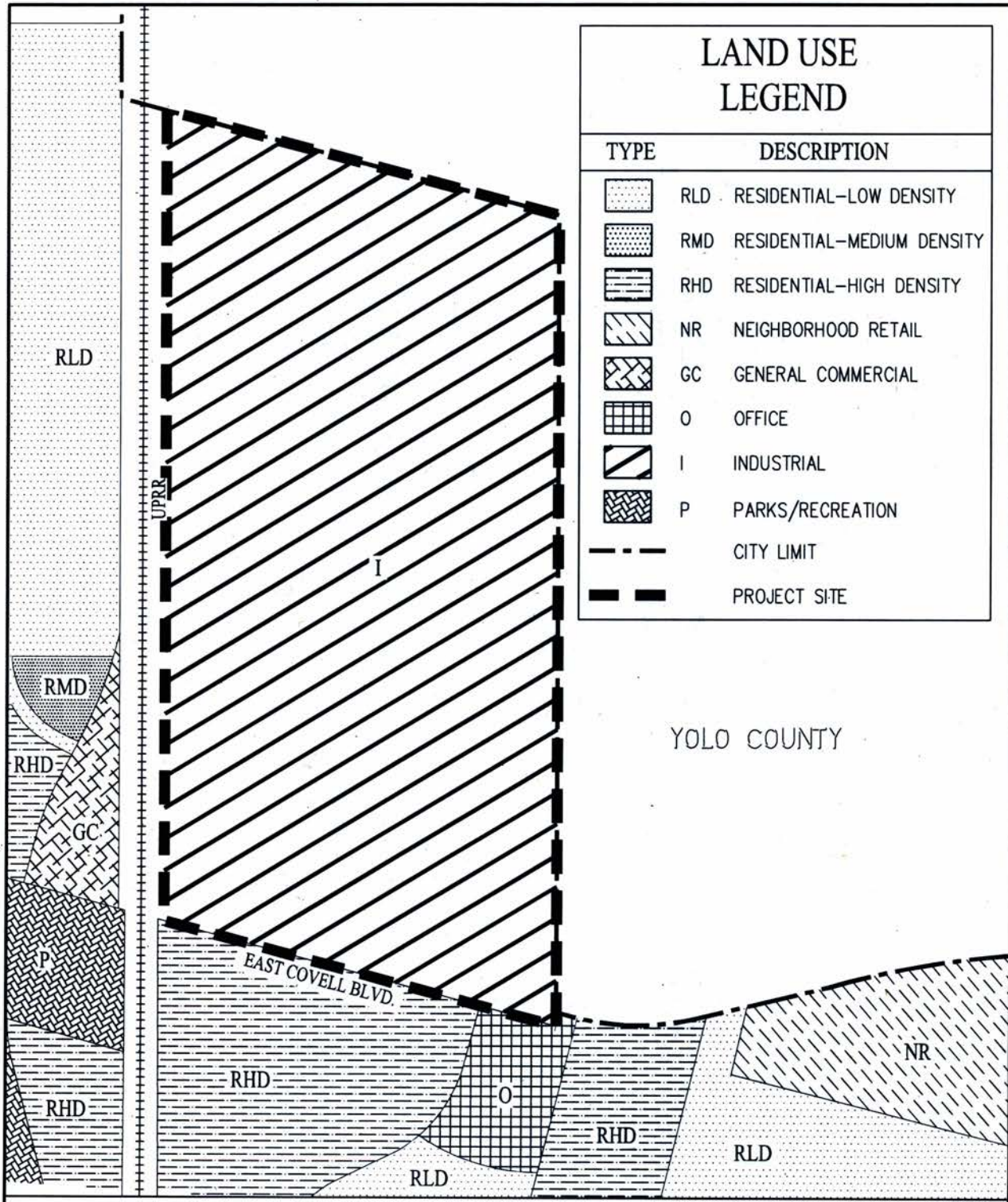
AYES: Frerichs, Swanson, Wolk

NOES: Lee, Krovoza

ATTEST:


 Zoe S. Mirabile, CMC
 City Clerk



 Joseph F. Krovoza,
 Mayor




LAND USE LEGEND

TYPE	DESCRIPTION
	RLD RESIDENTIAL-LOW DENSITY
	RMD RESIDENTIAL-MEDIUM DENSITY
	RHD RESIDENTIAL-HIGH DENSITY
	NR NEIGHBORHOOD RETAIL
	GC GENERAL COMMERCIAL
	O OFFICE
	I INDUSTRIAL
	P PARKS/RECREATION
	CITY LIMIT
	PROJECT SITE

EXISTING GENERAL PLAN
FIGURES 11A & 11B
 CITY OF DAVIS YOLO COUNTY CALIFORNIA
 DATE: AUGUST 15, 2013
 SCALE: 1"=500'

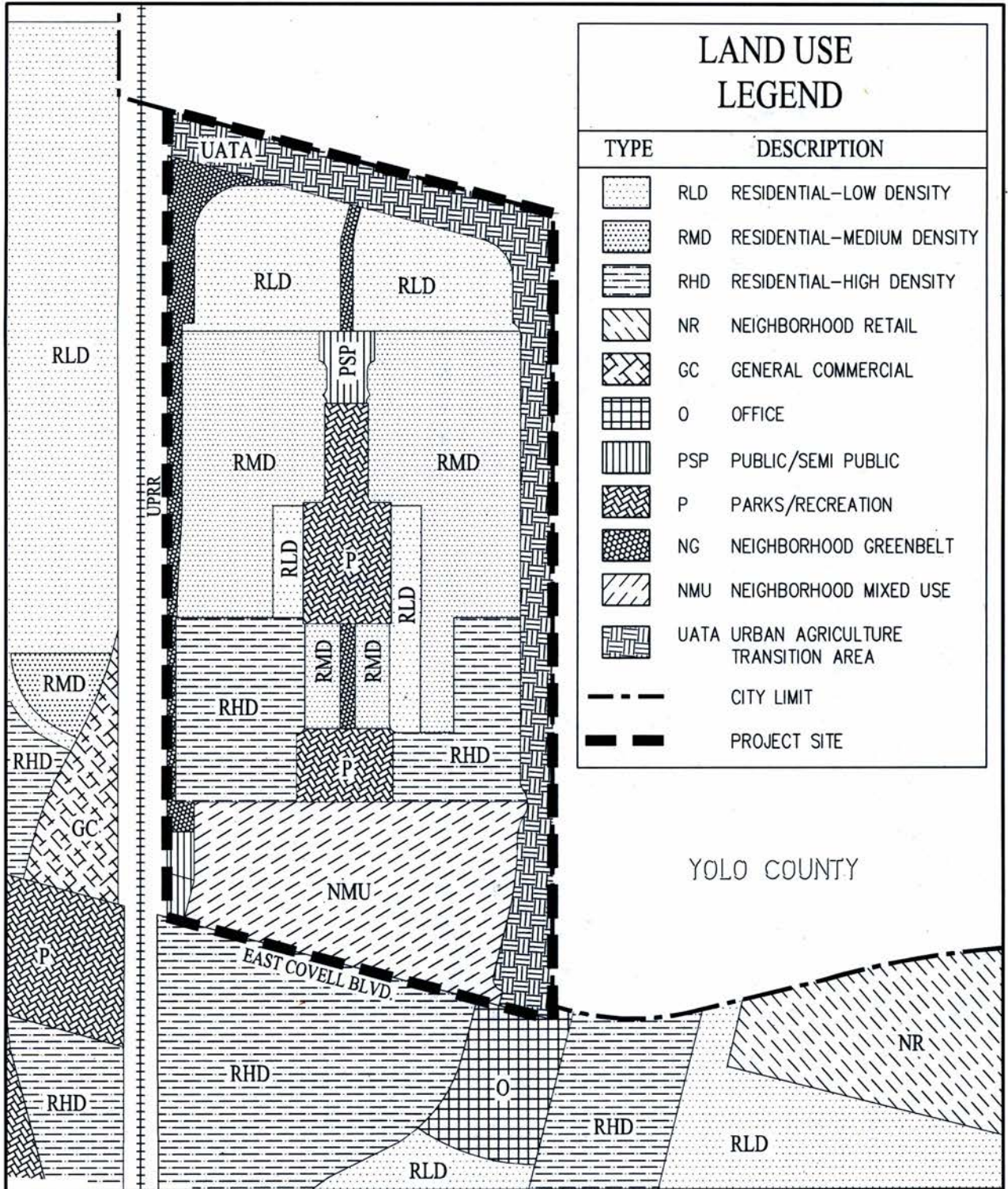




Carlson, Barbee & Gibson, Inc.
 CIVIL ENGINEERS - SURVEYORS - PLANNERS
 2533 CAMINO RAMON, SUITE 350 (925) 866-0322
 SAN RAMON, CALIFORNIA 94583 www.cbng.com

SHEET NO.
1
 OF 10 SHEETS

G:\2090\ACAD\EXHIBITS\GPA\GPA_EX LAND USE PLAN.DWG



LAND USE LEGEND

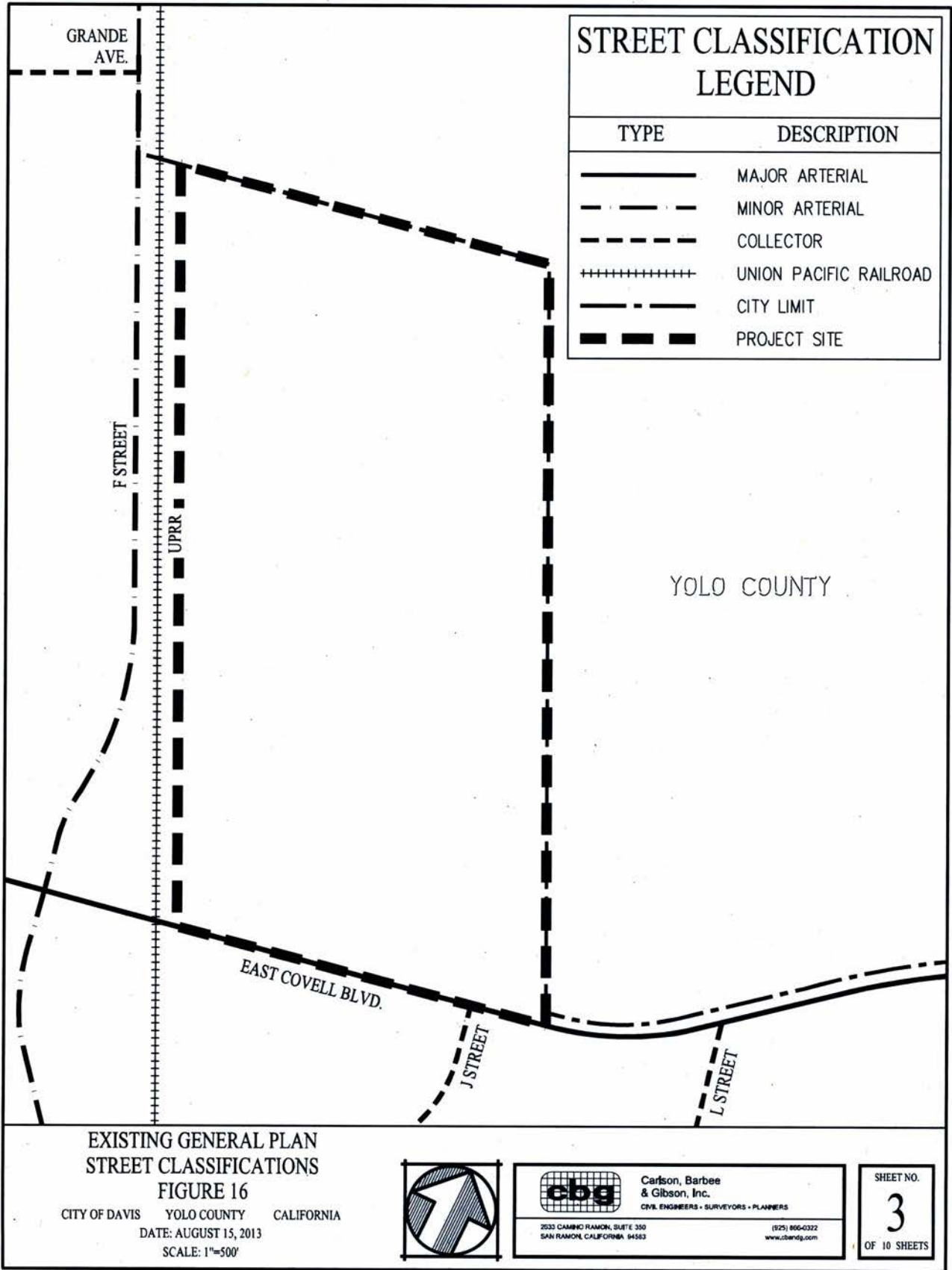
TYPE	DESCRIPTION
	RLD RESIDENTIAL-LOW DENSITY
	RMD RESIDENTIAL-MEDIUM DENSITY
	RHD RESIDENTIAL-HIGH DENSITY
	NR NEIGHBORHOOD RETAIL
	GC GENERAL COMMERCIAL
	O OFFICE
	PSP PUBLIC/SEMI PUBLIC
	P PARKS/RECREATION
	NG NEIGHBORHOOD GREENBELT
	NMU NEIGHBORHOOD MIXED USE
	UATA URBAN AGRICULTURE TRANSITION AREA
	CITY LIMIT
	PROJECT SITE

PROPOSED GENERAL PLAN AMENDMENT
AMENDING FIGURES 11A & 11B
 CITY OF DAVIS YOLO COUNTY CALIFORNIA
 DATE: AUGUST 15, 2013
 SCALE: 1"=500'



cbg Carlson, Barbee & Gibson, Inc.
 CIVIL ENGINEERS - SURVEYORS - PLANNERS
 2533 CAMINO RAMON, SUITE 330
 SAN RAMON, CALIFORNIA 94583
 (925) 906-0322
 www.cbeng.com

SHEET NO.
2
 OF 10 SHEETS



STREET CLASSIFICATION LEGEND

TYPE	DESCRIPTION
	MAJOR ARTERIAL
	MINOR ARTERIAL
	COLLECTOR
	UNION PACIFIC RAILROAD
	CITY LIMIT
	PROJECT SITE

EXISTING GENERAL PLAN STREET CLASSIFICATIONS

FIGURE 16

CITY OF DAVIS YOLO COUNTY CALIFORNIA
 DATE: AUGUST 15, 2013
 SCALE: 1"=500'



Carlson, Barbee & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS

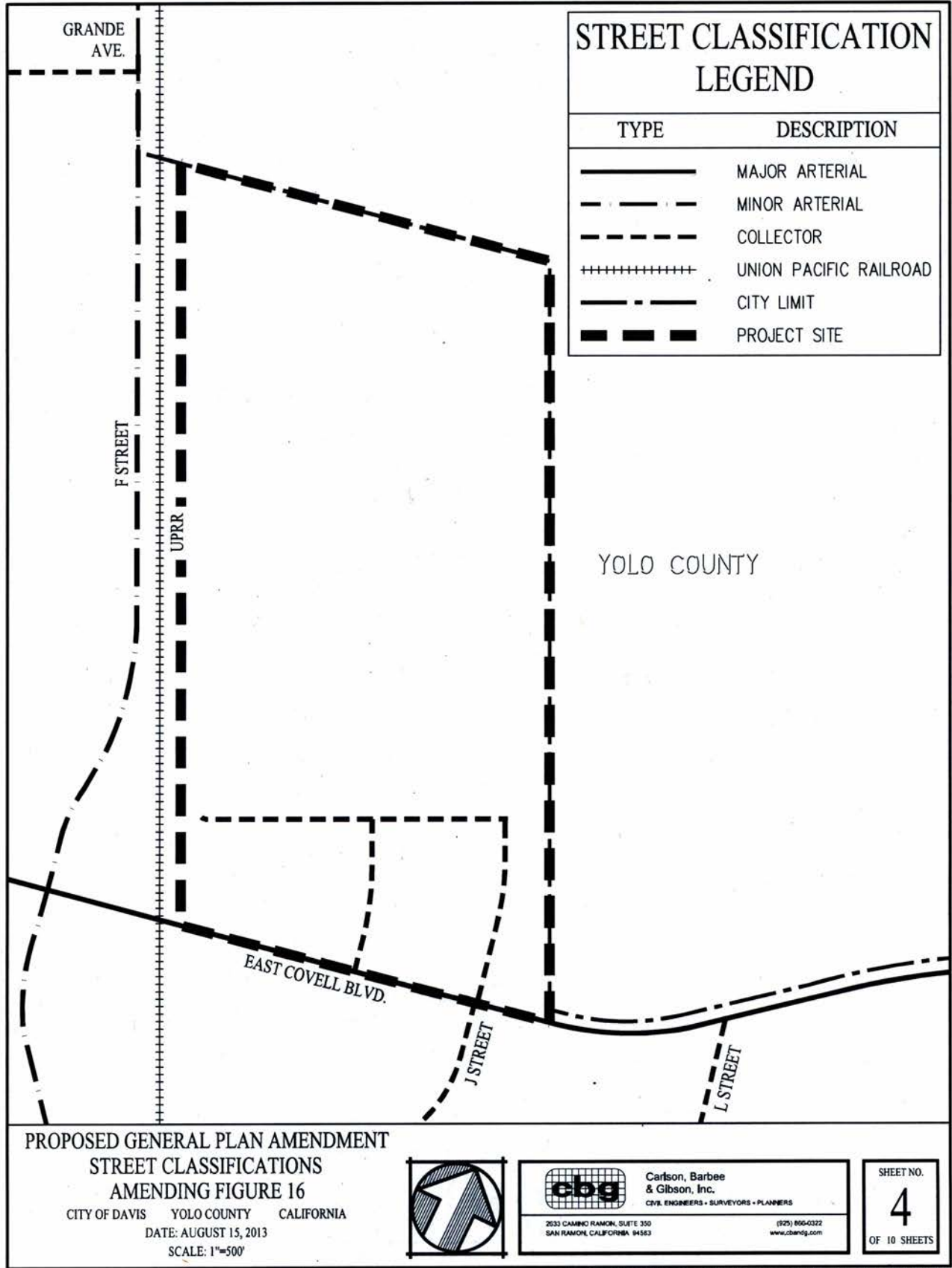
2533 CAMINO RAMON, SUITE 330
 SAN RAMON, CALIFORNIA 94583

(925) 866-0322
 www.cbang.com

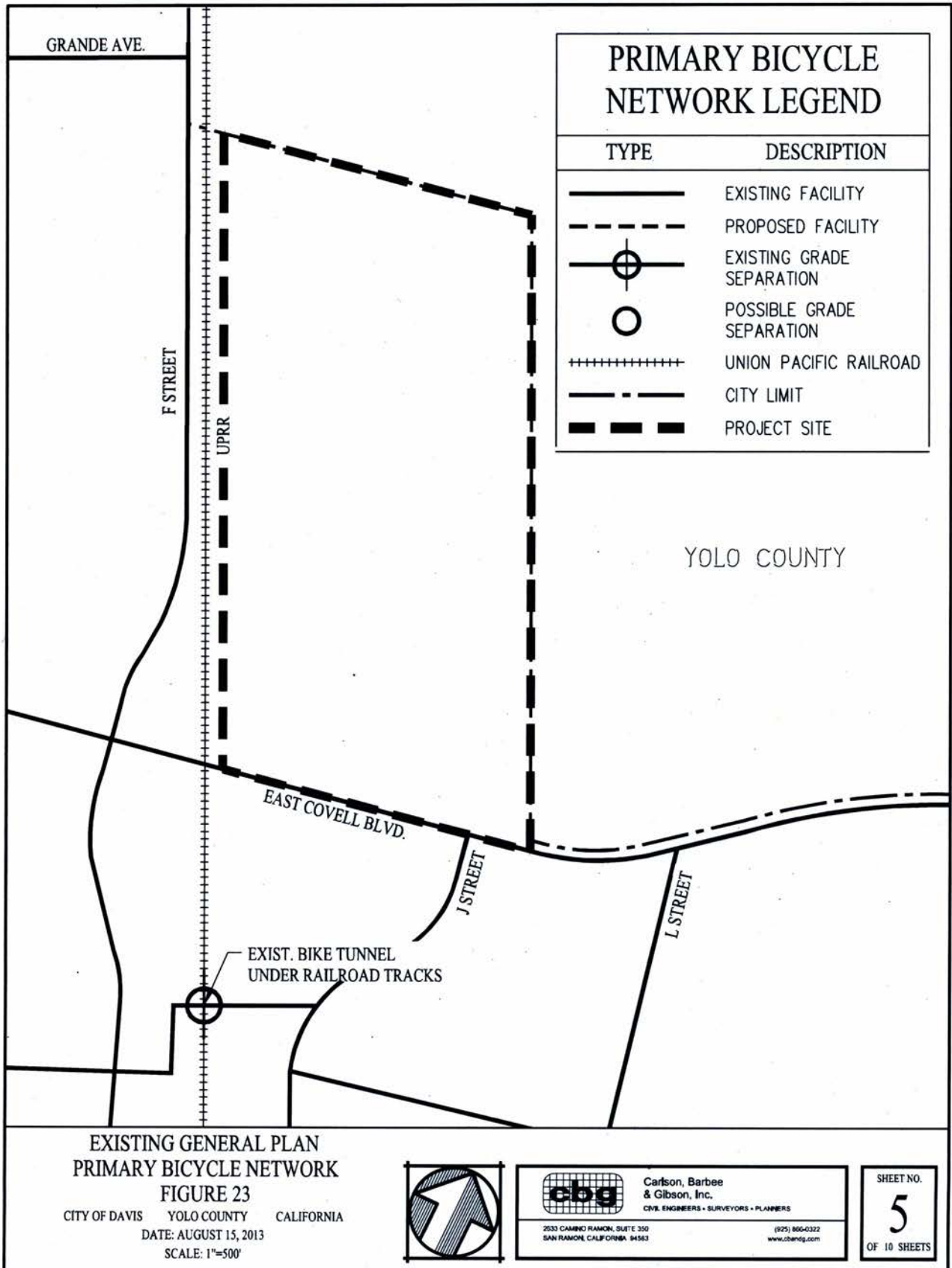
SHEET NO.

3

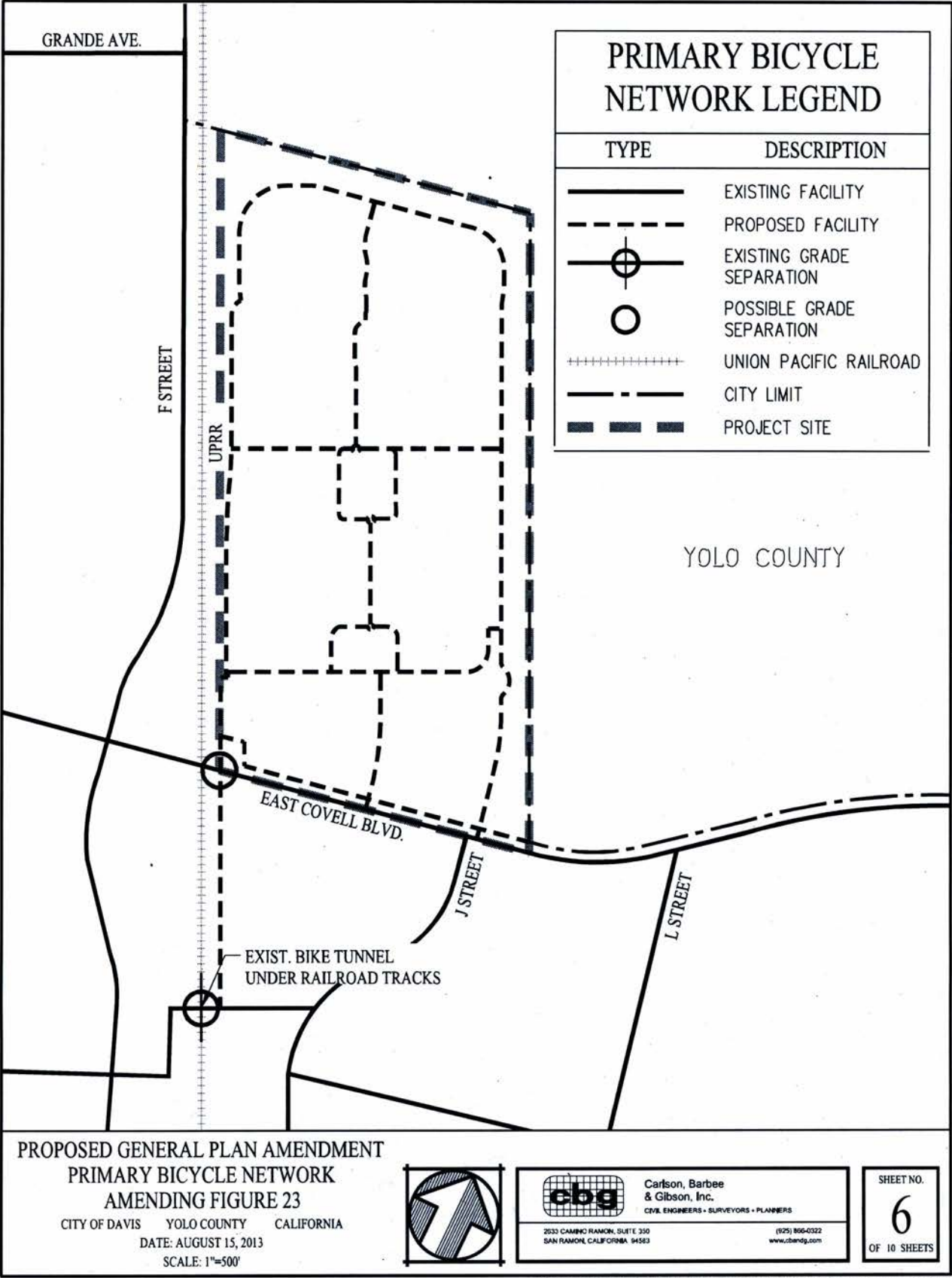
OF 10 SHEETS



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G:\2090\ACAD\EXHIBITS\GPA\GPA_EX PRIMARY BICYCLE NETWORK.DWG



PRIMARY BICYCLE NETWORK LEGEND

TYPE	DESCRIPTION
	EXISTING FACILITY
	PROPOSED FACILITY
	EXISTING GRADE SEPARATION
	POSSIBLE GRADE SEPARATION
	UNION PACIFIC RAILROAD
	CITY LIMIT
	PROJECT SITE

PROPOSED GENERAL PLAN AMENDMENT
PRIMARY BICYCLE NETWORK
AMENDING FIGURE 23
 CITY OF DAVIS YOLO COUNTY CALIFORNIA
 DATE: AUGUST 15, 2013
 SCALE: 1"=500'



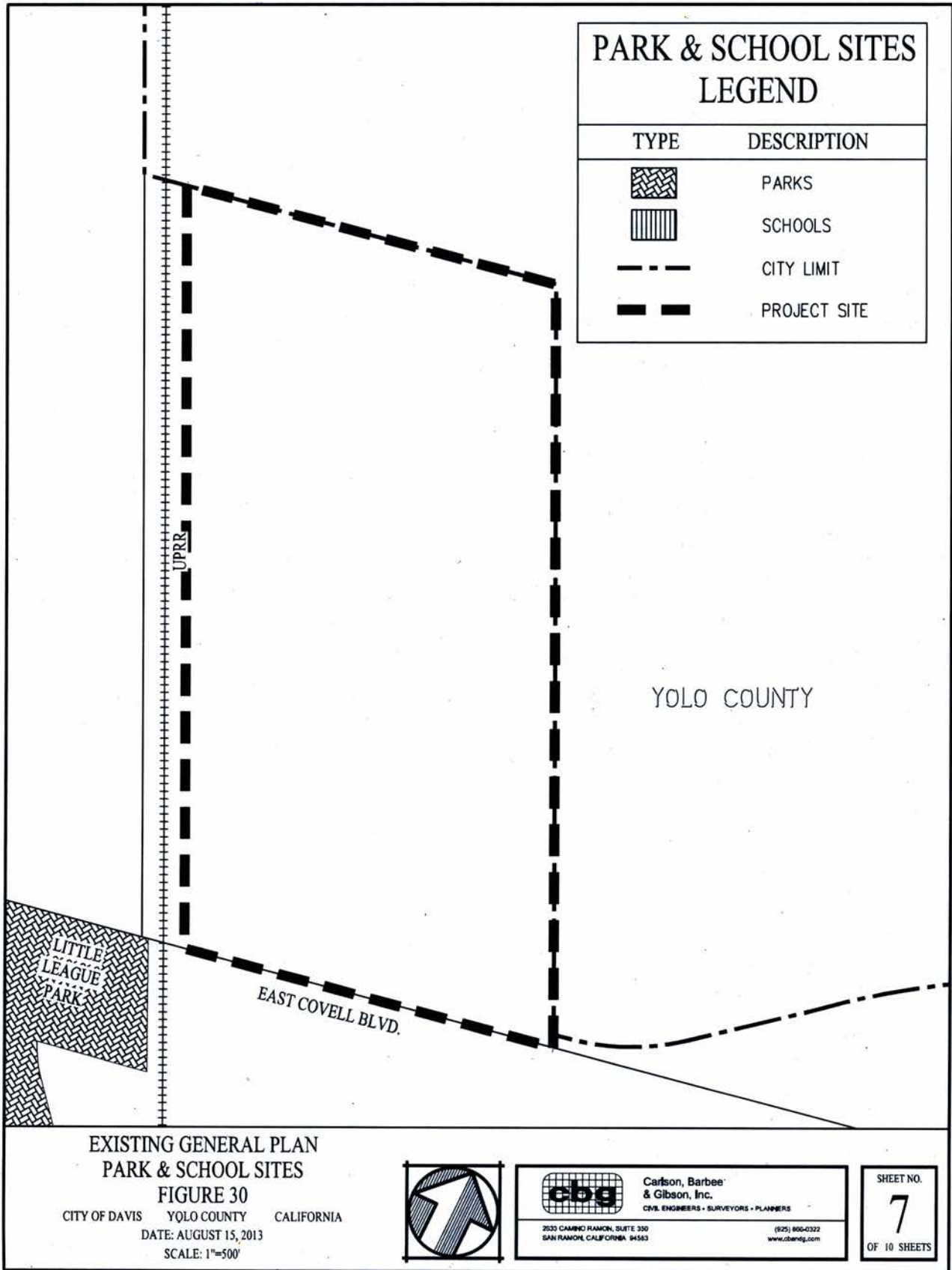
Carlson, Barbee & Gibson, Inc.
 CIVIL ENGINEERS • SURVEYORS • PLANNERS
2030 CAMINO RAMON, SUITE 200
 SAN RAMON, CALIFORNIA 94583

(925) 866-0322
www.cbang.com

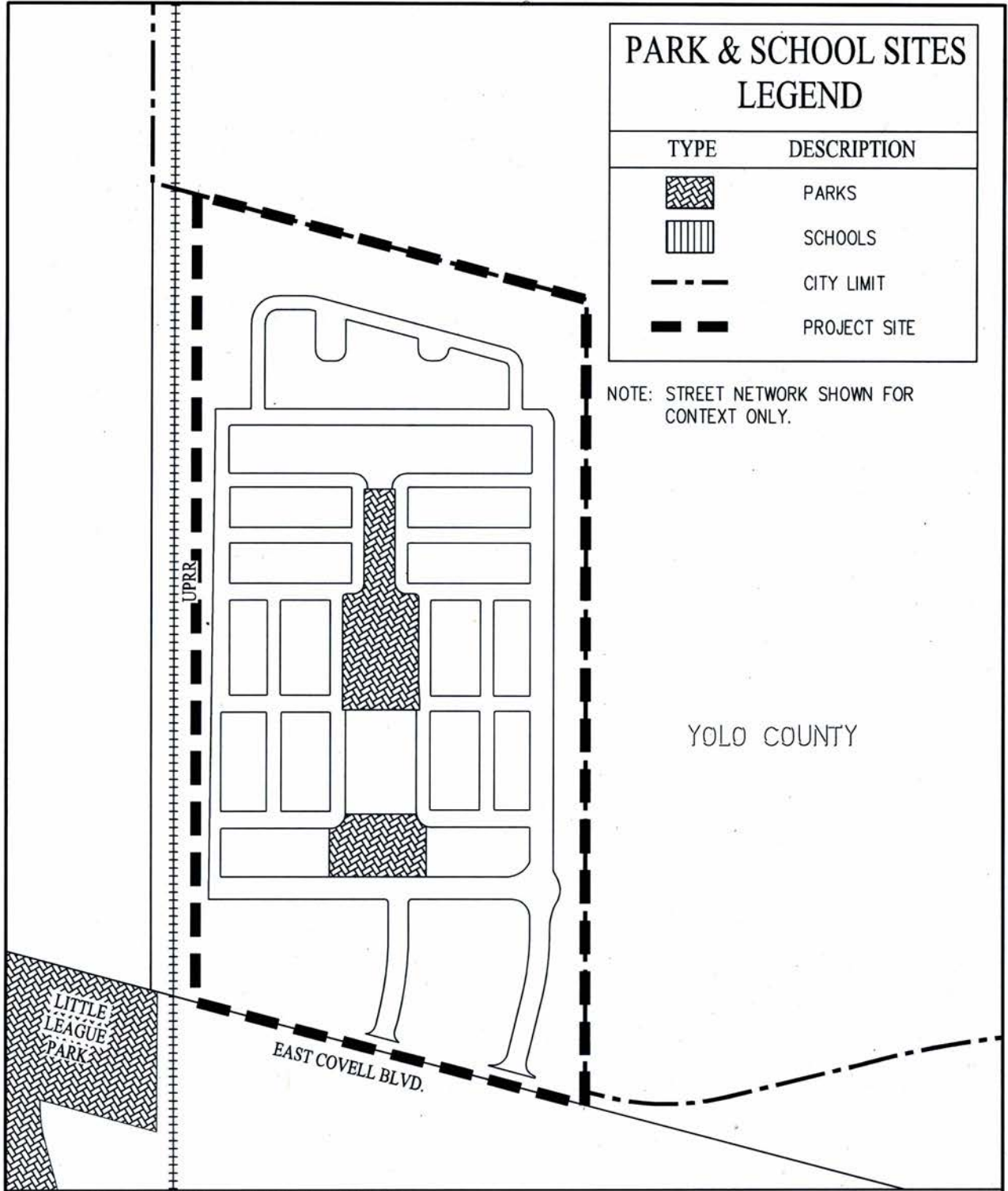
SHEET NO.

6





OF 10 SHEETS



G:\2090\ACAD\EXHIBITS\GPA\GPA_EX PARK & SCHOOL SITES.DWG




PARK & SCHOOL SITES LEGEND

TYPE	DESCRIPTION
	PARKS
	SCHOOLS
	CITY LIMIT
	PROJECT SITE

NOTE: STREET NETWORK SHOWN FOR
CONTEXT ONLY.

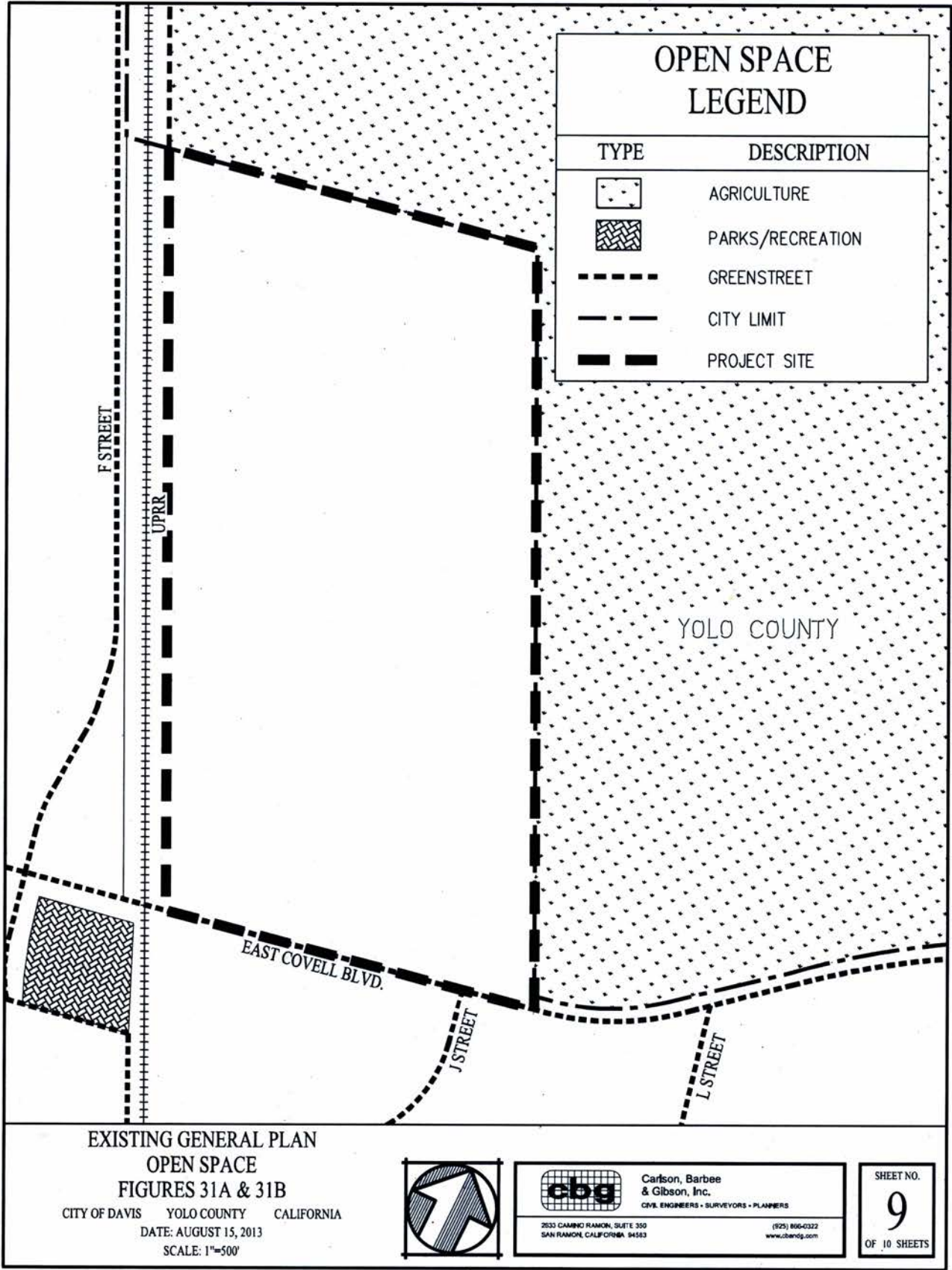
PROPOSED GENERAL PLAN AMENDMENT
PARK & SCHOOL SITES
 AMENDING FIGURE 30
 CITY OF DAVIS YOLO COUNTY CALIFORNIA
 DATE: AUGUST 15, 2013
 SCALE: 1"=500'








	Carlson, Barbee & Gibson, Inc. CIVIL ENGINEERS • SURVEYORS • PLANNERS
	2633 CAMINO RAMON, SUITE 350 SAN RAMON, CALIFORNIA 94583

SHEET NO.
8
OF 10 SHEETS

G:\2090\ACAD\EXHIBITS\GPA\GPA_PROP PARK & SCHOOL SITES.DWG




OPEN SPACE LEGEND

TYPE	DESCRIPTION
	AGRICULTURE
	PARKS/RECREATION
	GREENSTREET
	CITY LIMIT
	PROJECT SITE

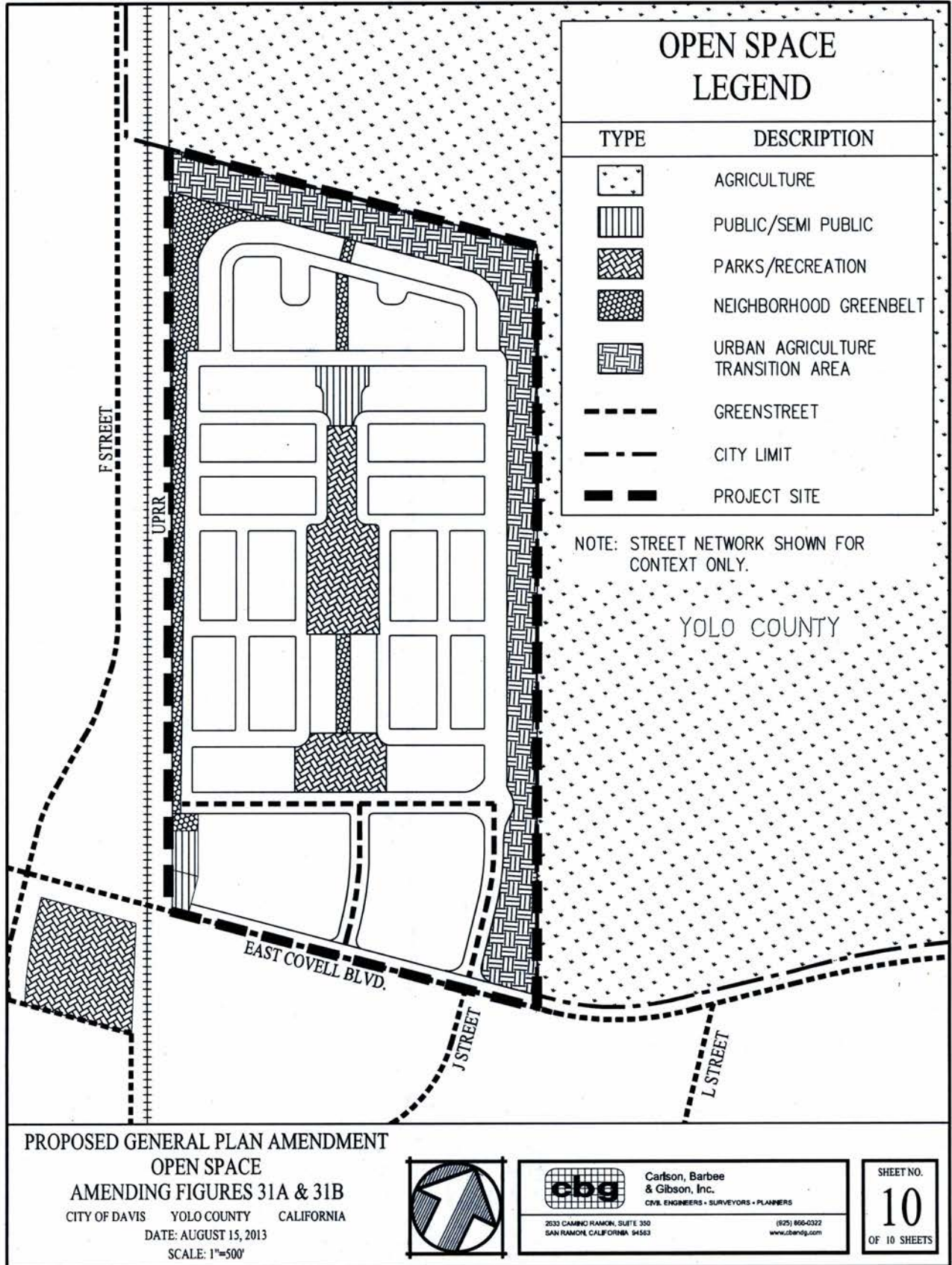
EXISTING GENERAL PLAN
OPEN SPACE
FIGURES 31A & 31B
 CITY OF DAVIS YOLO COUNTY CALIFORNIA
 DATE: AUGUST 15, 2013
 SCALE: 1"=500'



	Carlson, Barbee & Gibson, Inc. <small>CIVIL ENGINEERS • SURVEYORS • PLANNERS</small>
<small>2633 CAMINO RAMON, SUITE 350 SAN RAMON, CALIFORNIA 94583</small>	<small>(925) 866-0322 www.cbeng.com</small>

SHEET NO. 9 OF 10 SHEETS

G:\2090\ACAD\EXHIBITS\GPA\GPA_EX OPEN SPACE.DWG



OPEN SPACE LEGEND

TYPE	DESCRIPTION
	AGRICULTURE
	PUBLIC/SEMI PUBLIC
	PARKS/RECREATION
	NEIGHBORHOOD GREENBELT
	URBAN AGRICULTURE TRANSITION AREA
	GREENSTREET
	CITY LIMIT
	PROJECT SITE

NOTE: STREET NETWORK SHOWN FOR
CONTEXT ONLY.

YOLO COUNTY

PROPOSED GENERAL PLAN AMENDMENT
 OPEN SPACE
 AMENDING FIGURES 31A & 31B
 CITY OF DAVIS YOLO COUNTY CALIFORNIA
 DATE: AUGUST 15, 2013
 SCALE: 1"=500'



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 SAN RAMON, CALIFORNIA 94583 www.cbng.com

SHEET NO.
10
 OF 10 SHEETS

Exhibit C

EXHIBIT C

PROJECT APPROVALS AND DEVELOPMENT STANDARDS

The Cannery project required the following discretionary actions by the Davis City Council (the "Project Approvals")

- Certification of the EIR and adoption of the Mitigation Monitoring and Reporting Program;
- Approval of the General Plan Amendment #01-11, as described on Exhibit B
- Rezoning and Preliminary Planned Development #01-11
- Tentative Subdivision Map #01-11
- Affordable Housing Plan #01-11
- Development Agreement #01-11
- Design Review to establish design guidelines and development standards
- Final Planned Development #03-11

Applicable development standards include, but are not limited to, the following as of the Effective Date:

- 2007 General Plan Update, as amended (including but not limited to amendments adopted as Project Approvals)
- Chapter 40 of the City of Davis Municipal Code (Zoning) as amended (including but not limited to amendments adopted as Project Approvals)
- Chapter 36 of the City of Davis Municipal Code (Subdivisions)
- Article 18.01 of the City of Davis Municipal Code (Small Builders)
- Article 18.05 of the City of Davis Municipal Code (Affordable Housing)
- Section 8.01.065(A) of the City of Davis Municipal Code (Green Building Requirements)
- Chapter 40A of the City of Davis Municipal Code (Right to Farm Ordinance)
- Resolution 09-043, Series 2009, *Resolution Adopting Greenhouse Gas Reduction Thresholds and Standards for New Residential Projects.*

Exhibit D

EXHIBIT D

SUBSEQUENT DISCRETIONARY APPROVALS

Following City Council approval of the Project Approvals, the following discretionary approvals and actions by the City are also required to implement the Project:

- Final planned development approvals, as required;
- Additional subdivision map approvals, as required
- Conditional use permits where applicable;
- Design Review where applicable;
- Complete other processing as required.

Exhibit E

EXHIBIT E

The Cannery Sustainability Commitments

Category	Commitment
Energy Efficient Building Design	The Cannery homes will achieve 40% better than the California 2008 Title 24 Energy Building Code by implementing the following measures: <ul style="list-style-type: none"> - High-Performance Windows - High-Performance Walls & Roofs - Ducts in Conditioned Space - High Efficiency Heating, Cooling & Water Equipment - HERS Rating Tests - High efficiency Water Heaters
Energy Efficient Building Design	The Cannery homes will implement additional efficiency measures not contained in the 2008 Title 24 Code: <ul style="list-style-type: none"> - High Efficiency Lighting - Energy Star Appliances
Energy Efficient Building Design	Mixed-use buildings in the Cannery Commerce District (CCD) will be designed to meet standards equivalent to the U.S. Green Building Council's LEED Silver certification. To assist city staff in its review and verification that the CCD is meeting the LEED Silver Equivalent standard, the developer of the CCD shall submit to the City a LEED Silver Equivalent Implementation Plan prior to approval of the first final subdivision map for the project.
Photovoltaic Systems	All single-family detached and attached homes will include a 1.5-kW PV system.
Photovoltaic Systems	The applicant will include a PV system for the stacked flat condominiums sized to offset the common area electricity loads, such as common indoor, outdoor, elevator and garage lighting.
Photovoltaic Systems	The Cannery Commerce District (mixed-use area) will utilize solar power for all on-site outdoor lighting and, to the extent feasible, common area electrical needs.
Photovoltaic Systems	The Neighborhood Clubhouse will include a PV system, sized to offset the projected electricity use for the clubhouse. Should the pool be heated, a renewable energy source, such as solar technology will be utilized.

Category	Commitment
Photovoltaic Systems	Zero Net Energy Public Site Lighting: The energy demand for lighting of public spaces at The Cannery will offset by a 45 kW PV system.
Sustainability Options Program	The homebuilder will offer sustainability options including, but not limited to, individual à la carte sustainability items, and pre-designed packages that include upsizing PV systems and additional efficiency features to achieve zero net energy.
Transportation Measures	The Cannery will construct a grade-separated bicycle and pedestrian crossing at the southwest portion of the site to connect to the south side of E. Covell Blvd. as part of the first phase of development.
Transportation Measures	The Cannery will be designed to accommodate the future Davis-Woodland Bike Connection at the northwest portion of the site.
Transportation Measures	<p>The Cannery electric vehicle charging infrastructure will include:</p> <ul style="list-style-type: none"> - Pre-wire for 240-volt EV charging in all single-family home garages - EV charging stations in multifamily areas - Four car charging stations total in the Cannery Commerce District, with two each on the west and east sides
Transportation Measures	The Cannery will replace the existing bus shelter on the north side of E. Covell Blvd. located east of J Street, with a new transit facility also on the north side of E. Covell Blvd. immediately west of the J Street/Entry Road B intersection as part of the first phase of development.
Transportation Measures	<p>The Cannery will provide bicycle repair, parking and storage infrastructure:</p> <ul style="list-style-type: none"> - Dedicated bicycle storage in all single-family and multifamily garages - Bicycle parking in parks, neighborhood clubhouse, mixed-use area, transit plaza - A self-service bicycle repair station will be installed within the project, where bicyclists can use tools provided at the station to adjust their brakes and derailleur, and fix a flat tire. The design and location of the repair station will be determined in coordination with the City's Director of Community Development and Sustainability, and Bicycle and Pedestrian Coordinator.

Category	Commitment
Transportation Measures	The Cannery Commerce District will accommodate car-sharing facilities.
Sustainable Planning, and Site and Building Design	Recycled concrete and other materials from the site will be used as aggregate material during project construction, to the extent feasible.
Sustainable Planning, and Site and Building Design	Wood-burning fireplaces will be prohibited at The Cannery.
Sustainable Planning, and Site and Building Design	All single-family homes at The Cannery will participate in green waste containerization with Davis Waste Removal.
Sustainable Planning, and Site and Building Design	The Cannery restaurants and businesses will participate in the Davis Waste Removal Commercial Food Scrap Pilot Program.
Sustainability Awareness and Education	To create awareness of onsite habitat and sustainability features, an interpretive plan will be prepared and implemented by the applicant.
Sustainability Awareness and Education	The applicant will consult with the UC Davis Institute for Transportation Studies regarding the implementation of a study to measure the effects of smart growth on travel behavior of The Cannery residents.
Sustainability Awareness and Education	The applicant will research, and if determined feasible for a neighborhood-scale application, install a real-time bicycle barometer at The Cannery site to raise awareness about bicycle use.
Sustainability Awareness and Education	<p>The applicant commits to the following sustainability awareness program during the sales and marketing phase of the project:</p> <ul style="list-style-type: none"> - One Zero-Net Electric demonstration home (with gas appliances) and one Zero Net Energy demonstration home (all electric appliances) will be modeled within The Cannery neighborhood to demonstrate high levels of energy efficiency and use of on-site renewable power generation (solar PV). - In partnership with the City of Davis Community Development and Sustainability Department, the builder will work in collaboration with members of the sustainability community and the City, to provide educational materials to prospective buyers containing information about sustainable neighborhood design; sustainable living resources (e.g., how to save energy, waste reduction, effective ways of reducing

Category	Commitment
	<p>carbon emissions, etc.); standard energy efficient features of the homes; environmental and financial benefits of photovoltaic solar systems; benefits of a zero net energy home and other sustainability options; and local resources (e.g., Cool Davis, UC Davis Arboretum, and other local sustainability resources).</p> <ul style="list-style-type: none"> - In partnership with the City of Davis Community Development and Sustainability Department, the builder will work in collaboration with members of the sustainability community and the City, to create a new homeowner orientation materials that will be provided at the time of move-in to provide resource information about the sustainability features of their home; amenities within The Cannery and Davis that promote healthy lifestyles (biking, walking, healthy eating habits); sustainable living resources; literature about local resources (e.g., Cool Davis, UC Davis Arboretum, and other local sustainability resources); and sustainability resources available as part of the neighborhood's homeowners association (HOA) (e.g., ride share, educational events, newsletter, Nextdoor.com).

Exhibit F

EXHIBIT F

CANNERY FARM

LOCATION: Eastern edge of The Cannery project site, within eastern 150-foot agricultural buffer

SIZE: 7.4 acres

Infrastructure

Access Roads

1. Developers will provide farm access at the traffic circle on Entry Road B, which will serve as public access to the Farmhouse (i.e., public interface).
2. Developers will provide a farm road that extends from the road on the east side of the Farmhouse, north to the detention basin.

Water Supply and Conveyance

1. Developers will construct an agricultural well within the Farm Center area, which will include a filtration system, pressure tank, and storage tank. The final siting and location of the well within the Farm Center area will be determined at a later date. The well will serve Cannery Farm and the public parks and open space within the neighborhood.
2. From the water source at the agricultural well, Developers will construct adequate water supply, which may include a 3-inch underground pipe that will run along the eastern length of the farm with 2-inch irrigation stand-up connection points or risers at each field block. Irrigation shall be provided through the EVA to the eastern property boundary.
3. The provision of irrigation lines running west from the risers will be the responsibility of the farm operator.
4. Water supply to the Farm may be supplied by potable water from the City's municipal supply in the event that the agricultural well is temporarily or permanently taken out of service. Prior to any connection of the Farm's irrigation system, appropriate backflow restrictors and other measures must be installed to the satisfaction of the City's Director of Public Works.
5. Developers' construction of the agricultural well and associated irrigation system shall be subject to fee credit as described in Exhibit M.

Farm Center

LOCATION: At southern end of the farm property between E. Covell Blvd. and the farm entry road off of Entry Road B at the traffic circle

SIZE: Approximately 1 acre

1. Developers will design and build, or otherwise provide the following facilities within the Farm Center:
 - a. *Main farm building.* Approximately 3,500-sf building to include:
 - i. Conditioned space for a 150-sf farm office and a restroom that meets commercial accessibility standards.
 - ii. Unconditioned space where farm produce will be washed, stored, and boxed for shipment.
 - iii. Cold-storage area up to 400 feet in size.
 - iv. Designed such that delivery trucks can access roll-up doors for efficient loading and unloading of produce boxes.
 - v. A parking area for farm and visitor vehicles immediately adjacent to the main farm building. The ultimate number of parking spaces will be designed in coordination with the City and the farm operator.
 - vi. Developers shall commence construction of the main farm building concurrently with, or prior to, the construction of the first model homes for the Project. Developers shall be responsible for all maintenance, repair and operations for the building, shall insure the building for fire and general liability, and bear all risk associated with the building until the City accepts the farm parcel and all farm and other associated improvements required to be constructed by the Developers, as set forth in this Agreement.
 - b. *Equipment storage and repair shed.* Approximately 1,200-sf service area immediately east of the main farm building for purposes of storing farm equipment and tractor implements and repair and maintenance of farm equipment.
 - c. *Composting area.* Composting system to handle green waste from the fields and packing facility.
 - d. *Greenhouse.* An approximately 600-sf greenhouse, likely to be located north of the main farm building to serve as a buffer between the main building and the first production field, and a fenced, 400-sf area nearby the greenhouse to allow for 'hardening off' of seedlings as well as to alleviate greenhouse crowding that takes place during the spring.
2. Developers may design and build the Farmhouse located at the northern end of the Farm Center.

- a. Developers propose the Farmhouse to serve as a sales and marketing facility during the buildout of the neighborhood. Based on Developers' understanding from CLBL that there would be potential for conflict with farming operations if sales and marketing activities were co-located within the main farm building, Developers propose the location of the Farmhouse at the northern end of the Farm Center.
- b. Developers understand that the Farmhouse does not affect the viability of the farm according to CLBL, but if such a facility was available for its use, could be used as space for meetings, educational, and/or commercial purposes consistent with the Cannery Planned Development. Developers also understand that such facility would also potentially be used by the City as meeting space. In the case that the Farmhouse is not built, the area within the Farm Center where the Farmhouse and associated parking area would be located would be improved as farmland that would be available for additional row crop production.
- c. If Developers choose to build the approximately 1,500-sf Farmhouse, it will initially serve as a new home discovery center during the sales and marketing period of The Cannery neighborhood, and ultimately transition to a discovery and education facility for the farm and/or City, or other use deemed appropriate by the City (e.g., meeting facility and/or use as storefront for farmer's value-added products). The ultimate number of parking spaces would be designed in coordination with the City and the farm operator.
- d. Developers anticipate developing Cannery Farm and dedicating the property to the City of Davis (who will then lease the property to a farm operator, such as CLBL), with the exception of the parcel that includes the Farmhouse and associated parking facilities, if Developers choose to build this facility. If built, Developers intends to utilize the Farmhouse during the initial sales and marketing period for the neighborhood. At the conclusion of the sales and marketing period (which may last through the buildout of the neighborhood), Developers will dedicate the Farmhouse parcel to the City.

Production Fields

Farmland

1. Developers will prepare the production fields such that the soils will be of a high quality composition. Specifications for soil conditions required will be provided by the farm operator, and include parameters including, but not limited to, pH, nitrate levels, and standards that the farm operator is planning to meet.
2. During the buildout of the neighborhood, Developers reserve the right to plant and maintain cover crops within the production fields that are not actively farmed

by the farm operator. Selection of the cover crop varieties will be made in consultation with the farm operator.

Landscaping and Fencing

1. Developers will plant hedgerows along the eastern and western edges of the farm. Hedgerow plantings will emphasize native species and plants supporting beneficial insects.
2. During establishment of the hedgerow on the western edge, Developers will install a low fence, in consultation with the farm operator, to provide separation from the farm and multi-use trail to the west, which may be removed when the hedgerow is fully established. This fence is imagined as a low post-and-cable fence (or equivalent) of approximately three to four feet height.
3. A fence is not planned along the eastern property line. Instead, the hedgerow on the eastern edge of the farm (immediately west of the farm access road) will serve as the defining edge and the separation between the urban farm and the property to the east of the project site. In addition, Developer will incorporate tree species within eastern hedgerow with the intent of providing visual interest for viewers in the vicinity of the project site. Hedgerows and tree species proposed as part of the farm will be reviewed as part of the City's design review for Cannery Farm.
4. Developers reserve the right to install plantings and maintain the plantings in the Farm Center frontage during the buildout of the neighborhood. Selection of plantings will be done in consultation with the farm operator and the City. Removal and replacement of the plantings in the Farm Center frontage by the farm operator will require review and approval by the Community Development & Sustainability Director.

Tool Shed

1. Developers will provide a tool shed in the northern end of the farm to increase the efficiency of the farm operations so that some equipment may be stored in the north area.

Equipment

1. Based on previous discussions with City and CLBL staff, Developers understands the City and the farm operator are responsible for seeking the following farm equipment and supplies as part of the start-up operation:
 - a. Tractor
 - b. Tractor implements
 - c. Hand tools

Developers' Contribution Towards Cannery Farm Operation, Maintenance and Staffing

1. Developers understand that funds will be necessary to the ongoing operation and maintenance (O&M) costs, a reserve/replacement account for the repair and replacement of facilities, and funds for staff time years during the initial years.
2. Developers will contribute a total of \$300,000 towards start-up, initial O&M, and farm staff costs during the initial three-year period, as follows:
 - a. Within 30 days following the latter of (1) completion of all farm facilities, or (2) the effective date of an agreement between the City and a farm operator, Developers shall make a payment of \$100,000 for start-up and initial operations and maintenance costs.
 - b. Subsequent payments of \$100,000 shall be made by Developer in Years 2 and 3, following the date of payment under 2(a), above.
3. After the three-year start-up period, the ongoing farm operation, maintenance, together with repair and replacement costs, will need to become self-supporting through increased fundraising, ongoing sponsorships and greater farmer contributions.

EXHIBIT F

CANNERY FARM

LOCATION: Eastern edge of The Cannery project site, within eastern 150-foot agricultural buffer

SIZE: 7.4 acres

Infrastructure

Access Roads

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Farm Center

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SIZE: Approximately 1 acre

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 - vi. Developers shall construct the main farm building concurrently with, or prior to, the construction of the first model homes for the Project. Developers shall be responsible for all maintenance, repair and operations for the building, shall insure the building for fire and general liability, and bear all risk associated with the building until the City accepts the farm parcel and all farm and other associated improvements required to be constructed by the Developers, as set forth in this Agreement.
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by the farm operator. Selection of the cover crop varieties will be made in consultation with the farm operator.

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4. Developers reserve the right to install plantings and maintain the plantings in the Farm Center frontage during the buildout of the neighborhood. Selection of plantings will be done in consultation with the farm operator and the City. Removal and replacement of the plantings in the Farm Center frontage by the farm operator will require review and approval by the Community Development & Sustainability Director.

Tool Shed

1. Developers will provide a tool shed in the northern end of the farm to increase the efficiency of the farm operations so that some equipment may be stored in the north area.

Equipment

1. Based on previous discussions with City and CLBL staff, Developers understands the City and the farm operator are responsible for seeking the following farm equipment and supplies as part of the start-up operation:
 - a. Tractor
 - b. Tractor implements
 - c. Hand tools

Developers' Contribution Towards Cannery Farm Operation, Maintenance and Staffing

1. Developers understand that funds will be necessary to the ongoing operation and maintenance (O&M) costs, a reserve/replacement account for the repair and replacement of facilities, and funds for staff time years during the initial years.
2. Developers will contribute a total of \$300,000 towards start-up, initial O&M, and farm staff costs during the initial three-year period, as follows:
 - a. Within 30 days following the latter of (1) completion of all farm facilities, or (2) the effective date of an agreement between the City and a farm operator, Developers shall make a payment of \$100,000 for start-up and initial operations and maintenance costs.
 - b. Subsequent payments of \$100,000 shall be made by Developer in Years 2 and 3, following the date of payment under 2(a), above.
3. After the three-year start-up period, the ongoing farm operation, maintenance, together with repair and replacement costs, will need to become self-supporting through increased fundraising, ongoing sponsorships and greater farmer contributions.

Exhibit G

Exhibit G - Contributions to Potential Covell Boulevard Roadway Enhancements

ILLUSTRATIVE DISTRIBUTION OF THE CANNERY PROJECT IMPACT FEES AND DEVELOPMENT AGREEMENT ENHANCEMENT FUNDS				
Recommended Transportation Related Improvements - Covell Corridor				
Description	Estimated Cost	Estimated Cannery Costs	Cannery Roadway Impact Fees	Community Enhancement Funds
J Street Intersection Improvements*	\$1,066,000	\$1,066,000	\$0	\$0
L Street Intersection Improvements*	\$739,000	\$250,000	\$369,500	\$119,500
Covell Boulevard Shared Use Path - North Side - J Street to Pole Line Road	\$1,181,000	\$0	\$351,300	\$829,700
Pole Line Intersection Improvements	\$1,125,000	\$0	\$112,500	\$0
F Street Intersection Improvements	\$1,617,000	\$0	\$161,700	\$0
Pole Line Road Shared Use Path - West Side - Covell Blvd to Moore Blvd	\$1,422,000	\$0	\$426,600	\$0
Birch Lane Shared Use Path - North Side of Covell Blvd at Intersection of Birch Ln	\$144,000	\$0	\$43,200	\$100,800
Buffered Bike Lane Striping along Covell Blvd	\$366,000	\$0	\$366,000	\$0
Covell Corridor Preliminary Engineering and Design	\$150,000	\$0	\$75,000	\$75,000
Covell Boulevard Transit Plaza at Cannery Site Frontage*	\$250,000	\$250,000	\$0	\$0
Southwest Grade Separated Pathway beneath Covell Blvd*	\$1,000,000	\$1,000,000	\$0	\$0
Contribution to Grade Separated Crossing of Covell Blvd between J and L Streets	\$4,000,000	\$0	\$2,000,000	\$2,000,000
Covell Corridor Signal Optimization and Implementation	\$350,000	\$0	\$175,000	\$175,000
H/F Street Bicycle Tunnel and Corridor Enhancements	\$650,000	\$0	\$325,000	\$325,000
J Street Complete Street Striping (8th to Covell Blvd)	\$200,000	\$0	\$100,000	\$100,000
8th and J Signal (pro rata share per EIR)	\$500,000	\$0	\$50,000	\$0
Poleline/Picasso Signal (pro rata share per EIR)	\$500,000	\$0	\$50,000	\$0
Oak Tree Plaza Median (if needed, pursuant to Mitigation Measure 3.14-1E)*	\$200,000	\$200,000	\$0	\$0
Transportation Related Improvements Subtotal - Covell Corridor	\$15,460,000	\$2,766,000	\$4,605,800	\$3,725,000

The improvements identified in this Exhibit G (except as denoted with an asterisk) are for illustrative purposes. Future implementation of these improvements will be subject to the City's review and consideration of the Covell Boulevard Corridor Plan, following environmental review pursuant to CEQA. The City retains the discretion to apply the funds (\$3,725,000) contributed by Developer to specific public improvements.

* These improvements are construction obligations of the Project. The costs identified as "Estimated Cannery Costs" are estimates only, and the Project obligation will be the actual cost of construction.

Exhibit H

EXHIBIT H

UNIVERSAL DESIGN AND VISITABILITY

The Cannery integrates principles of Universal Design and visitability through Livable Design—Eskaton’s New Home Seal of Approval Program—in order to serve the multi-generational population in Davis, and to support aging in place, allowing the ability for one to live in one's own home and community safely, independently, and comfortably. This approach responds positively to the City’s objective of supporting aging-in-place and the City’s proposed accessibility requirements for new home design. Eskaton will provide independent verification for The Cannery, as the administrator of the Livable Design approval program. Livable Design includes three main principles:

- (1) **Inclusive.** A home environment that can accommodate all generations and abilities.
- (2) **Flexible.** The infrastructure of a home incorporates elements that allow future integration of supportive features.
- (3) **Beautiful.** Supportive design features maintain integrity and consistency of the overall home design. Livable Design stresses a natural and integrated look and feel to all supportive design features.

All homes within The Cannery, with the exception of the rental apartments will require the Livable Design Core Elements. The rental apartments (The Cannery Lofts) will be constructed by an affordable housing builder/developer, who will be encouraged to integrate Livable Design. Likewise, the developer of the Neighborhood Mixed Use site will be encouraged to integrate Livable Design into its Market Flat units.

The remaining 463 homes at The Cannery (plus the 16 detached cottage units that will be accessory to the single family homes within Cannery Village) are being designed to integrate the Core Elements required by the Livable Design program. Further, Developers’ goal is to achieve the Seal of Approval or Gold Seal of Approval, which requires the builder to choose select features from the Livable Design Menu of Elements in addition to the required Core Elements. The Menu of Elements are organized by categories (e.g., Illumination and Safety/Security), and defines how many elements from each “Group” are required to achieve the Seal of Approval or the Gold Seal of Approval. The exceptions to the Core Elements will be considered in cases where incorporation of a bedroom and full bathroom on the ground floor (part of the Core Elements) is not feasible due to the footprint of the higher density homes. Homes in these cases are expected to meet the Seal of Approval or Gold Seal of Approval through the Flex-Home exception. With the Flex-Home exception, the builder can achieve one of the Seals of approval by modifying the requirement for a ground-floor bedroom and bathroom and instead, allowing the ability to gain future multi-level access in one of the following ways:

- (1) Wider stairway to allow future chair lift (i.e., stairways shall be a minimum of 48” wide and electric power outlets shall be installed at top and base of stairwell);
OR

- (2) Stacked closets built for future conversion to an elevator (i.e., install one set of stacked closets with knock-out floor for future elevator shaft conversion).

The Flex-Home exception exceeds the proposed requirements of the City's *Resolution Directing Completion of a Universal Access Housing Ordinance and Corresponding General Plan Amendments to Replace the Existing Accessible Housing Policy for Single-Family Housing Units* (Resolution), and will be used in those situations described above where the Livable Design requirements pertaining to ground floor spaces are challenging or infeasible due to special limitations inherent to higher-density and compact development. In such cases, Eskaton—the third-party Livable Design review team conducting the Livable Design compliance verification—will determine whether the home has achieved the Seal of Approval or the Gold Seal of Approval through the Flex-Home exception.

City of Davis Universal Access Resolution vs. Livable Design Program

A comparison of the requirements of the City's Resolution and the Livable Design criteria demonstrates that in most cases, the core requirements of the Livable Design criteria either meet or exceed the City's proposed requirements. In all of the cases where the City requirement is not specified in the Livable Design criteria or does not meet the City's proposed standards, the builder will comply with the City's Resolution. Additionally, there are Livable Design criteria that are not specified in the City's Resolution (i.e., those that are above and beyond the City's proposed requirements), that would exceed the City's requirements based on implementation of the Core Elements, as well as a number of features that the builder will choose which will be in addition to the Core Elements, in order to achieve either the Seal of Approval or the Gold Seal of Approval.

Livable Design Approval Process

The Livable Design program at The Cannery has been designed so that it will be neutral to the City's General Fund. As provided for in the Design Guidelines currently being prepared for The Cannery, the builder will be required to sign an agreement to build to the specifications identified on the plans reviewed by Livable Design. Prior to the City's review of house plans, builders must submit plans to Eskaton's Livable Design review team for review of schematic design, specifications, and construction documents for master home plans acquiring the Seal of Approval or the Gold Seal of Approval. The Livable Design review team will verify compliance with all Livable Design requirements including exterior grades and slopes, architectural design features and product selections relevant to the approval requirements. Based on the review, Eskaton will make a determination regarding the approval level of Seal of Approval or the Gold Seal of Approval, which will be submitted with house plans to the City. Eskaton will conduct random field verifications of the homes after construction and prior to occupancy. Livable Design will ensure that home environments at The Cannery meet a high level of functional design to support livability, accessibility, and aging in place.

Exhibit I

The Cannery Affordable Housing Plan
Project Individualized Plan

Prepared by Con Agra Foods, Inc. and The New Home Company
August 28, 2013

The Cannery Affordable Housing Plan Project Individualized Plan

Revised August 28, 2013

1.0 Proposed Project

ConAgra Foods Inc. and The New Home Company (“Applicant”) propose The Cannery project on the Con Agra Food, Inc. property north of East Covell Boulevard in the City of Davis. The Cannery project (“project”) is a mixed-use, multi-generational neighborhood with housing opportunities for families, young professionals and seniors, a neighborhood mixed-use site, parks, open space and urban farm uses.

The 100.1-acre Cannery site is generally a slanted rectangle and its boundaries are defined by East Covell Boulevard on the south, existing Union Pacific Railroad (UPRR) line and the F Street open drainage channel on the west and agricultural lands on the north and east.

The Cannery project includes 547 residential units in a variety of housing types and configurations, a mixed-use center featuring commercial, office, flex, and neighborhood-serving uses, park, open space, and urban farm and clubhouse uses, as shown on The Cannery Planned Development (PD) Exhibit, Figure 1. The residential portion of the project consists of the following unit mix:

	Planned Development Density Range	Gross Acres	Units
Low Density Residential	3.0 to 5.9 units/acre	152	87
Medium Density Residential	6.0 to 13.9 units/acre	26.3	208
High Density Residential	14 to 40 units/acre	12.4 ¹	228
Mixed Use Residential Units			24
		53.9	547

¹ Acreage and unit count for the High Density Residential category does not include Mixed-Use site units.

Residential units will be provided in a variety of housing types and sizes suitable for a variety of residents including families, small households, working professionals and seniors.

PUD Area	Housing Area	Residential Product Type	Lot Sizes	Units
Area A	The Park Homes	Single Family Units	50'-55' x 90'	87
Area B	Cannery Village	Single Family Units with Cottage Units	45' x 105'	16
Area C	The Cottages	Single Family Units	48' x 75'	76
Area D	The Bungalow Alleys	Alley Homes with Above Garage Units	40' x 80'	44
Area E	The Courts	Court Homes	-	72
Area F	The Brownstones	Row Houses	-	72
Area G	The University Flats	Stacked Flats	-	96
Area H	The Cannery Lofts	Multi-Family Apartments	-	40-60
Area I	Market Flats	Mixed Use – Apartments	-	12
Area I	Studio Row	Mixed Use –Live Work Units	-	12
		Total		547

The unit mix shown above is based on specific density targets for each land use category. Due to the density ranges allowed in The Cannery project, the actual market rate residential units may vary as the project develops over time.

2.0 Affordable Housing Policy

State law (California Government Code Section 65584) requires each city and county plan accommodate a fair share of the region's housing needs through zoning and land use. In urban areas, state law provided for councils of governments to prepare regional needs allocation plans that assign a share of the region's housing needs to each city and county. In the six-county greater Sacramento region, the Sacramento Area Council of Governments (SACOG) is the entity authorized to determine the future housing needs for the region, known as the regional housing needs allocation. Each housing allocation includes a distribution for housing affordable to very-low, low and moderate-income households.

In order to meet the City of Davis' fair share of the regional housing need for the very-low-, low and moderate-income households, the City implemented policies within the Housing Element of the General Plan to provide for such housing. General Plan implementing policies require that, to the extent feasible, affordable housing units be affordable to very low, low and moderate-income households. General Plan policies also require that affordable units be rental or ownership units. On July 9, 2013, the Davis City Council amended the City's Housing Element to adopt a tiered requirement for ownership housing products and to provide a menu of options for satisfying the need for affordable housing in the City.

The City of Davis' Affordable Housing Ordinance (18.05 of the Municipal Code) ("Ordinance") requires that developers seeking entitlement approvals for new development projects include or provide for an affordable housing component.

2.1 Updated City Affordable Housing Ordinance

The Davis City Council voted on July 9, 2013 to amend its Affordable Housing Ordinance to reflect the loss of the Redevelopment Agency as a subsidy source for housing projects, changes in development patterns as the City sees more compact infill projects, and a focus on rental housing to serve very-low income households.

The July 9, 2013 City Council decision followed a public forum held by the Social Services Commission on February 25, 2013, a City Council hearing at which they voted unanimously on March 26, 2013 to direct staff to revise the City's Inclusionary Affordable Housing Ordinance and applicable Housing Element Policies, and a Planning Commission hearing on May 22, 2013.

3.0 Project's Affordable Housing Requirement

Based on the City's Affordable Housing Ordinance, as amended on July 9, 2013, the affordable housing requirements that are applicable to the Project are as follows:

- Provide a graduated scale for for-sale inclusionary obligations that is more compatible with the City's planning policies to promote infill and a greater variety of housing types, according to the following ranges:
 - 25% of large-lot single-family units (5,000 square feet or larger)
 - 15% of small-lot single family detached units
 - 10% of single-family attached units
 - 0% for stacked flat condominiums, or rental units in vertical mixed-use buildings
- Provide a credit for Accessory Dwelling Units (ADUs or second units), toward the inclusionary requirements on a 50% basis, according to the following criteria:
 - No more than 50% of a project's obligation may be met by ADUs
 - ADUs must meet performance standards to promote leaseability, including minimum size of unit and the provision of direct access from a street, alley or greenbelt
- Retain the land dedication option

Consistent with the City's Affordable Housing Ordinance (18.05 of the Municipal Code) and applicable Housing Element policies, The Cannery is required to provide 58 affordable housing units.¹

	Type	Lot Sizes	Total Units	Affordable Housing Requirement	
				Percentage	Units
The Park Homes	SF detached	>5,000'	45	25%	11.25
The Park Homes	SF detached	50-55' x 90' (4950')	42	15%	6.3
Cannery Village	SF detached	>5,000'	5	25%	1.25
Cannery Village	SF detached	45' x 105' (4725')	11	15%	1.65
The Cottages	SF detached	48' x 75' (3600')	76	15%	11.4
The Bungalow Alleys	SF detached	40' x 80' (3200')	44	15%	6.6
The Courts	SF detached	-	72	15%	10.8
The Brownstones	SF attached	-	72	10%	7.2
Studio Row	SF attached	-	12	10%	1.2
The University Flats	SF attached	-	96	0%	0
The Cannery Lofts		-	40-60	0%	0
Market Flats		-	12	0%	0

¹ The Cannery will be consistent with the City's Affordable Housing Ordinance (18.05 of the Municipal Code). Should ultimate unit counts vary The Cannery projects Affordable Housing Requirement shall be increased or decreased accordingly.

Total Affordable Housing Requirement¹	57.65 Rounded to 58
¹ The Cannery will be consistent with the City's Affordable Housing Ordinance (18.05 of the Municipal Code). Should ultimate unit counts vary The Cannery projects Affordable Housing Requirement shall be increased or decreased accordingly.	

4.0 Project's Affordable Housing Program

The Cannery Project Individualized Plan (PIP) Affordable Housing Plan is proposed consistent with Ordinance Section 18.05.050(a)(5) which allows projects to meet the City's affordable housing requirement with a project individualized program that is determined to generate an amount of affordability equal to or greater than the amount that would be generated under the standard affordability requirements.

The Cannery project includes 547 residential units and proposes to satisfy the required 58 affordable housing units through a combination of land dedication for rental units and construction of ADUs (second units). A total of 80-100 affordable housing units are proposed as part of The Cannery project as shown in the table below, of which 60-80 are creditable towards the required affordable housing units for the project. The locations of affordable housing sites are shown on The Cannery Affordable Housing Exhibit, Figure 2. Though The Cannery project requirement is 58 affordable housing units, as defined in Section 3.0, the developer has committed to provide four additional units above and beyond the City's requirement consistent with the table below.

Area	Housing Area	Affordable Housing Type	Unit Type	Affordable Units
H	The Cannery Lofts	Land Dedication – Multi Family Apartments	Rental	40-60
B	Cannery Village	Second Units – Cottage Units	Rental	16 ¹
D	The Bungalow Alleys	Second Units – Above Garage	Rental	24 ^{1,2}
Total				80-100
¹ A total of 40 second units are proposed to help meet the project's affordable obligation, which would provide a credit of 20 units towards inclusionary requirements. This represents less than 50% of the project's total requirement. ² For each unit the Land Dedication Multi-Family Apartment final site plan yields in excess of 42 units, the Bungalow Alleys requirement for Second Units may be reduced by two units, but will not result in a reduction below 12 second units (e.g., 42 Multi Family Apartments + 16 Cannery Village ADUs/2 + 24 Bungalow Alley ADUs/2 = 62 Affordable Units). An example of a footnote 2 scenario includes 45 Multi Family Apartments + 16 Cannery Village ADUs/2 + 18 Bungalow Alley ADUs/2 = 62 Affordable Units.				

4.1 Land Dedication Units for Multi-Family Apartments (The Cannery Lofts)

The project will dedicate a 1.95 gross acre/1.46 net acre site (Area H) for the construction of a 40-60-unit multi-family apartment project. The Cannery Lofts will be constructed by an affordable housing builder/developer and will include 40-60 rental apartment units with two-thirds of the required units affordable to low-income households and one-third of the required units affordable to very-low income households.

The Cannery Lofts is located west of the southern neighborhood park, and immediately north of the Cannery Commerce District (neighborhood mixed-use site). The apartment site will have a density of approximately thirty units per acre and will be arranged in two- and three- story buildings with a mix of one, two and three-bedroom units. Buildings and architecture will be of high-quality, focused outward to engage the adjacent areas and be a cohesive part of the neighborhood fabric. Onsite recreational amenities will likely be provided for residents of the multi-family apartment site, which will be determined during final site design. Additionally, similar to the residents of the neighborhood mixed-use site, residents of the multi-family apartment site will have the option, but not the requirement, to purchase access to the neighborhood Homeowner Association (HOA) facility on a monthly basis. The ultimate number of units will depend on final site design but will fall within the specified range.

4.2 Second Units (Rental)

The project will construct second units (accessory dwelling units) that are suitable for rental units to very-low and low-income households. Secondary units will be offered at two locations.

Cottage Units Accessory to Single Family (Cannery Village)

Sixteen (16) of the units will be provided as detached cottage units that will be accessory to the single family residential units adjacent to the central spine. On each lot in Area B (Cannery Village) there will be one market-rate single family residential unit and one detached cottage unit (second unit). The sixteen (16) cottage units will account for eight (8) affordable units. The cottage units will be constructed at the same time as the adjacent market-rate single family units are constructed and will be held in the same ownership as the corresponding single family unit. The cottage units will include a bedroom, bathroom, kitchen and living space. The cottage units will have separate entrances from the main single-family unit, with a private entry from the greenbelt.

Above-Garage Units Accessory to Single Family (The Bungalow Alleys)

Of the forty-four (44) possible second units over garages on the alley loaded single family residential units, twenty-four (24) units will be constructed to account for twelve (12) affordable units (subject to footnote two in the table above). The remaining lots will be allowed to add a second unit as an option. On select lots in Area D (The Bungalow Alleys), there will be one market-rate single family residential unit with a second unit constructed above the garage. The second units will be attached and located above the garages. The second units will be constructed at the same time as the associated single-family units and will be held in the same ownership as the corresponding single family unit. The second units will include a studio or bedroom, bathroom, kitchen and living space. The units have separate entrances from the main single-family unit, with a private entry from the adjacent alley.

Second Units as Affordable Units

Based upon preliminary designs, the second units proposed at The Cannery range in size between 414 to 468 square feet for the Bungalow Alleys above-garage units, and between 515 to 542 square feet for the Cannery Village cottage units. By their size, the second units proposed provide self-contained second living units adjacent to larger single-family dwelling units, and represent an affordable housing option for many low- and moderate income residents. The Cannery Village second units have been designed to meet the standards of Eskaton's Livable Design, which ensure that the affordable rental units would meet the needs of seniors, empty nesters, young adults (e.g., graduate students or young professionals), and disabled persons who may want to live close to family members or caregivers. By their nature, second units provide affordable housing options that enrich the diversity of neighborhoods, including a multi-generational neighborhood such as The Cannery.

As recognized by the California Department of Housing and Community Development (HCD), the Sacramento Area Council of Governments (SACOG), and the California State Legislature (Assembly Bill [AB] 1866, Chapter 1062, Statutes of 2002) second units are a valuable source of affordable housing in a community. In addition to increasing the supply of affordable housing, second units benefit homeowners by providing extra income that can assist in mitigating increases in the cost of living.

Second units within The Cannery will blend in with surrounding architecture, maintaining compatibility with neighborhoods and preserving community character. In The Cannery project, second units will be constructed at the same time as the primary single-family unit to ensure the affordable rental unit is available in the housing supply concurrent with the availability of market rate housing. Leasability of the Cannery Project second units are expected to experience similar successes as with the Aggie Village second units. The rental rate of the Aggie Village second units is approximately 80-90% over time, at lease rates of approximately \$800 per month, according to UC Davis Real Estate Services, who manages the University-owned properties and leasing of those properties, including Aggie Village. By reason of the size of the second units, rents are expected to remain within the range of low- and very-low income households.

5.0 Affordability Levels

5.1 Rents for Land Dedication Site and Apartments

Rents for required affordable units on the land dedication site shall remain affordable in perpetuity. This requirement shall be established in a covenant recorded on the property, subject to review and approval by the Community Services Department prior to issuance of certificate of occupancy on the units.

The average affordable price for each unit on the land dedication site and mixed use affordable apartments shall not exceed the low- income category, which is 65% of median income. The maximum income level served shall not be greater than 80% of area median income. A variety of unit sizes must be offered to income groups at all levels within the targeted group. For example, if three bedroom units are offered to families at eighty percent of median income, the same number of three bedroom units must be offered to

households at fifty percent of area median income, making the average rent for the unit type 65% of the median income.

5.2 Rents for Second Units

The lack of on-going funding from the loss of the Redevelopment Agency as a subsidy source for housing projects will continue to hamper City staff resources to allocate to the administration of the City's affordable housing program. As a consequence, the City is interested in market influences acting as assurance that the second units constructed will remain affordable. By reason of the size of the second units, rents will remain within the range of affordable to low- and very-low income households.

6.0 Phasing of Affordable Units

The Cannery project will be constructed in two phases. Of the 80-100 affordable units, the infrastructure to serve the 40-60 multi-family apartment units and 20 affordable second units will be constructed in the first phase of the project and 20 affordable second units will be constructed in the second phase of the project.

The land dedication site including 40-60 rental units affordable to low- and very-low-income households will have infrastructure delivered to the site and the pad prepared in Phase 1. The actual timing of construction of the multi-family apartments will depend upon obtaining competitive financing inclusive of the Low Income Tax Credit (LITC) program which may require multiple applications. Having a fully approved multi-family site with infrastructure constructed combined with the location adjacent to neighborhood and community amenities should provide for very competitive financing including funds from the LITC program.

Second units will be constructed at the same time as the primary single-family unit to ensure that the unit is available in the housing supply concurrent with the availability of market rate housing.

7.0 City Participation and Funding

At the time of the writing of this PIP, the developer, unit mix, design and financing for the land dedication site has not been identified. The project will diligently pursue competitive financing inclusive of the LITC program, and other subsidy financing for the project. Additionally, City subsidy assistance has not been requested, but may be requested by the developer of the land dedication site.

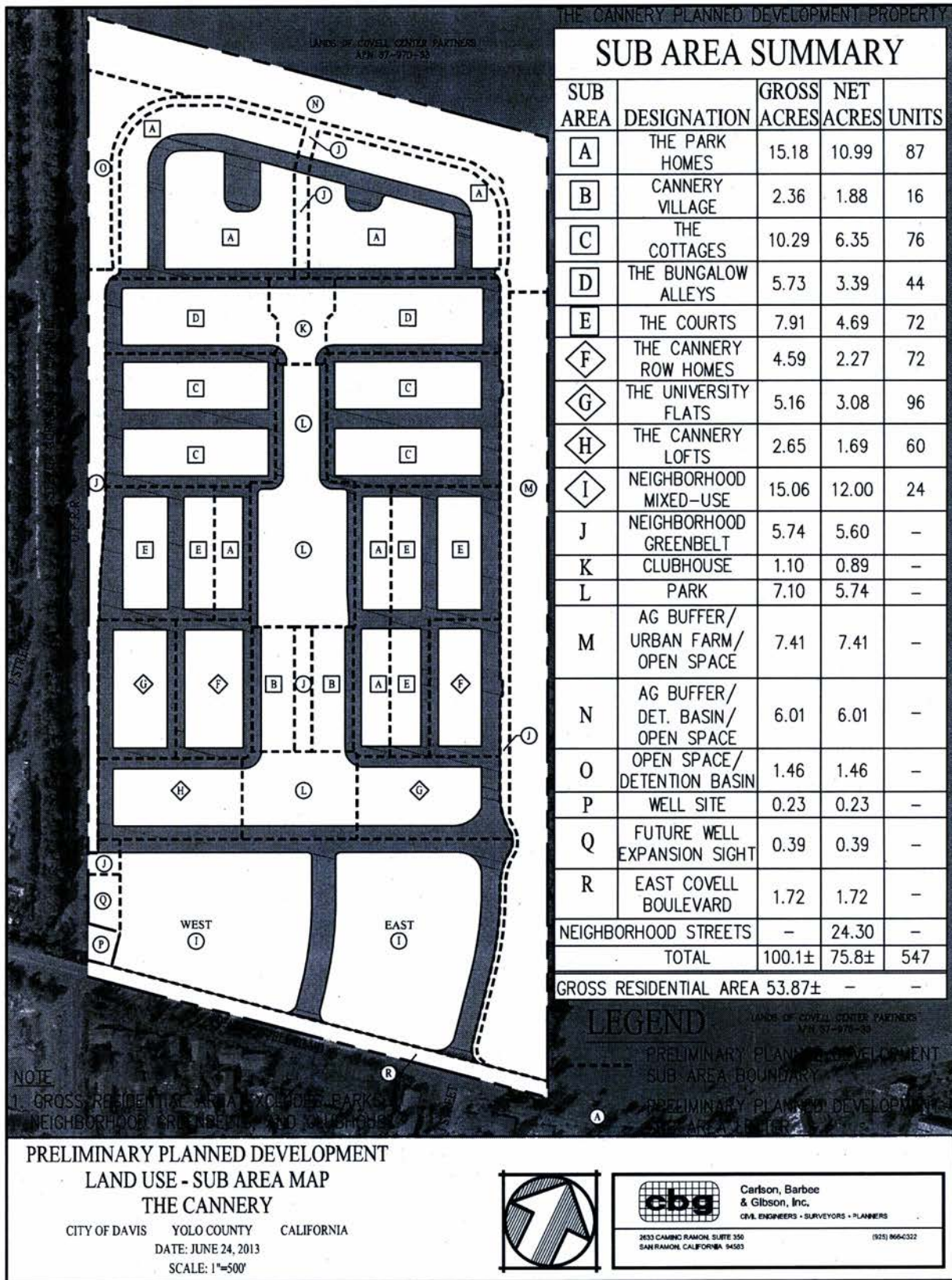
The applicant proposes to submit the design review application for the land dedication site to the Director of Community Development and Sustainability within six months of entitlement approvals by the City Council. Any City subsidy request for the project will be requested as part of the Community Development Block Grant (CDBG) HOME application process. Within one month of City approvals of the design review application for the land dedication site, continuous and complete tax credit applications will be submitted to the state in all available tax credit application rounds in an effort to secure the project's necessary financing. The applicant anticipates the apartments at the land dedication site to be under substantial construction, with building permits pulled, within five years of the first building permit issued on The Cannery market rate residential units.

If financing attempts are unsuccessful and the land dedication site is not under substantial construction within 5 years of the first building permit issued on the market rate units, the land dedication site will revert to the City

8.0 Affordable Housing Disclosure

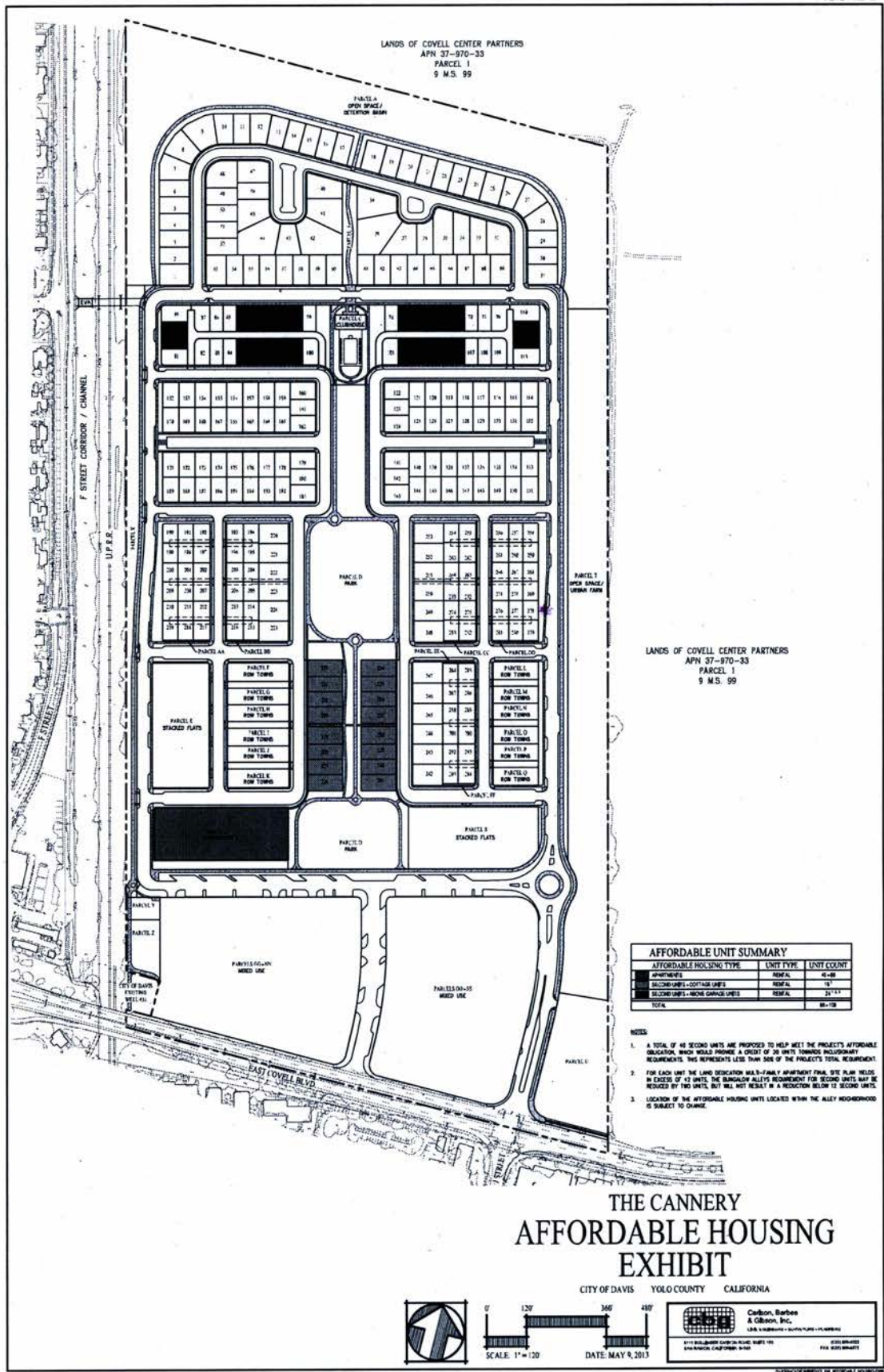
The Applicant shall provide written notice to all purchasers of lots or homes within the subdivision of the types, locations and zoning for affordable housing. The disclosure shall explicitly note that the housing will be developed for moderate-, low- and very-low-income residents or special needs residents, and that the housing will include two and three-story high buildings and second units within single-family residential neighborhoods. Wording is subject to review and approval by the Department of Community Development & Sustainability.

FIGURE 1



G:\2090\ACAD\EXHIBITS\ZONING ORD\ZO_001_SUB AREAS PLAN 8X11.DWG

FIGURE 2



LANDS OF COVELL CENTER PARTNERS
 APN 37-970-33
 PARCEL 1
 9 M.S. 99

AFFORDABLE UNIT SUMMARY

AFFORDABLE HOUSING TYPE	UNIT TYPE	UNIT COUNT
APARTMENTS	RESID.	46-00
SECOND-UNIT + COITAGE UNITS	RESID.	18
SECOND-UNIT + HOME GARAGE UNITS	RESID.	211.5*
TOTAL		265.5*

- NOTES:**
- A TOTAL OF 46 SECOND UNITS ARE PROPOSED TO HELP MEET THE PROJECT'S AFFORDABLE HOUSING REQUIREMENTS. THESE WOULD PROVIDE A CREDIT OF 26 UNITS TOWARDS HOUSING REQUIREMENTS. THIS REPRESENTS LESS THAN 50% OF THE PROJECT'S TOTAL REQUIREMENT.
 - FOR EACH UNIT THE LAND DESIGNATION MAX-3-FAMILY APARTMENT FINAL SITE PLAN HELDS IN EXCESS OF 45 UNITS, THE SHADOW ALLEYS REQUIREMENT FOR SECOND UNITS MAY BE REDUCED BY TWO UNITS, BUT WILL NOT RESULT IN A REDUCTION BELOW 12 SECOND UNITS.
 - LOCATION OF THE AFFORDABLE HOUSING UNITS LOCATED WITHIN THE ALLEY NEIGHBORHOOD IS SUBJECT TO CHANGE.

**THE CANNERY
 AFFORDABLE HOUSING
 EXHIBIT**

CITY OF DAVIS YOLO COUNTY CALIFORNIA

SCALE: 1" = 120'
 DATE: MAY 9, 2013

Carbon, Barboe & Graham, Inc.
 LAND DEVELOPMENT • CIVIL ENGINEERING • PLANNING

8711 BULLWATER CANYON ROAD SUITE 100
 YUBA CITY, CALIFORNIA 95992
 (530) 864-0222
 FAX: (530) 864-0221

Exhibit J

Exhibit J

Community Enhancements

Developer shall provide the following Community Enhancements, which are above and beyond the Project's requirements to mitigate for project-related impacts, conditions of approval and features included in the project description.

Unless otherwise set forth herein, all payment obligations are to be applied to the 463 market rate residential units constructed in the Project.

1. \$3,725,000 in Community Enhancement Funds for transportation and circulation improvements, as set forth in Exhibit G.
2. \$2,000,000 for community park and community-wide improvements/renovations, payable in the amount of \$4,319.65 per for-sale market rate residential unit prior to issuance of a Certificate of Occupancy.
3. \$100,000 for the City's Greenhouse Gas Reduction programs, payable prior to approval of the first Final Map.
4. Developer commits to implement Zero Net Electric (ZNE) on 25% of the first 100 homes developed in the Project. Multifamily or single-family attached housing would not count toward the first 100 homes requirements, however, Developer has the right to satisfy the requirement by including these housing types at Developer's discretion. Developer's satisfaction of this requirement shall be demonstrated based upon measurable calculations, to the satisfaction of the Director of Community Development and Sustainability. Any Small Builder Lots meeting the ZNE requirement shall count toward the 25% obligation. Small Builder Lots not meeting ZNE requirements will not count toward the first 100 homes subject to this requirement.
5. \$300,000 for start-up operation, maintenance and staffing of the Cannery Farm, as set forth in Exhibit F.
6. \$75,000 for the City's Civic Arts Program, payable prior to approval of the first Final Map.

Exhibit K

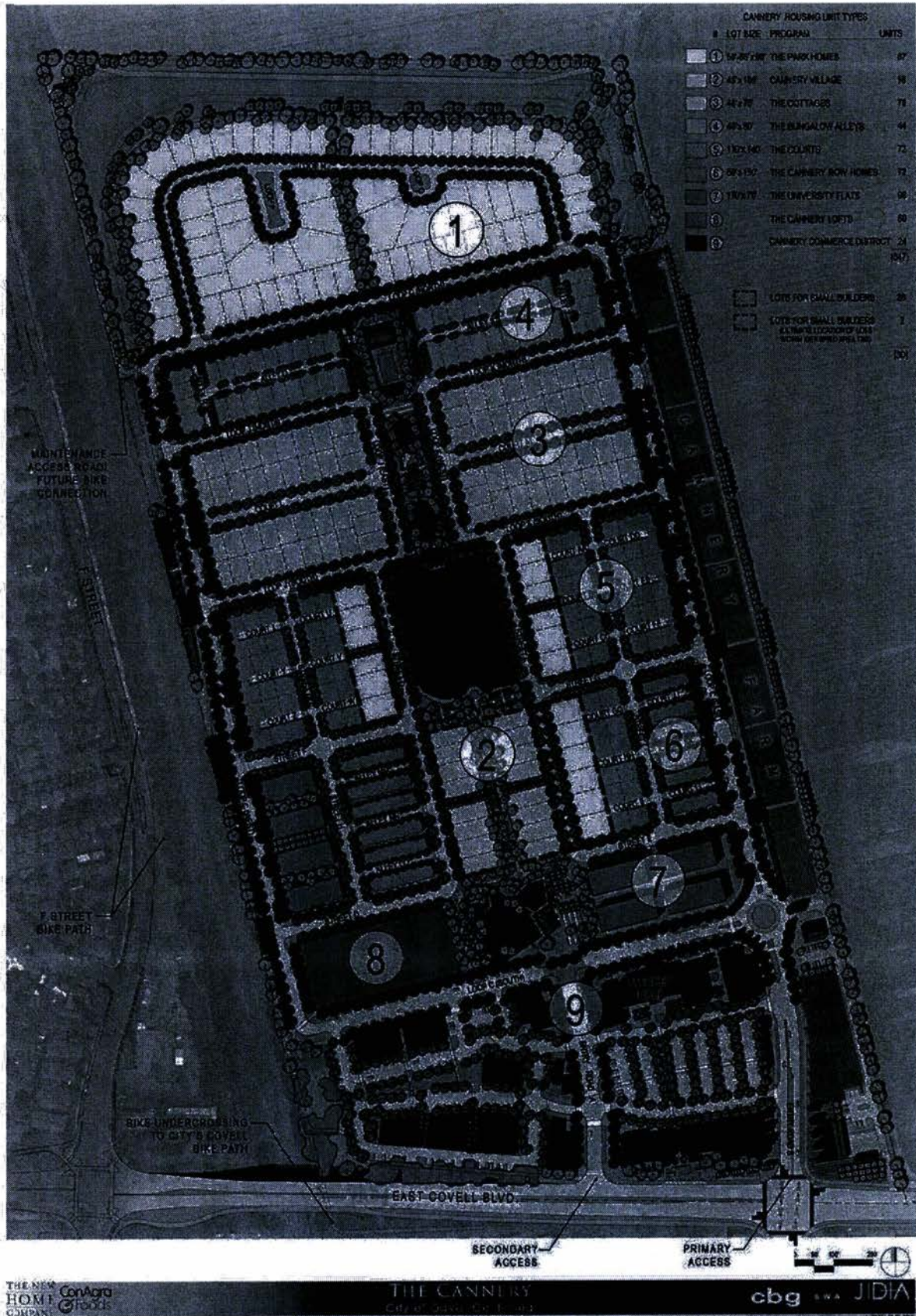


Exhibit L

EXHIBIT L

PHASING PLAN AND PERMIT ALLOCATION

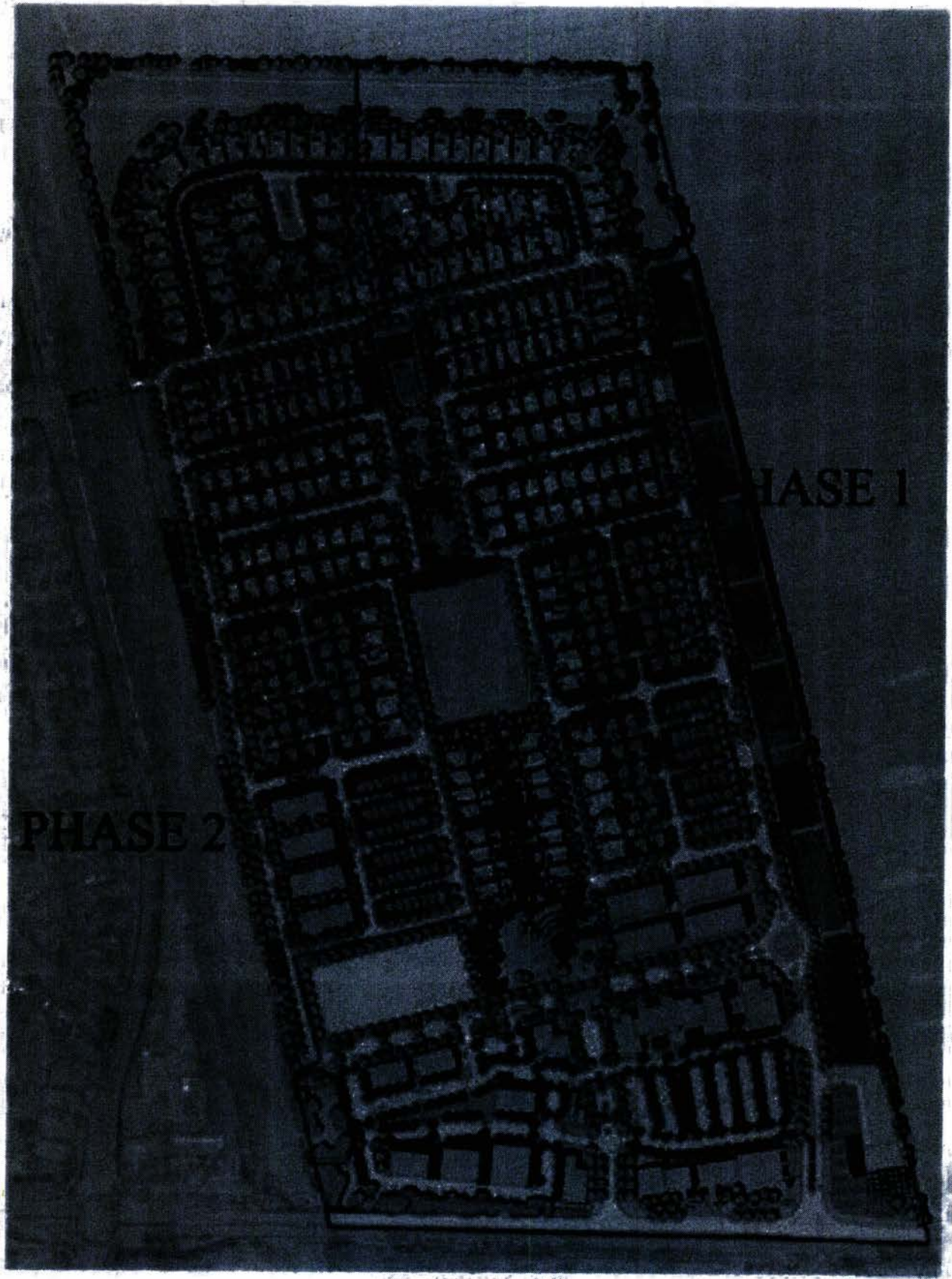
Phasing of Residential Development – Permit Allocation – Maximum Number of Units

Cannery Proposed Phasing Matrix, by residential building permit:

Residential Product Type	Phase 1 Units	Phase 2 Units	Total Units
The Park Homes	43	44	87
Cannery Village	8	8	16
The Cottages	38	38	76
The Bungalow Alleys	22	22	44
The Courts	42	30	72
The Brownstones	30	42	72
The University Flats	48	48	96
The Cannery Lofts*	60	0	60
Neighborhood Mixed Use	24	0	24
			547
* Proposed range is 40-60 affordable units			

Maximum Allowable Units is 200 residential building permits in the first year following the Effective Date of the Agreement (calendar year 2014), and up to 200 residential building permits in each subsequent year, up to 433 units. This allocation does not apply to designated affordable housing (whether ownership or rental), accessory dwelling units, Small Builder Lots and residential units within the mixed use area; the City may issue building permits for such development without regard to the allocations on residential building permit issuance.

Unused units from prior allocation years may be carried forward to subsequent years. The allocation process shall not restrict the timing of final map recordation.



PHASE 1

PHASE 2

ILLUSTRATIVE PLAN



cbg - JDA

Exhibit M

Exhibit M

Fees and Credits

Notwithstanding the general provisions of Section 207 of this Agreement and the Municipal Code, the specific impact fees, connection fees and community benefit contributions set forth in this Exhibit M shall be paid by the Project as modified in this Exhibit M. All other fees, connection fees, and payments shall be subject to the general provisions of Section 207 and the Municipal Code.

Unless otherwise set forth herein, all fee credits are to be applied to the 463 market rate residential units constructed in the Project.

1. Water

Water connection fees paid by the Project shall be capped at the existing City rate of \$8,970 per residential unit, for the first five years of the Term of this Agreement. Thereafter, if the water connection fee has increased, the residential units shall pay the then current connection fee. The City commits to prepare a comprehensive citywide update of the water connection fee, commencing in the Spring 2014. If the water connection fee is reduced from the existing level (\$8,970 per residential unit) as a result of this fee update, the water connection fees payable by the Project shall be reduced to the amount of the updated fee for all residential units in the Project, including those that may have paid the water connection fee prior to the effective date of the new fee. After the new water connection fee is effective, the Project shall continue to pay \$8970 per residential unit, however, with the difference between the water connection fee and \$8,970 including the difference/credit for any residential unit water impact fee paid by the Project prior to the effective date of the new fee) shall be deposited into the Park Impact Fee account until the total paid into the Park Impact Fee Account pursuant to this provision equals \$1,600,000. Upon the date that the total amount paid under this section into the City's Park Impact Fee account has equaled \$1,600,000, if this occurs, Developers shall pay future water connection fees on remaining residential units in the amount of the updated water connection fee.

Water connection fees for non-residential development in the Project are to be paid at the rate then in effect when the fee is paid.

Developers shall be entitled to a credit against water connection fees paid by market rate residential development in the Project for Developers' grant of the water line easement along Covell Boulevard (to be calculated at a rate of \$8.62 per square foot of easement area) and the City well expansion site (\$209,171), and a dollar-for-dollar credit for the cost of the agricultural well and associated irrigation system, based upon actual construction cost.

Developers shall not be required to pay any water connection fees associated with the backup irrigation water system associated with the agricultural well.

2. Wastewater

Wastewater connection fees shall be capped at the existing City rate of \$6,150 for single-family attached and detached residential units, and \$4,780 for single-family condominium units, and \$3,320 for multi-family (5 or more units) for the first five years of the Term of this Agreement.

Sewer connection fees for non-residential development in the Project are to be paid at the rate then in effect when the fee is paid.

3. Traffic/Roadway Capital Improvement Program Fees

Based upon the current adopted Capital Improvement Program, the Project is estimated to generate \$5,290,372 in roadway impact fees.

The Project shall be entitled to fee credits for construction of the L Street Intersection improvements (\$218,500) and Oak Tree Plaza Median improvements (\$174,800), based upon pro-rata fair share contribution to impacts (12.6%) as calculated by the traffic analysis contained in the Final EIR.

Of the remaining \$4,897,072 in roadway impact fee, \$4,605,800 is anticipated to be allocated toward the infrastructure improvements identified in Exhibit G, if adopted by the City as part of a future Covell Boulevard Corridor Plan following public review and CEQA compliance. Allocation of these funds toward specific improvements shall be made at the discretion of the City.

Payment of the \$3,725,000 contribution by Developer as identified in Exhibit G and J shall be made as follows:

- \$150,000 shall be advanced for purposes of preliminary engineering and design for the Covell Boulevard Corridor Plan, and \$465,000 for engineering and design for the grade-separated crossing on the Covell corridor, anticipated to be between J and L Streets, and improvements to the H/F Street tunnel and corridor enhancements. The timing for payment of these advanced funds shall be the earlier of: (1) 90-days after City adoption of the Covell Boulevard Corridor Plan, or (2) one year after the Effective Date of this Agreement.
- The remaining \$3,110,000 shall be paid on a per-unit basis, in the amount of \$6,717 per market rate residential unit prior to issuance of a Certificate of Occupancy for each market rate residential unit.

The Project shall receive credit in the amount of \$3,725,000 against any incremental increases in the roadway impact fees that may be adopted by the City in the future (new or increased roadway impact fees above the fees in effect as of the Effective

Date of this Agreement, associated with the future Covell Boulevard Corridor Plan Improvements) for the costs of the improvements identified in a future Covell Boulevard Corridor Plan that are funded in whole or in part by Developers' \$3,725,000 contribution, as set forth in Exhibit G.

4. Stormwater

Developers' mitigation of upstream stormwater impacts satisfies Developers' stormwater impact fee obligations (estimated at \$141,323) in its entirety. No additional stormwater impact fees shall be required for the Project.

5. Quimby Act Fees and Park Impact Fees

Developers' Quimby Act and park impact fee obligations shall be deemed satisfied through the combination of the Project's required land dedication, turn-key park, greenbelt and open space improvements, and park-related Development Agreement enhancement funds.

6. Trees

Developers may mitigate tree impacts through tree planting onsite, as required by Mitigation Measure 3.4-12 and pursuant to the Municipal Code. Developers shall prepare and submit a tree monitoring plan, which shall assure to the satisfaction of the City the successful establishment of trees for a period of three years through monitoring and replacement by the Developers, payment of the City's street tree fee, or a combination of both.