

## SUPPLEMENTAL STAFF REPORT

**DATE:** August 18, 2020

**TO:** City Council

**FROM:** Ashley Feeney, Assistant City Manager  
Sherri Metzker, Principal Planner  
Eric Lee, Planner

**SUBJECT:** **University Commons Mixed Use Redevelopment Project at 737-885 Russell Boulevard:** Planning Application #18-17 for General Plan Amendment #02-18, Planned Development Rezone #03-18, Demolition #11-18, Development Agreement #02-19, EIR #04-18

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*This item was continued from July 21, 2020 to provide responses on a number of questions from City Council. This supplemental staff report summarizes the question topics and responses. It also includes a letter from the applicant with responses.*

### **Recommendation**

Staff recommends that the City Council:

1. Consider the proposed University Commons Mixed Use Redevelopment Project, including the revisions provided in this staff report and attached documents;
2. Consider the Planning Commission's recommendation; and
3. Should City Council choose to approve the Project, CEQA Findings and approval documents are provided, which include:
  - a. Resolution certifying the Environmental Impact Report for the University Commons Project and adopting CEQA Findings of Facts, a Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program (Attachments 1);
  - b. Resolution of Intent to Amend the City of Davis General Plan to create a new Mixed Use land use category and to change the land use designation of 737-885 Russell Boulevard from Community Retail to Mixed Use (Attachment 2);
  - c. Ordinance rezoning 737-885 Russell Boulevard from PD 2-97B to Preliminary Planned Development (PD) #3-18 (Attachment 3);
  - d. Findings and Conditions of Approval for Planning Application #18-17 for Demolition #11-18 for the University Commons Project (Attachment 4); and

- e. Ordinance approving the Development Agreement for the University Commons Project (Attachment 5 and 6).

### **Summary**

On July 21, 2020, City Council held a public hearing on the University Commons Mixed Use Project, reviewed project materials, considered the Planning Commission's recommendation, and listened to presentations and public testimony. Substantial written public comments and public testimony, both in support and opposed to the project, were received. City Council closed the public hearing, provided questions, and continued the item to August 18, 2020. The applicant considered the comments from City Council and has provided supplemental information and responses. A letter from the applicant is included as Attachment 7.

Additionally, staff has also provided background information or comments on the topics. This supplemental staff report identifies the general topic areas, summarizes the clarifying information, responses, and project revisions. Notable revisions which are incorporated in the attached documents include adjustments to:

- Affordable Housing Plan. Revised program to provide 13 studio units (5%) affordable to low-income households (80% AMI) and 13 two-bedroom units (5%) affordable to moderate-income households (100% AMI) and by the unit.
- Development Agreement. It includes the revised Affordable Housing Program, commitments related to trees and landscaping, additional provision for parking monitoring, and clarification of the review for project changes.
- PD Rezoning Ordinance. Additional provision requiring building articulation, architectural elements, and variation to address general building massing, which will be reviewed as part of the required Design Review and Final Planned Development.

For previous reports and documents provided on the Project, please see:

- University Commons Project EIR: <https://www.cityofdavis.org/city-hall/community-development-and-sustainability/development-projects/university-commons/environmental-review>;
- July 21, 2020 City Council Staff Report: [University Commons Project Staff Report](#).

Should the City Council choose to approve the University Commons Mixed Use Project, the necessary findings and approval documents are attached. They include redline versions showing revisions from the July 21, 2020 versions. The redline changes or any additional adjustments approved by City Council would be incorporated in the final documents.

### **CITY COUNCIL DISCUSSION TOPICS**

#### **Affordable Housing Plan**

The Project's Affordable Housing Plan that was presented to City Council on July 21, 2020 proposed that 5% (45 beds) of the total Project beds would be offered as affordable to low income households (80% AMI). The proposal met the City's Affordable Housing Ordinance for Vertical Mixed Use Development which calls for an equivalent of 5% of total units, bedrooms,

or beds to be affordable to low income households. Comments from City Council requested more specificity on the program's details and included questions related to the affordability of bed rentals, interest in affordable units rather than beds, provision of greater affordability, and possibility of also addressing households at 100% AMI.

In response to the comments, the applicant has revised and clarified details about the affordable housing plan to specify that it would be provided on a unit-basis consisting of 13 affordable studio units (5%) and 13 affordable two-bedroom units (5%). The affordable studios would be dedicated to low-income households at 80% AMI. The two-bedroom units would be dedicated to moderate-income households at 100% AMI. As previously noted, the University Commons Project was exempt from the requirements for an Affordable Housing Plan for Vertical Mixed Use Development when it was submitted, but complies with the current requirements by providing 5% of the units for low-income households. The Affordable Housing Ordinance does not identify a specific required unit mix. In this case, the applicant is proposing the 5% as studio units, not to exceed 13 units. The 5% of the two-bedroom units, not to exceed 13 units, for the moderate-income households would be represent an additional commitment.

The revised program was not able to expand the affordability range down to include very-low income (50% AMI) households. However, structuring the program as affordable units would be more family-friendly and more affordable to family households compared to affordable beds, as previously proposed, which would favor individuals.

The tables below, which are provided in the applicant's supplemental letter in Attachment 7, summarize the applicant's estimate of the subsidy for the affordable units compared to market rate units. According to their estimate, an affordable studio unit would have a monthly subsidy of \$749 and an affordable two-bedroom unit would have a monthly subsidy of \$817.

Unit Size	Number of Units (5%)	Family Size	Market Rent Per Unit	University Commons Rent @ 80% AMI	Estimated Savings Per Month	Estimated Yearly Savings
<b>Studio</b>	<b>13</b>	<b>2</b>	<b>\$2,229</b>	<b>\$1,480</b>	<b>(\$749)</b>	<b>(\$8,988)</b>

Unit Size	Number of Units (5%)	Family Size	Market Rent Per Unit	University Commons Rent @ 100% AMI	Estimated Savings Per Month	Estimated Yearly Savings
<b>Two Bedroom</b>	<b>13</b>	<b>3</b>	<b>\$2,898</b>	<b>\$2,081</b>	<b>(\$817)</b>	<b>(\$9,804)</b>

The revised Affordable Housing Plan with redline changes is included as Exhibit D of the Development Agreement in Attachment 6. It also includes details on qualifying households and income determination, marketing, reporting, and recordation of a regulatory agreement.

After reviewing the revised Affordable Housing Program, staff recommended the applicant include language that, to the extent those units reserved for affordable units are not occupied by qualifying residents and as a fallback, are rented as market rate units, the difference between the affordable rent and the market rate rent shall be contributed to the City's Housing Trust Fund. The applicant expressed concerns about this requirement given the costs of their Affordable Housing Program and uniqueness of their vertical mixed use project and has not agreed to it. The applicant also noted that the recent

addition to dedicate 5% of the units (two-bedroom units) to moderate-income households at 100% AMI was a voluntary proposal above and beyond current requirements. While staff recommended inclusion of the concept to address the potential disincentive of renting a unit to an affordable household by capturing the rent difference for all of the affordable units, a potential middle ground could be to only require this provision on the 5% of the units that are to be rented to low income households, as these units are designated to meet current City requirements.

Staff views the recent addition of the 100% AMI units as a significant enhancement to the proposed Affordable Housing Program.

### **Bed/Bedroom/Unit Mix**

The University Commons Mixed Use Project proposes a total of 894 beds distributed in approximately 622 bedrooms and 264 units. The proposal reviewed by City Council at their July 21<sup>st</sup> meeting included commitments in the Development Agreement that no units would exceed 4 bedrooms and that no more than 45% of the total units would be comprised of 4-bedroom units. It also includes a commitment to design the project in a manner that concentrates the smaller-bedroom units in one area of the site. City Council had a number of comments about the mix of units, bedrooms, and beds and related details. They included questions for background on the project's proposed unit mix, evolution of the changes in the unit mix percentage, comments for more information about the design, amenities, and rental policy for the separate smaller-unit section, and clarification or concerns about bed versus unit rentals, preclusion of non-students due to design or bed rentals, and interest in having fewer 4-bedroom units.

### Unit Mix Background

The table below, which was included in staff's presentation on July 21, 2020, summarizes the unit mix based on exhibits submitted to the City. The original submittal had a similar number of beds, but fewer bedrooms and units than currently proposed due to more double occupancies and more 4-bedroom units (54%). A later exhibit (October 2018) indicated substantially fewer 4-bedroom units, but the overall number of beds, bedrooms, and units was consistent with what was analyzed in the EIR and which is currently proposed. Staff notes that it is not unusual for project adjustments to occur during the review process and the current proposal establishes a 4-bedroom maximum of 45% of the total units.

	<b>March 2018 submittal - Residential Concept 4 residential stories</b>	<b>October 2018 – Revised Concept Plans (Initial Study)</b>	<b>October 2019 - Proposed Project (EIR)</b>
<b>Beds</b>	<b>912 beds</b>	<b>894 beds</b>	<b>894 beds</b>
<b>Bedrooms</b>	<b>552 bedrooms</b> (192 single occupancy; 360 double occupancy)	<b>622 bedrooms</b> (430 single occupancy; 232 double occupancy)	<b>622 bedrooms</b>
<b>Units</b>	<b>174 units</b>	<b>264 units</b>	<b>264 units</b>
<b>1 bedroom</b>	4 units (2%)	66 units (25%)	55% minimum.
<b>2 bedroom</b>	56 units (32%)	104 units (40%)	



<b>3 bedroom</b>	20 units (11%)	28 units (10%)	Specific unit mix to be determined in final plans, not to exceed 894 beds.
<b>4 bedroom</b>	94 units (54%)	66 units (25%)	45% maximum. No units will have more than 4 bedrooms.

A previous reference to an initially higher percentage of 4 and 5-bedroom units (70%) by the applicant reflects earlier project concepts in line with other student-oriented housing projects that have a high percentage of multiple-bedroom units. For the University Commons Mixed-Use Project, the percentage of those units was scaled back to the current proposal of 45% maximum.

Because the project is at a conceptual stage intended to establish the general building parameters, the specific layout of the building and unit details have not been designed. If approved, the project would require additional Planning entitlements for the Final Planned Development and Design Review for the site design and building architecture. The final unit mix will be developed at that time and subject to the required environmental review. Review of the subsequent entitlements, the detailed design, and building permits would include compliance with the project approvals and applicable commitments in the Development Agreement, such as the limitation on the 4-bedroom units to no more than 45% of the total units.

#### Smaller Unit Section

The Development Agreement includes a commitment to design the residential portion of the project in a manner that allocates a portion of the studio, one, two, and three-bedroom units into one area of project. The residential component of the project would be one integrated structure, but consolidating the smaller units can help create a more traditional and family-friendly area. City Council comments requested information on the details and design of this section. However, as mentioned building details and layout are not yet designed and specific information is not available. Regarding the residential amenities, it is not expected that they would be restricted between areas. Common amenities would be available to all residents, but with several residential courtyards are planned and clustering the smaller units can allow for different programming and design of the courtyard area to serve those units. The applicant is confident that the building layout can be designed to cluster the smaller units and will be reviewed in the subsequent design entitlements.

#### Bed Leases versus Unit Rentals

As stated in the applicant's supplemental letter and included in the Development Agreement, the rental program will include market rate units available for rent by the bed as well as options to rent by the unit. The affordable units will be rented by the unit. Having options available helps to serve both individual renters who may prefer the simplicity of a bed lease and other households who may prefer a unit rental.

#### 4-Bedroom Unit Percentage

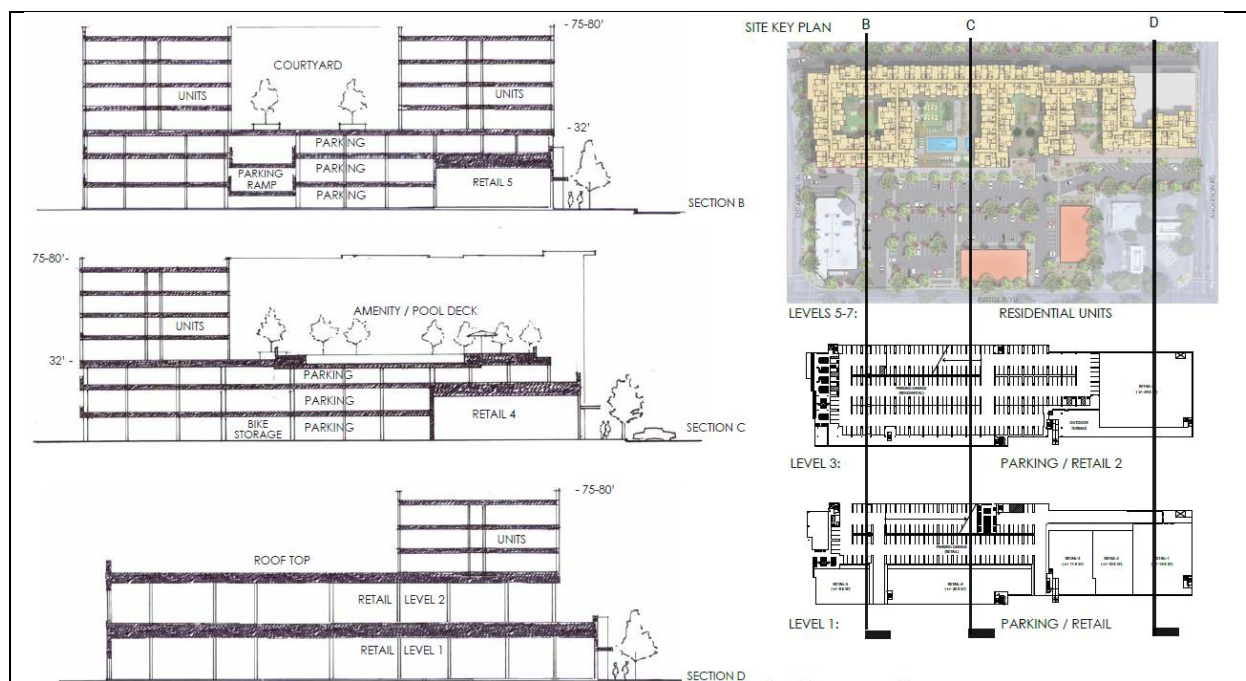
The percentage of 4-bedroom units, which is limited to a maximum of 45% of the total units, remains the same as previously proposed. Revisions to the mix and bed distribution could result

in adjustments to the units and bedrooms, which would be subject to review for consistency with applicable project approvals.

### Building Height and Stories

The University Commons Project would replace the existing shopping center building with a new multi-story, mixed use building. It would be up to 80 feet tall and consist of 5 to 7 levels for the parking structure, retail, and residential uses. City Council comments requested clarifications on the number of stories, information on the height of other multi-story buildings in the vicinity, consideration of the height concerns and ability to reduce the number of stories, step back upper floors, or relocate units, and particular attention to the north elevation.

As provided in the figure below, which shows the building sections, the number of levels or floors varies across the building. It ranges from 5 levels consisting of 2 retail levels with 3 residential levels above to 7 levels consisting of 3 parking levels with 4 residential levels above. However, the overall building height remains the same at approximately 80 feet. A description of the building height is 4 residential levels located over a retail podium.



**Building Sections and Heights**

As already noted, details of the site layout and building architecture is required as part of the subsequent entitlements for review. The design concept for the main south-facing elevation incorporates architectural elements that break up the building, but concerns were expressed particularly about the north elevation. Additional language to provide guidance has been added as a special condition in the PD Rezoning Ordinance. It requires four-sided architecture, articulation, and offsets to ensure that adequate attention is paid to the issue. The requirement in the proposed PD is as follows:

The building design shall have four-sided architecture and shall incorporate design elements to create visual interest, reduce building massing, and avoid long unbroken wall planes, through measures including, but not limited to, building recesses and offsets, articulation, fenestration, overhangs, and material changes. The building's horizontal wall plane shall provide a building break or offset a minimum of every 100 feet, including on the north elevation.

Supplemental information and exhibits from the applicant in Attachment 7 include conceptual elevations. One of the conceptual drawings is provided below and shows possible design strategies that break up the north elevation wall.



All drawings referenced are conceptual in nature and not intended to be the final design.

**Conceptual North Elevation looking Southwards**

The applicant has looked at the possibility of eliminating floors, reducing the height, stepping back upper floors, or relocating units onto the freestanding buildings, but determined that it is not feasible for their mixed use project. Supplemental exhibits included in Attachment 7 compare the height of the proposed building to the approved 7-story Davis Live building, which is comparable in height. It also includes photosimulations of the building with various sight line views from different sides. Two of the view angles are provided below and include the view from Davis Medical Center north of the site and the view from Sycamore and Hawthorn Lane northwest of the site. The exhibits show that the project is visible from the surrounding area, but is obscured by trees and distance and can be designed to avoid a wall effect.





**Conceptual View from Davis Medical Center**



**Conceptual View from Sycamore and Hawthorne Lane**

### **Public Spaces and Gathering Areas**

The retail component of the University Commons Mixed Use Project includes plazas and gathering areas throughout the site. City Council comments asked about the provision of common areas, increased green spaces, or public plazas for the general public to serve as a community hub. The applicant heard the comments, but to accommodate the retail development, and in providing parking, circulation, landscaping, and other site improvements they were unable to expand or add public spaces. The applicant did not believe that there was enough focus on the

common areas in the project materials that were previously provided and has prepared supplemental exhibits identifying gathering areas and potential amenities, which are included as part of Attachment 7. The exhibits call out the public spaces provided throughout the site and show conceptual ground level views of potential designs and uses of the various gathering areas for the businesses and public. The gathering areas are generally adjacent to the retail areas but also includes a larger plaza area near Russell Boulevard. The overall exhibit and one of plaza concepts is shown below.



**Site Exhibit of Plaza Areas**



**Example Concept for One of the Plaza Areas**



## Site Access

City Council comments addressing site access asked for clarification about the driveways, access, and movements. The project retains the existing driveways on Sycamore Lane and Russell Boulevard and eliminates the middle driveway on Anderson Road. Elimination of the driveway still leaves two driveways on Anderson Road, not including driveways serving the ARCO gas station site. Site access and circulation for the project was reviewed by Fehr and Peers. Their findings and recommendations are included in a technical memo: [Site Access and Circulation Review Memo](#). The EIR analysis also accounted for the driveway changes.

Mitigation Measure 4.6-8(b) addresses design hazards and identifies several measures to reduce vehicle queuing at the driveway, which include:

### Southern Sycamore Lane Driveway

- Parking stalls along the Retail 6 frontage shall be eliminated; and
- Exclusive outbound left-turn and right-turn lanes shall be provided.

### Southern Anderson Road Driveway

- Parking stalls along the Retail 1, 2, and 3 frontages shall be angled.

### Western Russell Boulevard Driveway

- The drive aisle shall be aligned north into the parking garage, shifted further east into the project site to provide additional throat depth for the southern Sycamore Lane driveway, and access for the southernmost east-west drive aisle shall be closed off to/from the west (opposite the Trader Joe's loading dock).

The University Commons Project Final EIR (page 1-3) noted the following revisions, which the applicant incorporated in the current site plan in accordance with the recommendations from Fehr and Peers and the above mitigation measure.

- The proposed parking stalls along the drive aisle to the north of the Trader Joe's building have been eliminated;
- Exclusive outbound left-turn and right-turn lanes are now proposed at the southern Sycamore Lane driveway;
- The parking stalls in front of the proposed retail development within the eastern portion of the site have been angled in order to limit parking to vehicles travelling east to west only;
- Both Russell Boulevard driveways have been aligned with the proposed parking garage entry, and the drive aisle has been adjusted to allow for more vehicle stacking at the driveway entrances to reduce vehicle backup issues;

Overall, access to and from the site is adequate and on-site circulation has been improved with incorporation of the recommendations, including exclusive outbound left-turn and right-turn lanes onto Sycamore Lane. Elimination of the middle Anderson Road driveway has benefits to bicycle and pedestrians by reducing the number curb cuts and potential conflicts. Left turn movements onto Anderson Road can still be made from the northerly driveway.

### Bicycle Access

The existing Sycamore/Russell intersection and Anderson/Russell/La Rue intersection are heavily used by pedestrians and bicyclists and are evaluated in the EIR. It identified intersection issues and potential improvements, but did not require specific design measures. Instead, design concepts for those intersections would be explored as part of the Russell Boulevard Corridor Study, which is getting underway. However, Mitigation Measures 4.6-2(a),(b), and (c) are required for implementation by the applicant and address bicycle-related improvements to bike lanes on the adjacent roadways and construction of a shared-use path or protected bicycle lane on the Russell Boulevard frontage. As noted, the existing project driveways are largely unchanged and will still provide overall access, but certain improvements to the driveway designs, added driveway lanes, and elimination of the middle driveway at Anderson Road help to separate and clarify movements and reduce potential conflicts. The requirement for a shared path or bicycle lane on the Russell Boulevard frontage, where currently there is none, provides the most noticeable benefit for bicycle access to the site. The required mitigation measures and these other project improvements will enhance overall bicycle access and safety to and around the project site.

### **Parking and TDM**

City Council comments on parking and transportation demand management (TDM) explored options for additional parking solutions and strategies and to reduce vehicle trips. They included comments about stacked parking, subsidizing transit passes, additional Zip Car spaces, more robust TDM, or other ideas.

By virtue of its mix of land uses, short distance from major activity centers (e.g., UC Davis), and the surrounding multi-modal transportation system, the University Commons project inherently features several transportation demand management (TDM) elements that encourage use of non-motorized modes of transportation. As such, as described in the University Commons EIR, the vehicle miles traveled (VMT) per capita generated by the project would be substantially less than that generated by existing development within the City. Furthermore, Mitigation Measure 4.2-3(a) identifies potential GHG reduction measures which could include TDM program in accordance with Municipal Code Section 22.15. In general, TDM strategies that could further reduce vehicle travel associated with the residential and commercial components of the University Commons project include:

#### **Residential Component**

- Establishment of carsharing program, along with full or partial parking subsidies and/or preferential parking locations for carsharing vehicles.
- Parking management strategies including limiting parking supply, charging parking fees, unbundling parking costs, and providing parking cash-out programs.
- Enhancements to the capacity, quality, and coverage of transit serving the project site.
- Enhancements to the active transportation system serving the project site.
- Enhancements to on-site bicycle storage and circulation amenities.
- Bike purchase incentives, maintenance programs, and on-site education program.

#### **Commercial Component**

- Employee cash allowances, passes, or other public transit subsidies and purchase incentives.

- Employee guaranteed ride home program.
- Parking management strategies including limiting parking supply and charging parking fees.
- Enhancements to the capacity, quality, and coverage of transit serving the project site.
- Enhancements to the active transportation system serving the project site.
- Enhancements to on-site bicycle storage and circulation amenities.

The residential strategies described are largely incorporated and proposed by the project. There is less control over the businesses and commercial component. The existing multimodal network around the site and proposed transportation improvements will increase the general quality and capacity. Should a TDM program be implemented, other direct strategies can be considered. The project currently includes a Parking Management Plan provided as Exhibit H of the Development Agreement. It details the fees and access for the residential parking and overall management and enforcement of parking on the site. Additional language has been added about parking monitoring and consultation with the City in the event of problems with the on-site parking.

The applicant has committed to providing at least one carshare space on the site. Two existing Zip Car spaces are currently located on the public street in front of the site. The provision for additional car share spaces in public spaces would be based on demand determined by Zip Car in coordination with the Public Works Department and can be explored independent of this project. However, additional provision of spaces, mechanical stacked spaces, or other subsidies were not deemed feasible by the applicant.

### **Traffic Model**

City Council comments on the traffic model requested clarification on whether the analysis took into account the effect that building local housing would have on local trips. Future traffic volumes for the University Commons EIR were estimated using the City of Davis/UC Davis travel demand model. The travel demand model includes all planned, approved, and under construction development within the City of Davis and on the UC Davis campus. The travel demand model also includes all reasonably foreseeable local and regional transportation system projects. The travel demand model estimates vehicle trips on the roadway network by matching trip attractions (e.g., commercial land uses, schools, activity centers, etc.) with trip productions (e.g., residential land uses) located in Davis and surrounding communities.

Today, local trip attractions exceed trip productions, resulting in a substantial share of vehicle trips that are imported from outside of Davis. New residential development within Davis would increase local trip productions and improve the balance of local trip productions and trip attractions, thereby internalizing a greater share of travel activity within Davis. Relative to external trips, internal trips utilize less transportation system capacity (by virtue of traveling shorter distances) and have a higher likelihood of being completed by non-motorized modes of transportation such as walking, bicycling, and transit. These factors were considered in the travel demand forecasting completed for the University Commons EIR.

New residential development would also increase the total amount of travel activity within Davis. Generally, this would result in increased travel activity on transportation facilities serving



development sites. To the extent that new residential development enables local employees, students, etc. to live in Davis instead of outside of Davis, it could decrease travel activity at nodes to the regional transportation system, such as freeway interchanges.

### **Fiscal Benefits and Development Scenarios**

There were comments requesting information on the existing conditions and fiscal impact of other development scenarios. Information is provided below.

#### Existing Conditions

Currently Yolo County assesses the structure at \$20.5 million. The City receives a tax share of 21.1282% or \$43,869 annually in property taxes. In 2019, the City collected \$35,174 in sales tax at University Mall. In 2017, the City collected over \$113,000 in sales tax. Both sales tax number exclude Trader Joe's.

#### Proposed Project: 264 unit 894 beds and retail

As provided in the July 21, 2020 staff report to City Council, the University Common project is anticipated to be revenue positive according to the fiscal model analysis. The project will contribute property taxes to the City's General Fund based on the value of the property. The property tax revenue for this project is projected to be \$6.7 million over 15-years with a valuation of \$190 million and a tax rate share of 21.1282%. Sales tax revenue collected by the City over 15-years is estimated at \$2.9 million. Over a 15-year period, the project is projected to contribute \$16.4 million in revenue projections while expensing \$11.8 million in expenditures.

The fiscal model was also applied to the following two project scenarios. Although neither scenario is proposed by the applicant and does consider development feasibility, it provides information for comparison purposes. It demonstrates that while the fiscal benefit would be less than the proposed project, the scenarios for a retail only and for a smaller mixed use project would still result in a net benefit to the City.

#### Scenario #1: No residential units retail only

A speculative retail only project scenario is anticipated to be revenue positive according to the fiscal model analysis. The property tax revenue is estimated to be \$1.1 million over 15-years with a valuation of \$33 million. Property tax is net of current assessed valuations. Sales tax revenues are estimated to be \$2 million over 15 years. Sales tax is net of currently collected City sales tax. Over a 15-year period, the retail only scenario is estimated to contribute \$5 million in revenue projections while expensing \$1.8 million in expenditures. The total net benefit to the City is projected at \$3.1 million.

#### Scenario #2: Residential 53 units or 180 beds and retail

A speculative smaller mixed use project scenario is anticipated to be revenue positive according to the fiscal model analysis. The property tax revenue is estimated to be \$2 million over 15-years with a valuation of \$59 million. Property tax is net of current assessed valuations. Sales tax revenues are estimated at \$2.2 million over 15 years. Sales tax is net of current City revenues. Over a 15-year period, the smaller project scenario is estimated to contribute \$7.2 million in revenue projections while expensing \$3.7 million in expenditures. The total net benefit to the City is projected at \$3.4 million.

### **Sales Tax Payment**

There was a comment about potentially including a provision in the Development Agreement that would guarantee a baseline level of sales tax payments would be provided to the City. Staff discussed this with the applicant who noted that they are a major company with a retail focus and that as a longtime owner of the mall, they are specifically looking to reinvest in order to reinvigorate the retail business to meet the needs and demands of the retail marketplace today and tomorrow. The applicant noted that adding an additional monetary commitment of a sales tax guarantee is not something that they would be willing to accept and hope that their redevelopment proposal that expands the retail space shows their shared interest in increasing the volume of taxable goods sold by merchants at the center.

### **Tree Standards**

There was a comment addressing applicable tree standards for the project and referencing requirements from the Davis Innovation and Sustainability Campus (DISC). The University Commons Mixed Use Project is subject to City landscaping and tree preservation requirements. The subsequent Final Planned Development and Design Review application would include preparation of a preliminary landscape plan. In addition, the applicant has reviewed the tree commitments from the DISC project. Although the University Commons site would be a heavily developed infill site and does not have open space and greenery of a large project like DISC, the applicant has added tree-related requirements as Exhibit J of the Development Agreement. Commitments include shading requirements, best practices for tree planting, and maintenance and monitoring of on-site trees.

### **Statement of Overriding Considerations**

There was a comment that suggested adding language to the Statement of Overriding Considerations to address the fiscal and economic benefits of the project. Additional language has been incorporated in the Statement of Overriding Considerations included in Attachment 1.

## **PUBLIC COMMENTS**

Two additional written public comments were received since the July 21, 2020 meeting. They include a comment from a Davis resident opposed to the project and a comment letter from SACOG in support of the project. The comments are provided in Attachment 8.

## **CONCLUSION**

Staff believes that the University Commons Mixed Use Project is consistent with the City's policies for land use, transportation, economic development, and sustainability. It reinvests in an aging shopping center to reinvigorate its economic productivity, provides needed housing at an ideal infill location that supports multimodal transportation and reduces VMT, incorporates affordable housing provisions, and creates a more environmentally and economically sustainable development for the benefit of the community and neighborhood.

Nevertheless, the City Council should consider in their decision the concerns expressed by the community, the recommendation by the Planning Commission, as well as the responses by the applicant for provision of affordable housing and the limitation on the number of large bedroom units. Should the City Council choose to approve the University Commons Mixed Use Project, the necessary findings and approval documents for the project entitlements and environmental review are attached.

If the project is approved and includes any further adjustments, the PD Rezoning Ordinance and DA Ordinance would be revised accordingly for the second reading.

## **ATTACHMENTS**

- 1.** Resolution Certifying the University Commons Project EIR and adopting:
  - A. Findings of Fact and Statement of Overriding Considerations
  - B. Mitigation Monitoring and Reporting Plan
- 2.** Resolution of Intent to Amend the City of Davis General Plan for the University Commons Project
- 3.** Ordinance Rezoning 737-885 Russell Boulevard to Preliminary Planned Development (PD) #03-18 (University Commons)
- 4.** Findings and Conditions of Approval of Demolition #11-18 for the University Commons Project
- 5.** Ordinance Approving the Development Agreement for the University Commons Project
- 6.** Development Agreement, with redline changes of the version presented to City Council on July 21, 2020
- 7.** Supplemental Comments and Information Letter from Applicant, August 10, 2020
- 8.** Additional Public Comments

# **ATTACHMENT 1**

## **RESOLUTION NO. 20-\_\_\_\_\_, SERIES 2020**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAVIS CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE UNIVERSITY COMMONS PROJECT AND ADOPTING CEQA FINDINGS OF FACT, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PLAN**

**WHEREAS**, the subject project known as the "University Commons Project" is located on approximately 8.25 acres of land located at 737-885 Russell Boulevard, within the incorporated boundary of the City of Davis (APN: 034-253-007); and

**WHEREAS**, an Environmental Impact Report (EIR) was prepared and analyzed the environmental effects associated with demolition of 90,563 square feet of existing retail buildings and improvements on the site and construction of a mixed use redevelopment project consisting of 264 units with 622 bedrooms and 894 beds, 136,800 square feet of retail space, a 3-level parking structure, and site improvements; and

**WHEREAS**, the Final Environmental Impact Report (SCH #2018112044) consisting of the Draft EIR, responses to comments, edits, clarifying information, erratum, and mitigation monitoring and reporting plan was prepared and processed pursuant to the California Environmental Quality Act (CEQA; Public Resources Code § 21000 et seq.) (the "Final EIR"); and

**WHEREAS**, an Initial Study was prepared and a Notice of Preparation was circulated for a 30-day public review and comment period commencing on November 16, 2018; and

**WHEREAS**, a public scoping meeting was held December 5, 2018 to receive comments on the appropriate scope of the EIR; and

**WHEREAS**, the Draft EIR was circulated for a 45-day public review and comment period commencing November 6, 2019 and concluding December 20, 2019; and

**WHEREAS**, Section 21000 et. seq. of the Public Resources Code and Section 15000 et. seq. of Title 14 of the California Code of Regulations (CEQA Guidelines) which govern the preparation, content, and processing of environmental impact reports, have been fully implemented in the preparation of the EIR; and

**WHEREAS**, the University Commons Project is eligible for streamlining under SB 375 which provides for CEQA streamlining for projects consistent with a regional Sustainable Communities Strategy (SCS) adopted by a Metropolitan Planning Organization; and

**WHEREAS**, the Final EIR documents with comments received and responses to comments were released May 13, 2020 including notification to all public agencies that commented on the Draft EIR in satisfaction of CEQA Guidelines Section 15088(b); and

**WHEREAS**, the Final EIR identified and evaluated certain significant and potentially significant adverse effects on the environment caused by the project relative to air quality, biological resources, cultural resources, GHG emissions, hazardous materials, hydrology, noise, and transportation impacts and incorporated appropriate mitigation measures. The Final EIR identified significant and unavoidable impacts related to transportation, which requires adoption of a statement of overriding considerations and all other impacts were determined to be less than significant or less than significant with mitigation; and

**WHEREAS**, between the public scoping meeting and date of final action, city commission meetings were held by the Planning Commission, Historic Resources Management Commission, and Bicycle, Transportation, and Street Safety Commission, to consider the proposed project and provide comments or recommendations regarding the environmental review, components of the project, or the final action; and

**WHEREAS**, on May 27, 2020, the Planning Commission held a duly noticed public hearing to review the adequacy of the EIR and merits of the project and rejected approval of the project and certification of the EIR; and

**WHEREAS**, on July 21, 2020 and August 18, 2020, the City Council held a duly noticed public hearing and reviewed the Final EIR prepared for the project, the staff reports pertaining to the Final EIR, the Planning Commission hearing minutes or comments, reports, and all evidence received by the Planning Commission and at the City Council hearings, all of which documents and evidence are hereby incorporated by reference into this Resolution; and

**WHEREAS**, the City Council specifically finds that where more than one reason for approving the project and rejecting alternatives is given in its findings or in the record, and where more than one reason is given for adopting the Statement of Overriding Considerations, the Council would have made its decision on the basis of any one of those reasons; and

**WHEREAS**, the City Council desires, in accordance with CEQA, to declare that, despite the occurrence of significant environmental effects that cannot be substantially lessened or avoided through the adoption of feasible mitigation measures or feasible alternatives, there exist certain overriding economic, social, and other considerations for approving the project that the Council believes justify the occurrence of those impacts; and

**WHEREAS**, the City Council is required pursuant to CEQA (Guidelines Section 15021), to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any significant environmental effects keeping in mind the obligation to balance a variety of public objectives; and

**WHEREAS**, CEQA (Guidelines Section 15043) affirms the City Council's authority to approve this project even though it may cause significant effects on the environment so long as the Council makes a fully informed and publicly disclosed decision that there is no feasible way to lessen or avoid the significant effects (Guidelines Section 15091) and that there are specifically identified expected benefits from the project that outweigh the policy of reducing or avoiding significant environmental impacts of the project (Guidelines Section 15093).

**NOW, THEREFORE BE IT RESOLVED** that the City Council of the City of Davis does hereby approve as follows:

1. Findings of Fact and Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan of this Resolution provide findings required under Section 15091 of the CEQA Guidelines for significant effects of the project. The City Council hereby adopts these various findings of fact, attached hereto as Exhibits A and B.
2. Exhibit A of this Resolution provides the findings required under Section 15093 of the CEQA Guidelines relating to accepting adverse impacts of the project due to overriding considerations. The City Council has balanced the economic, legal, social, technological, and other benefits of the project against the unavoidable environmental risks that may result, and finds that the specific economic, legal, social, technological, and other benefits outweigh the unavoidable adverse environmental effects. The City Council, therefore, finds the adverse environmental effects of the project to be "acceptable". The City Council hereby adopts the Statement of Overriding Considerations contained within Exhibit A.
3. The City Council has determined that the project is consistent with the Sacramento Area Council of Governments Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) pursuant to SB 375, complies with the requirements of Section 21159.28, 21155.2, and 21099 of CEQA Guidelines and is eligible for CEQA streamlining benefits as a qualifying "transit priority project" and "residential or mixed-use residential project."
4. After considering the EIR and in conjunction with making these findings, the City Council hereby finds that pursuant to Section 15092 of the CEQA Guidelines that approval of the project will result in significant effects on the environment, however, the City eliminated or substantially lessened these significant effects where feasible, and has determined that remaining significant effects are found to be unavoidable under Section 15091 and acceptable under Section 15093.
5. The City Council has considered alternatives to the Project and finds based on substantial evidence in the record that the Project is the best alternative that can be feasibly implemented in light of relevant economic, legal, social, technological, and other reasons, as discussed herein. The City Council hereby rejects all other alternatives, and combinations and variations, thereof.
6. Responses to comments received on the Draft EIR adequately addressed the comments and minor additions and clarifications were provided, but did not result in any significant new information requiring recirculation of the EIR pursuant to Section 15088.5.
7. These findings made by the City Council are supported by substantial evidence in the record, which is summarized herein.

8. The Mitigation Monitoring and Reporting Plan, attached hereto as Exhibit B, is hereby adopted to ensure implementation of feasible mitigation measures identified in the EIR. The City Council finds that these mitigation measures are fully enforceable conditions on the project and shall be binding upon the City and affected parties.
9. The City Council finds that the project is consistent with the General Plan (including all elements), and that approval of the project is in the public interest and is necessary for the public health, safety, and welfare.
10. The City Council hereby certifies the Final EIR in accordance with the requirements of CEQA.
11. A Notice of Determination shall be filed immediately after final approval of the project.
12. Pursuant to CEQA Guidelines Section 15095, staff is directed as follows:
  - a) A copy of the Final EIR and CEQA Findings of Fact shall be retained in the project files with the City of Davis Department of Community Development and Sustainability;
  - b) A copy of the Final EIR and CEQA Findings of Fact shall be provided to the project applicant who is responsible for providing a copy of same to all CEQA "responsible" agencies.

**PASSED AND ADOPTED** by the City Council of the City of Davis on this 18<sup>th</sup> day of August 2020, by the following vote:

AYES:

NOES:

ABSENT:

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Gloria J. Partida  
Mayor

ATTEST:

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Zoe S. Mirabile, CMC  
City Clerk

**EXHIBIT A**  
**Findings of Fact and**  
**Statement of Overriding Considerations**

**AND**

**EXHIBIT B**  
**Mitigation Monitoring and Reporting Plan**



# FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

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## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION FOR THE UNIVERSITY COMMONS PROJECT

REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT  
(Public Resources Code, Section 21000 et seq)

### I. INTRODUCTION

The California Environmental Quality Act (CEQA) requires the City of Davis (City), as the CEQA lead agency to: 1) make written findings when it approves a project for which an environmental impact report (EIR) was certified, and 2) identify overriding considerations for significant and unavoidable impacts identified in the EIR.

These findings explain how the City, as the lead agency, approached the significant and potentially significant impacts identified in the EIR prepared for the University Commons Project (proposed project). The statement of overriding considerations identifies economic, social, technological, and other benefits of the proposed project that override any significant environmental impacts that would result from the proposed project.

As required under CEQA, the EIR describes the proposed project, adverse environmental impacts of the proposed project, and mitigation measures and alternatives that would substantially reduce or avoid those impacts. The information and conclusions contained in the EIR reflect the City's independent judgment regarding the potential adverse environmental impacts of the proposed project.

The EIR for the proposed project examined the following alternatives to the proposed project that were not chosen as part of the approved project:

- No Project Alternative;
- Retail Project Only Alternative;
- Existing Zoning Mixed Use Build Out Alternative; and
- Low Parking Alternative.

The Findings of Fact set forth below ("Findings") are presented for adoption by the City Council (Council) as the City's findings under CEQA (Public Resources Code, §21000 et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, § 15000 et seq.) relating to the proposed project. The Findings provide the written analysis and conclusions of this Council regarding the proposed project's environmental impacts, mitigation measures, and alternatives to the proposed project.

## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

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With respect to a project for which significant impacts are not mitigated to a less-than-significant level, a public agency, after adopting proper findings, may nevertheless approve the proposed project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the proposed project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The California Supreme Court has stated, "[t]he wisdom of approving any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (Citizens of Goleta Valley v. Board of Supervisors, 216 Cal. App 3d (1989), at p. 576.) The EIR for the University Commons Project concluded the proposed project would create significant and unavoidable impacts with regard to Transportation and Circulation; thus, a Statement of Overriding Considerations is required. The Statement of Overriding Considerations set forth below, in this Council's view, justify approval of the proposed project, despite its environmental effects.

## II. GENERAL FINDINGS AND OVERVIEW

### Procedural Background

The City of Davis circulated a Notice of Preparation (NOP) for the Draft EIR on November 16, 2018 to trustee agencies, the State Clearinghouse (SCH#: 2018112044), and the public. As an attachment, the NOP included an Initial Study (IS), which was prepared for the proposed project. A scoping meeting was held on December 5, 2018 in the City of Davis for the purpose of informing the public and receiving comments on the scope of the environmental analysis to be prepared for the proposed project. The NOP and comments received during the NOP comment period are presented in Appendix B and D, respectively, of the Draft EIR, while the IS prepared for the proposed project is included as Appendix C of the Draft EIR.

The City of Davis published a public Notice of Availability (NOA) for the Draft EIR on November 6, 2019, inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse and the County Clerk, was posted on the City's website, and was mailed to surrounding properties pursuant to the public noticing requirements of CEQA. The Draft EIR was available for public review and comment from November 6, 2019 through December 20, 2019.

The Draft EIR contains a description of the proposed project, description of the environmental setting, identification of project impacts, and mitigation measures for impacts found to be significant, as well as an analysis of project alternatives, identification of significant irreversible environmental changes, growth-inducing impacts, and cumulative impacts. The Draft EIR identifies issues determined to have no impact or a less-than-significant impact, and provides detailed analysis of significant impacts. Comments received in response to the NOP were considered in preparing the analysis in the Draft EIR.

The City received 41 comment letters regarding the Draft EIR from public agencies, organizations, and members of the public during the public comment period. In addition, verbal comments were received during the November 14, 2019 Bicycle, Transportation, and Street Safety Commission meeting, as well

## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

as during the December 11, 2019 Planning Commission meeting. In accordance with CEQA Guidelines Section 15088, a Final EIR was prepared that responded to the written comments received. The Final EIR document and the Draft EIR, as amended by the Final EIR, constitute the Final EIR.

### Record of Proceedings and Custodian of Record

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City's findings and determinations consists of the following documents and testimony, at a minimum:

- The NOP, IS, comments received on the NOP, NOA, and all other public notices issued by the City in relation to the University Commons Project Draft EIR.
- The University Commons Project Final EIR, which consists of the Draft EIR, comment letters on the Draft EIR, responses to comments, revisions made to the Draft EIR text, Mitigation Monitoring and Reporting Program, and technical materials cited in the document.
- All non-draft and/or non-confidential reports and memoranda prepared by the City of Davis and consultants in relation to the EIR.
- Minutes of the discussions regarding the proposed project and/or project components at public hearings held by the City.
- Staff reports associated with Planning Commission and City Council meetings on the proposed project.
- Those categories of materials identified in Public Resources Code Section 21167.6.

The City Clerk is the custodian of the administrative record, including the record of proceedings described above. The documents and materials that constitute the administrative record are available for review at the City of Davis Office of the City Clerk at: 23 Russell Boulevard, Suite 1, Davis, CA 95616.

### Consideration of the Environmental Impact Report

In adopting these Findings, this Council finds that the Final EIR was presented to this Council, the decision-making body of the lead agency, which reviewed and considered the information in the Final EIR prior to approving the University Commons Project. By these findings, this City Council ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the Final EIR. The City Council finds that the Final EIR was completed in compliance with CEQA. The Final EIR represents the independent judgment and analysis of the City.

### SEVERABILITY

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the University Commons Project, shall continue in full force and effect unless amended or modified by the City.

### III. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS

#### A. TRANSPORTATION AND CIRCULATION

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##### 1. IMPACTS TO BICYCLE FACILITIES UNDER EXISTING PLUS PROJECT CONDITIONS (EIR IMPACT 4.6-2).

- (a) Potential Impact. The potential for the proposed project to cause a substantial adverse impact to bicycle facilities under Existing Plus Project conditions is discussed on pages 4.6-43 through 4.6-53 of the Draft EIR.
- (b) Findings. Significant and unavoidable with mitigation incorporated. Changes or alterations have been required in, or incorporated into, the proposed project which attempt to avoid or substantially lessen this significant environmental effect as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). However, the impact would still remain significant and unavoidable. Specific economic, legal, social, technological, or other considerations, as identified in the EIR, make infeasible additional mitigation measures or project alternatives identified in the EIR. (State CEQA Guidelines, Section 15091(a)(3).)
- (c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds impacts related to bicycle facilities under Existing Plus Project conditions cannot be mitigated to a less-than-significant level. As discussed in the Draft EIR, project bicycle trips would be routed through nearby existing bicycle facilities, particularly the bike lanes on Sycamore Lane and Anderson Road, the shared-use paths on the south side of Russell Boulevard and the west side of La Rue Road, and crossing facilities at the Russell Boulevard/Sycamore Lane and Russell Boulevard/Anderson Road/La Rue Road intersections. The aforementioned facilities currently experience very high levels of peak hour bicycle and pedestrian volumes and when combined with the dimensions of path and crossing facilities results in crowding, which degrades the performance of the facilities for both bicyclists and pedestrians. Worsened crowding could result in increased competition for physical space between the modes, which in turn could increase the potential for conflicts, including conflicts involving bicyclists, and further degrade the performance of bicycle facilities.

While the proposed project would not conflict with implementation of any planned bicycle facilities within the site vicinity, the additional bicycle traffic associated with the proposed project could increase the potential for bicycle-vehicle or bicycle-pedestrian conflicts and a significant impact could occur.

Mitigation Measure(s). The following mitigation measures are prescribed to mitigate the impact:

## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

4.6-2(a) Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall implement modifications to improve the southbound bike lane approach at the Russell Boulevard/Sycamore Lane intersection to reduce the potential for bicycle-vehicle conflicts, to the satisfaction of the City Engineer. Improvements shall either physically separate bicyclists and vehicles, or more clearly demarcate the existing bicycle-vehicle mixing zone if the City is unable to physically separate bicyclists and vehicles. Potential improvement alternatives include (but shall not be limited to):

1. Switch the placement of the southbound right-turn lane and the bike lane. Consistent with CAMUTCD standards (for a bicycle facility adjacent to a right-turn lane), such a configuration would place a Class IV separated bikeway immediately against the curb, enabling bicyclists to queue against the curb prior to crossing during the exclusive bicycle crossing signal phase (during which southbound right-turns for vehicles are prohibited). This configuration would eliminate the need for southbound bicyclists to weave across vehicular traffic at the intersection approach. The configuration shall include vertical separation between the bikeway and the right-turn lane, consistent with standard Class IV separated bikeway design.
2. Highlight the existing bicycle-vehicle mixing zone with additional pavement markings (e.g., green skip pavement markings) and warning signage.

4.6-2(b) Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall implement modifications to improve the southbound bike lane approach at the Russell Boulevard/Anderson Road/La Rue Road intersection to reduce the potential for bicycle-vehicle conflicts, to the satisfaction of the City Engineer. Improvements shall more clearly demarcate the existing bicycle-vehicle mixing zone. Potential improvement alternatives include highlighting the existing bicycle-vehicle mixing zone with additional pavement markings (e.g., green skip pavement markings) and warning signage. Implementation of such improvements, or an improvement of equal effectiveness, would enhance the southbound bike lane approach at the Russell Boulevard/Anderson Road/La Rue Road intersection and reduce the potential for conflicts between bicyclists and vehicles.

4.6-2(c) The project applicant shall implement one of the following options prior to issuance of certificates of occupancy, with the bicycle facility and final design to be determined by the City Engineer and the City Traffic Engineer as follows:

Option A: Off-Street Shared-use Path. Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall construct an off-street shared-use path on the north side of Russell Boulevard between Sycamore

## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

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Lane and Anderson Road along the project site frontage, generally along the alignment of the existing sidewalk. The path may need to be widened into the existing roadway (i.e., into the parking lane) due to right-of-way constraints such as existing trees and driveways (e.g., along the ARCO gas station frontage). The new path shall be sufficiently sized to prevent crowding and minimize the potential for conflicts between bicyclists and pedestrians. The City of Davis 2016 Street Design Standards specifies a shared-use path width of 12 feet for arterial roadways, with two-foot wide all-weather shoulders on either side of the path where sufficient space exists to accommodate the standard. The City may determine that a narrower shared path, split path, combination, or alternative path design is acceptable in instances where right-of-way or design constraints, preservation of existing trees, or other considerations would limit the ability to implement the standard path width and design.

Option B: Protected Bike Lane/Cycle Track. Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall construct a protected bike lane on the north side of Russell Boulevard, between Sycamore Lane and Anderson Road along the project site frontage.

- 4.6-2(d) Consistent with cumulative Mitigation Measure 4.6-9, prior to the occupancy of the project, the project applicant shall contribute funding to cover their proportionate cost of bicycle improvements to the Russell Boulevard/Anderson Road/La Rue Road intersection as determined by the City Engineer in an amount that considers the project's impact on the intersection. The funding shall be submitted to the City of Davis. Given the multi-modal nature of the intersection and future improvements, fair share calculations should consider all modes of transportation utilizing the intersection.

Modifications to improve crossings at the Russell Boulevard/Anderson Road/La Rue Road intersection shall be implemented to reduce the potential for bicycle-bicycle, bicycle-pedestrian, pedestrian-vehicle, and bicycle-vehicle conflicts. Because intersection modifications would affect right-of-way on the UC Davis campus, the City shall coordinate with UC Davis to identify the ultimate modifications. Improvements shall, to the extent feasible, physically separate bicyclists, pedestrians, and vehicles and reduce bicycle crossing distances and exposure time. Potential improvement alternatives include (but are not limited to):

1. For all intersection crosswalks, widen crosswalks to increase the capacity for crossing bicyclists and pedestrians and reduce the frequency of meeting and passing events that diminish the performance of the crosswalks.
2. Reconfigure the intersection into a protected intersection with corner refuge islands, setback crossings, and exclusive bicycle and pedestrian crossing phases (i.e., vehicles would not be permitted to turn on red

## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

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during this phase). For all intersection crosswalks, physically separate bicyclists and pedestrians by installing special pavement treatment or striping to clearly demarcate pedestrian and bicycle crossing zones, increase the capacity for crossing bicyclists and pedestrians, and reduce the frequency of meeting and passing events that diminish the performance of the crossings. This alternative would also include the removal of the eastbound and northbound channelized right-turn lanes.

- 4.6-2(e) Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall contribute funding to cover their proportionate cost of improvements to the shared-use path on the south side of Russell Boulevard between Sycamore Lane and the UC Davis softball field; the project's proportionate cost shall be determined by the City Engineer in an amount that considers the project's impact on the intersection. The funding shall be submitted to the City of Davis. The City shall negotiate funding contributions with UC Davis as part of the City's Corridor Plan process. Path improvements shall reduce the potential for bicycle-bicycle and bicycle-pedestrian conflicts, to the satisfaction of the City Engineer. Potential improvement alternatives include (but are not limited to):

1. Widen the existing shared-use path to accommodate bicyclists and pedestrians within a shared facility. Consider installing special pavement treatment or striping to clearly demarcate pedestrian and bicycle zones.
2. Physically separate bicyclists and pedestrians by constructing a new pedestrian pathway parallel to the existing shared-use path.
3. Install pedestrian-scale lighting to improve visibility.

- 4.6-2(f) Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall contribute funding to cover their proportionate cost of improvements to the shared-use path on the south side of Russell Boulevard between Anderson Road and the bicycle roundabout near Primero Grove; the project's proportionate cost shall be determined by the City Engineer in an amount that considers the project's impact on the intersection. The funding shall be submitted to the City of Davis. The City shall negotiate funding contributions with UC Davis as part of the City's Corridor Plan process. Path improvements should reduce the potential for bicycle-bicycle and bicycle-pedestrian conflicts, to the satisfaction of the City Engineer. Potential improvement alternatives include (but are not limited to):

1. Widen the existing shared-use path to accommodate bicyclists and pedestrians within a shared facility. Consider installing special pavement treatment or striping to clearly demarcate pedestrian and bicycle zones.
2. Physically separate bicyclists and pedestrians by constructing a new pedestrian pathway parallel to the existing shared-use path.
3. Install pedestrian-scale lighting to improve visibility.

## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

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Implementation of Mitigation Measures 4.6-2(a) through 4.6-2(f) would reduce significant impacts associated with bicycle facilities to a less-than-significant level by supporting bicycling to and from the project site and minimizing conflicts between bicycles and other travel modes. However, elements of Mitigation Measures 4.6-2(d), 4.6-2(e), and 4.6-2(f) would occur within UC Davis right-of-way and would be subject to final approval and actions by UC Davis. Given that the required improvements are outside of the City's jurisdiction, the City, as lead agency, cannot legally impose the mitigation measures unless and until UC Davis establishes a designated mitigation program to fund the improvements on its right-of-way. In addition, the City has held initial discussions with UC Davis with the intent to proceed on developing a Russell Boulevard Corridor Plan to identify preferred improvements. A Corridor Plan will be prepared by the City and the formal process is expected to begin in the near future, but a Corridor Plan has not yet been adopted. Due to uncertainties regarding the ability for the aforementioned mitigation measures to reduce impacts to bicycle facilities, bicycle facility impacts on the Russell Boulevard shared-use path and at the Russell Boulevard/Anderson Road/La Rue Road intersection would be considered to remain significant and unavoidable, because implementation of the aforementioned mitigation measures cannot be guaranteed and there are no additional feasible mitigation measures where implementation is guaranteed that would reduce the impact to a less-than-significant level. Therefore, despite the incorporation of Mitigation Measures 4.6-2(a) through (f) into the EIR, for the foregoing reasons and the reasons discussed in the EIR, impacts to bicycle facilities would be considered to remain significant and unavoidable. (Draft EIR, pg. 4.6-49).

- (d) Overriding Considerations. The environmental, economic, social and other benefits of the proposed project override the remaining adverse impacts of the proposed project related to bicycle facilities under Existing Plus Project conditions, as more fully stated in Section VII, Statement of Overriding Considerations Related to the Impacts of the University Commons Project Findings, below.

### 2. IMPACTS TO PEDESTRIAN FACILITIES UNDER EXISTING PLUS PROJECT CONDITIONS (EIR IMPACT 4.6-3).

- (a) Potential Impact. The potential for the proposed project to cause a substantial adverse impact to pedestrian facilities under Existing Plus Project conditions is discussed on pages 4.6-54 through 4.6-55 of the Draft EIR.
- (b) Findings. Significant and unavoidable with mitigation incorporated. Changes or alterations have been required in, or incorporated into, the proposed project which attempt to avoid or substantially lessen this significant environmental effect as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). However, the impact would still remain significant and unavoidable. Specific economic, legal, social, technological, or other considerations, as identified in the EIR, make infeasible additional mitigation measures or project alternatives identified in the EIR. (State CEQA Guidelines, Section 15091(a)(3).)



## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

- (c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds impacts related to pedestrian facilities under Existing Plus Project conditions cannot be mitigated to a less-than-significant level. As discussed in the Draft EIR, specific crossing facilities that would accommodate high levels of project pedestrian trips include the east leg crosswalk at the Russell Boulevard/Sycamore Lane intersection and all legs at the Russell Boulevard/Anderson Road/La Rue Road intersection. The aforementioned facilities currently experience very high levels of peak hour bicycle and pedestrian volumes and when combined with the dimensions of path and crossing facilities results in crowding, which degrades the performance of the facilities for both bicyclists and pedestrians. Additional pedestrian trips generated by the proposed project, together with increased vehicle and bicycle trips, could exacerbate crowding on existing pedestrian facilities and in shared right-of-way environments and further degrade the facilities, particularly during the peak travel periods such as the morning and evening commutes to/from the UC Davis campus.

While the proposed project would not conflict with implementation of any planned pedestrian facilities within the site vicinity, the additional pedestrian traffic associated with the proposed project could increase the potential for conflicts and a significant impact could occur.

Mitigation Measure(s). The following mitigation measures are prescribed to mitigate the impact:

- 4.6-3            Implement Mitigation Measures 4.6-2(d), 4.6-2(e), and 4.6-2(f).

Mitigation Measures 4.6-2(d), 4.6-2(e) and 4.6-2(f) are presented again below for reference:

- 4.6-2(d)        Consistent with cumulative Mitigation Measure 4.6-9, prior to the occupancy of the project, the project applicant shall contribute funding to cover their proportionate cost of bicycle improvements to the Russell Boulevard/Anderson Road/La Rue Road intersection as determined by the City Engineer in an amount that considers the project's impact on the intersection. The funding shall be submitted to the City of Davis. Given the multi-modal nature of the intersection and future improvements, fair share calculations should consider all modes of transportation utilizing the intersection.

Modifications to improve crossings at the Russell Boulevard/Anderson Road/La Rue Road intersection shall be implemented to reduce the potential for bicycle-bicycle, bicycle-pedestrian, pedestrian-vehicle, and bicycle-vehicle conflicts. Because intersection modifications would affect right-of-way on the UC Davis campus, the City shall coordinate with UC Davis to identify the ultimate modifications. Improvements shall, to the extent feasible, physically separate bicyclists, pedestrians, and vehicles and reduce bicycle crossing distances and exposure time. Potential improvement alternatives include (but are not limited to):

## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

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3. For all intersection crosswalks, widen crosswalks to increase the capacity for crossing bicyclists and pedestrians and reduce the frequency of meeting and passing events that diminish the performance of the crosswalks.
4. Reconfigure the intersection into a protected intersection with corner refuge islands, setback crossings, and exclusive bicycle and pedestrian crossing phases (i.e., vehicles would not be permitted to turn on red during this phase). For all intersection crosswalks, physically separate bicyclists and pedestrians by installing special pavement treatment or striping to clearly demarcate pedestrian and bicycle crossing zones, increase the capacity for crossing bicyclists and pedestrians, and reduce the frequency of meeting and passing events that diminish the performance of the crossings. This alternative would also include the removal of the eastbound and northbound channelized right-turn lanes.

4.6-2(e) Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall contribute funding to cover their proportionate cost of improvements to the shared-use path on the south side of Russell Boulevard between Sycamore Lane and the UC Davis softball field; the project's proportionate cost shall be determined by the City Engineer in an amount that considers the project's impact on the intersection. The funding shall be submitted to the City of Davis. The City shall negotiate funding contributions with UC Davis as part of the City's Corridor Plan process. Path improvements shall reduce the potential for bicycle-bicycle and bicycle-pedestrian conflicts, to the satisfaction of the City Engineer. Potential improvement alternatives include (but are not limited to):

4. Widen the existing shared-use path to accommodate bicyclists and pedestrians within a shared facility. Consider installing special pavement treatment or striping to clearly demarcate pedestrian and bicycle zones.
5. Physically separate bicyclists and pedestrians by constructing a new pedestrian pathway parallel to the existing shared-use path.
6. Install pedestrian-scale lighting to improve visibility.

4.6-2(f) Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall contribute funding to cover their proportionate cost of improvements to the shared-use path on the south side of Russell Boulevard between Anderson Road and the bicycle roundabout near Primero Grove; the project's proportionate cost shall be determined by the City Engineer in an amount that considers the project's impact on the intersection. The funding shall be submitted to the City of Davis. The City shall negotiate funding contributions with UC Davis as part of the City's Corridor Plan process. Path improvements should reduce the potential for bicycle-bicycle and bicycle-pedestrian conflicts, to the satisfaction of the City Engineer. Potential improvement alternatives include (but are not limited to):

## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

4. Widen the existing shared-use path to accommodate bicyclists and pedestrians within a shared facility. Consider installing special pavement treatment or striping to clearly demarcate pedestrian and bicycle zones.
5. Physically separate bicyclists and pedestrians by constructing a new pedestrian pathway parallel to the existing shared-use path.
6. Install pedestrian-scale lighting to improve visibility.

Implementation of Mitigation Measures 4.6-2(d), 4.6-2(e), and 4.6-2(f) would reduce potential significant impacts associated with pedestrian facilities to a less-than-significant level by supporting walking to and from the project site and minimizing conflicts between pedestrians and other travel modes. However, elements of Mitigation Measures 4.6-2(d), 4.6-2(e), and 4.6-2(f) would occur within UC Davis right-of-way and would be subject to final approval and actions by UC Davis. Because implementation of the measures would require UC Davis approval, the City of Davis cannot legally impose these improvements, as they are outside of the City's control. Thus, the improvements are not guaranteed. In addition, the City has held initial discussions with UC Davis with the intent to proceed on developing a Corridor Plan to identify preferred improvements along the roadway. A Corridor Plan will be prepared by the City and the formal process is expected to begin in the near future, but a Corridor Plan has not yet been adopted. Due to the uncertainties regarding the ability for the aforementioned mitigation measures to reduce impacts to pedestrian facilities, pedestrian facility impacts on the Russell Boulevard shared-use path and at the Russell Boulevard/Anderson Road/La Rue Road intersection would be considered significant and unavoidable because implementation of the aforementioned mitigation measures cannot be guaranteed and there are no additional feasible mitigation measures where implementation is guaranteed that would reduce the impact to a less-than-significant level. Therefore, despite the incorporation of Mitigation Measure 4.6-3 into the EIR, for the foregoing reasons and the reasons discussed in the EIR, the impacts to pedestrian facilities under Existing Plus Project conditions would be considered significant and unavoidable. (Draft EIR, pg. 4.6-55).

- (d) Overriding Considerations. The environmental, economic, social and other benefits of the proposed project override the remaining adverse impacts of the proposed project related to pedestrian facilities, as more fully stated in Section VII, Statement of Overriding Considerations Related to the Impacts of the University Commons Project Findings, below.

### 3. IMPACTS TO STUDY INTERSECTIONS UNDER CUMULATIVE PLUS PROJECT CONDITIONS (EIR IMPACT 4.6-9).

- (a) Potential Impact. The potential for the proposed project to cause a substantial adverse impact to study intersections under Cumulative Plus Project conditions is discussed on pages 4.6-64 through 4.6-71 of the Draft EIR.
- (b) Findings. Significant and unavoidable with mitigation incorporated. Changes or alterations have been required in, or incorporated into, the proposed project which attempt to avoid or

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substantially lessen this significant environmental effect as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). However, the impact would still remain significant and unavoidable. Specific economic, legal, social, technological, or other considerations, as identified in the EIR, make infeasible additional mitigation measures or project alternatives identified in the EIR. (State CEQA Guidelines, Section 15091(a)(3).)

- (c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds impacts related to the study intersections under Cumulative Plus Project conditions (Russell Boulevard/Orchard Park Drive, Russell Boulevard/Anderson Road/La Rue Road, and Russell Boulevard/California Avenue) cannot be mitigated to a less-than-significant level. As discussed in the Draft EIR, the increase in delay attributable to the proposed project at the Russell Boulevard/Anderson Road/La Rue Road intersection would exceed the applicable five-second standard established by the City of Davis. At the two unsignalized intersections, the increase in volume attributable to the proposed project would exceed the City's one percent increase threshold. Therefore, the proposed project's incremental contribution to the significant cumulative impact would be cumulatively considerable.

Mitigation Measure(s). The following mitigation measure is prescribed to mitigate the impact:

4.6-9 Modifications to Russell Boulevard shall be implemented to reduce peak hour vehicle delay at the Russell Boulevard/Orchard Park Drive, Russell Boulevard/Anderson Road/La Rue Road, and Russell Boulevard/California Avenue intersections:

- Prior to issuance of certificates of occupancy, the project applicant shall construct the pedestrian bulbouts at Russell Boulevard/Sycamore Lane, to the satisfaction of the City Engineer, as follows:
  - At the Russell Boulevard/Sycamore Lane intersection, construct pedestrian bulbouts at the northwest and northeast corners of the intersection to reduce pedestrian crossing distances. The resulting excess green time shall be reallocated to the major east-west through movements to improve overall corridor operations. The pedestrian bulbouts shall be integrated with the design of the bike lane modification described in Mitigation Measure 4.6-2(a) (at the northwest corner) and the shared-use path described in Mitigation Measure 4.6-2(c) (at the northeast corner).
- Implement Mitigation Measure 4.6-8.
- Prior to issuance of certificates of occupancy, the project applicant shall contribute funding, to the satisfaction of the City Engineer, to cover the proportionate cost of improvements described in Alternatives 1, 4, 5, 6,

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and 7 above, the requirements of which are listed below.<sup>1</sup> The funding shall be submitted to the City of Davis:

- At the Russell Boulevard/Orchard Park Drive intersection, either:
  - a. Prohibit northbound left-turns, or
  - b. Prohibit northbound left-turns and westbound left-turns (i.e., right-in/right-out only).
- At the Russell Boulevard/Anderson Road/La Rue Road intersection, either
  - a. Install five-section traffic signal for the northbound right-turn lane and an accompanying bicycle/pedestrian signal to control crossing movements across the northbound channelized right-turn lane, or
  - b. Implement Alternative 2 described in Mitigation Measure 4.6-2(d) (conversion of the Russell Boulevard/Anderson Road/La Rue Road intersection to a protected intersection).
- At the Russell Boulevard/Oak Avenue intersection, prohibit eastbound U-turn movements and convert the eastbound left-turn movement from a permitted to a protected left-turn signal phase.
- At the Russell Boulevard/College Park/Howard Way intersection, convert the northbound and southbound approaches to split phase operations and eliminate the west leg crossing.
- At all signalized intersections on Russell Boulevard, increase the PM peak hour cycle length from 90 to 100 seconds to match the existing AM peak hour cycle length. The signal timing adjustment shall be applied to all coordinated signals along the corridor between and inclusive of Sycamore Lane and G Street.

The ultimate modifications constructed along Russell Boulevard shall be consistent with the preferred improvements identified in the Russell Boulevard Corridor Plan currently being prepared by the City.

Mitigation Measure 4.6-8 is presented again below for reference:

- 4.6-8(a) Prior to the issuance of demolition permits, the project applicant shall extend the eastbound left-turn pocket at the Russell Boulevard/Sycamore Lane intersection from 300 to 375 feet, which is the maximum distance feasible without affecting the adjacent westbound left-turn pocket at the Russell Boulevard/Orchard Park

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<sup>1</sup> Consistent with *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, contribution of mitigation funds is not required for impacts where the City does not have full jurisdiction, nor a plan in place to ensure implementation of mitigation measures. Nevertheless, the applicant has agreed to contribute mitigation funds to the City for Alternatives 1, 4, 5, 6, and 7.

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Drive intersection. The extension will enable the eastbound left-turn pocket to accommodate the maximum queue of 325 feet under Existing Plus Project conditions. The timing of this modification is necessary to accommodate the considerable number of truck trips related to the project's demolition and construction.

4.6-8(b) Prior to issuance of grading plans, the project improvement plans shall reflect the modifications listed below, or equivalent measures, based on the final site design, to reduce vehicle queuing spillback at the project driveways, to the satisfaction of the City Engineer. The modifications may include, but are not limited to, the following:

- Southern Sycamore Lane Driveway
  - Parking stalls along the Retail 6 frontage shall be eliminated; and
  - Exclusive outbound left-turn and right-turn lanes shall be provided.
- Southern Anderson Road Driveway
  - Parking stalls along the Retail 1, 2, and 3 frontages shall be angled.
- Western Russell Boulevard Driveway
  - The drive aisle shall be aligned north into the parking garage, shifted further east into the project site to provide additional throat depth for the southern Sycamore Lane driveway, and access for the southernmost east-west drive aisle shall be closed off to/from the west (opposite the Trader Joe's loading dock).

As noted in the Transportation Impact Study prepared for the proposed project, the Russell Boulevard corridor is currently limited in terms of physical modification or expansion due to right-of-way constraints. Moreover, any substantial widening of Russell Boulevard that would result in increased capacity for peak hour vehicle demand would be inconsistent with City policies related to non-motorized transportation prioritization and limits the number of allowable arterial vehicular lanes. Therefore, potential modifications to Russell Boulevard may not include the addition of through vehicular travel lanes, and must instead focus on intersection and/or traffic signal modifications to increase vehicle capacity without compromising bicycle, pedestrian, or transit facilities, thereby ensuring that the modifications address any potential cumulative effects associated with alternative modes of transit. In addition, the preferred improvements cannot be determined at this time, as they will be determined through development of the Russell Boulevard Corridor Plan currently being prepared by the City.

The mitigation listed above would reduce delays, but not to a level sufficient to restore acceptable intersection operating conditions at impacted study intersections, or to reduce the proposed project's cumulatively considerable contribution to unacceptable operating

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conditions. Furthermore, elements of Mitigation Measure 4.6-9 would occur within UC Davis right-of-way (e.g., modifications to the Russell Boulevard/Anderson Road/La Rue Road intersection) and would be subject to final approval and actions by UC Davis. Moreover, because the remaining fair share contributions needed for the construction of Alternatives 1, 4, 5, 6, and 7 have not been identified by the City of Davis, fair share payment by the project applicant would not ensure construction. In addition, the preferred improvements cannot be determined at this time, as they will be determined through the City's Corridor Plan process. Therefore, full implementation of Mitigation Measure 4.6-9 cannot be guaranteed, no other feasible mitigation is available that can be guaranteed and the proposed project's incremental contribution to the cumulative impact would remain cumulatively considerable and significant and unavoidable.

Accordingly, despite the implementation of Mitigation Measure 4.6-9, for the foregoing reasons and the reasons discussed in the EIR, impacts to study intersections under Cumulative Plus Project conditions would be considered to remain cumulatively considerable and significant and unavoidable. (Draft EIR, pg. 4.6-69).

- (d) Overriding Considerations. The environmental, economic, social and other benefits of the proposed project override the remaining adverse impacts of the proposed project associated with the adequacy of the study intersections, as more fully stated in Section VII, Statement of Overriding Considerations Related to the Impacts of the University Commons Project Findings, below.

#### IV. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT IMPACTS WHICH ARE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

##### A. AIR QUALITY

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1. EXPOSE SENSITIVE RECEPTORS TO SUBSTANTIAL POLLUTANT CONCENTRATIONS (EIR IMPACT 4.1-3).

(a) Potential Impact. The potential for the proposed project to expose sensitive receptors to substantial pollutant concentrations is discussed on pages 4.1-29 through 4.1-36 of the Draft EIR.

(b) Findings. Less than significant with mitigation incorporated. (Draft EIR, pg. 4.1-35). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

(c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds that implementation of Mitigation Measure 4.1-3 would ensure that the cancer risk at the maximally exposed receptor associated with the proposed project's construction activity would be reduced from an increase of 49.82 cases in one million persons to an increase of 3.88 cases in one million persons, which would be below the applicable threshold of significance of an increase of 10 cases in one million persons. Any remaining impacts related to exposing sensitive receptors to substantial pollution concentrations after the implementation of the mitigation measure would not be significant

Mitigation Measure(s). The following mitigation measure is prescribed to mitigate the impact:

4.1-3 Prior to approval of any grading or demolition plans, the project applicant shall show on the plans via notation that the contractor shall ensure that all off-road diesel-powered equipment over 25 horsepower to be used in the construction of the project (including owned, leased, and subcontractor equipment) shall meet California Air Resources Board (CARB) Tier 4 emissions standards or cleaner. The plans shall be submitted for review and approval to the Department of Community Development and Sustainability. In addition, all off-road equipment operating at the construction site must be maintained in proper working condition according to manufacturer's specifications. Idling shall be limited to 5



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minutes or less in accordance with the Off-Road Diesel Fueled Fleet Regulation as required by CARB.

Portable equipment over 50 horsepower must have either a valid District Permit to Operate (PTO) or a valid statewide Portable Equipment Registration Program (PERP) placard and sticker issued by CARB.

Idling shall be limited to five minutes or less for all on-road related and/or delivery trucks in accordance with CARB's On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation. Clear Signage regarding idling restrictions should be placed at the entrances to the construction site.

### B. GREENHOUSE GAS EMISSIONS AND ENERGY

1. GENERATE GREENHOUSE GAS (GHG) EMISSIONS, EITHER DIRECTLY OR INDIRECTLY, THAT MAY HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT, OR CONFLICT WITH AN APPLICABLE PLAN, POLICY, OR REGULATION ADOPTED FOR THE PURPOSE OF REDUCING THE EMISSIONS OF GHGs (EIR IMPACT 4.2-3).
  - (a) Potential Impact. The potential for the proposed project to generate GHG emissions that may have a significant impact on the environment or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing emissions of GHGs is discussed on pages 4.2-31 through 4.2-39 of the Draft EIR.
  - (b) Findings. Less than cumulatively considerable with mitigation incorporated. (Draft EIR, pg. 4.2-36). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
  - (c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds that the proposed project's incremental contribution to the significant cumulative impacts related to GHG emissions will be mitigated to a less-than-cumulatively considerable level. In order to demonstrate compliance with the City's adopted GHG emissions reduction goal, project related non-mobile operational emissions must be reduced to carbon neutrality by the year 2040. Should project emissions be shown to achieve a downward trajectory from the anticipated emissions level in the year 2024 to carbon neutrality by the year 2040, project operations would be considered in compliance with the City's adopted GHG emissions reduction goal and the City's Climate Action and Adaptation Plan. Implementation of Mitigation Measures 4.2-3(a) and 4.2-3(b) would achieve a downward trajectory of operational emissions, assuring that project implementation would not result in long-term operational impacts related to GHG emissions

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or the creation of conflicts with an applicable regulation. Therefore, implementation of Mitigation Measures 4.2-3(a) and 4.2-3(b) would reduce the proposed project's incremental contribution to the significant cumulative impact to a less-than-cumulatively considerable level.

Mitigation Measure(s). The following mitigation measures are prescribed to mitigate the impact:

4.2-3(a) The project proponent shall prepare and implement a GHG Reduction Plan, to the satisfaction of the City, to demonstrate a downward trajectory in GHG emissions, towards the goal of zero net GHG emissions by the year 2040. Prior to the issuance of a building permit for the proposed project. The project proponent shall implement the following steps:

1. Model net non-mobile operational GHG emissions using CalEEMod, or another method accepted for the purpose of modeling GHG emissions for the proposed project, taking into account applicable building standards and other regulatory requirements, as well as building design, use of renewable energy, etc. The updated modeling shall take into account any updated project design measures incorporated in compliance with this mitigation measure or as proposed in future project design details.
2. Based on the construction and operational schedules proposed at the time of building permitting, the modeled emissions shall be compared to the maximum permitted emissions for the first year of occupancy, based on the Table below:

Year	Maximum Permitted Net Project Emissions (MTCO <sub>2</sub> e)	Emissions Reductions Achieved (MTCO <sub>2</sub> e)
2024	326.69	0.00
2025	306.27	20.42
2026	285.85	40.84
2027	265.44	61.25
2028	245.02	81.67
2029	224.60	102.09
2030	204.18	122.51
2031	183.76	142.93
2032	163.35	163.35
2033	142.93	183.76
2034	122.51	204.18
2035	102.09	224.60
2036	81.67	245.02
2037	61.25	265.44
2038	40.84	285.85

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2039	20.42	306.27
2040	0	326.69
<i>Total Emissions Reductions</i>		<i>2,776.87</i>

3. Should net operational emissions be shown to exceed the maximum emissions levels presented in the table above, the project applicant shall identify feasible actions to achieve sufficient emissions reductions for the year or years being modeled. Reduction measures may include, but are not limited to:
  - *Design of all or portions of the project without infrastructure to support natural gas appliances;*
  - *Installation of only all-electric, energy-star large appliances (i.e. ranges, ovens, water heating, and/or space heating equipment) in all or part of the project;*
  - *Require future refrigeration systems to only use low GWP potential gases;*
  - *Include electric outlets in outdoor areas sufficient to allow for the use of electric-powered landscaping equipment;*
  - *Construct all proposed loading docks with electric outlets sufficient to provide adequate electrical power for docking trucks;*
  - *Installation of on-site photovoltaic systems in excess of the City's standards in place at the time of this environmental analysis;*
  - *Use of LED lights in proposed parking areas and other outdoor areas;*
  - *Construct on-site or fund off-site carbon sequestration projects (such as tree plantings or reforestation projects);*
  - *Implement a Transportation Demand Management Program in accordance with Section 22.15 of the City of Davis Municipal Code;*
  - *Provide electric vehicle charging infrastructure in excess of existing CBSC requirements; and/or*
  - *Purchase carbon credits to offset Project annual emissions. Carbon offset credits shall be verified and registered with The Climate Registry, the Climate Action Reserve, or another source approved by CARB, YSAQMD, or the City of Davis.*
4. The emissions reductions resulting from implementation of the above measures shall be calculated, using methods acceptable to the City.
5. Proof of compliance with the maximum annual net emissions targets and the steps above shall be verified through the submittal of a Technical Memorandum of Compliance (TMC) to the City of Davis Department of Community Development and Sustainability. The TMC shall document the following minimum items: modeling (step 1); comparison of modeled emissions to maximum emissions levels identified in step 2; chosen feasible

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actions to achieve required reductions (step 3); and measurable GHG reduction value of each action (step 4). TMCs prepared in compliance with the foregoing steps may cover individual operational years or multiple operational years. Should a TMC be prepared for multiple operational years, the TMC shall demonstrate compliance with the maximum emissions levels for each year included in the TMC.

6. Implement the authorized actions and provide evidence of this to the City of Davis Department of Community Development and Sustainability. Purchase of any carbon credits shall be completed prior to certificate of occupancy. The City upon review and acceptance of implementation, shall issue the certificate of occupancy.

### 4.2-3(b)

The owner of the project shall submit a GHG Emissions Reduction Accounting and Program Effectiveness Report for the project to demonstrate the project's compliance with the GHG emissions targets established by Mitigation Measure 4.2-3(a). The Report shall be submitted prior to the issuance of a certificate of occupancy for the first residential unit leased or sold. The Report shall identify the following minimum items. Other documentation requirements may be added by the City if found to be necessary to satisfy this mitigation measure.

1. Projected annual net GHG emissions from the initial date of operations through the year 2040.
2. Running total of project emissions reductions and reduction credits.
3. Comprehensive database and summary of implemented reduction actions.

Should the initial Report demonstrate that measures have been incorporated into the project sufficient to achieve the GHG emissions targets established by Mitigation Measure 4.2-3(a), further Reports are not required.

If the initial Report does not demonstrate that measures have been incorporated into the project sufficient to achieve the aforementioned emissions targets at the time of initial occupancy, the owner shall be required to submit subsequent Reports every five years until such time that demonstration is made that the project has achieved the required emissions reductions. Subsequent Reports shall contain the same content as required of the initial Report, and demonstrate the implementation of additional measures sufficient to reduce project GHG emissions in compliance with Mitigation Measure 4.2-3(a). Upon demonstration that the project has achieved the required emissions reductions, further Reports are not required.

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### C. NOISE

1. GENERATION OF A SUBSTANTIAL TEMPORARY INCREASE IN AMBIENT NOISE LEVELS IN THE VICINITY OF THE PROJECT IN EXCESS OF STANDARDS ESTABLISHED IN THE LOCAL GENERAL PLAN OR NOISE ORDINANCE, OR APPLICABLE STANDARDS OF OTHER AGENCIES (EIR IMPACT 4.4-1).
  - (a) Potential Impact. The potential for the proposed project to cause a substantial temporary increase in ambient noise levels in excess of the applicable standards is discussed on pages 4.4-17 through 4.4-19 of the Draft EIR.
  - (b) Findings. Less than significant with mitigation incorporated. (Draft EIR, pg. 4.4-19). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
  - (c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds that impacts related to temporary noise increases will be mitigated to a less-than-significant level upon implementation of Mitigation Measure 4.4-1. Project construction activities could result in periods of elevated ambient noise levels that could exceed the Noise Ordinance standards for construction noise (e.g., noise levels at any point outside of the property plane of the proposed project shall not exceed 86 dBA), which would be considered a substantial increase in ambient noise levels in the project vicinity. Mitigation Measure 4.4-1 requires noise-reduction practices that would reduce construction noise to levels consistent with the City's Noise Ordinance, which would be considered acceptable. Any remaining impacts related to a temporary increase in ambient noise levels after implementation of Mitigation Measure 4.4-1 would not be significant.

Mitigation Measure(s). The following mitigation measure is prescribed to mitigate the impact:

- 4.4-1      Prior to issuance of any grading permit, the applicant shall submit a construction noise management plan, identifying proposed noise-reduction practices for review and approval by the Department of Community Development and Sustainability. The following measures shall be utilized to reduce the impact of construction noise:
- Comply with the hours of operations between 7:00 AM and 7:00 PM on Mondays through Fridays, and between the hours of 8:00 AM and 8:00 PM on Saturdays and Sundays;
  - All equipment shall not exceed 86 dBA outside of the property line. Based upon Table 4.4-7, compactors, dozers and excavators shall

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maintain a distance of 50-feet from the north property line. Concrete saws and jackhammers shall maintain a distance of 100-feet from the nearest property line. If equipment such as compactors, dozers and excavators need to be within 50 feet of the north property line, temporary barriers such as "Noise Soaker" curtains may be applied at the construction site fence. The barriers shall be eight feet in height along the north property line.

- In accordance with City Code Section 24.02.040(b)(3), certain exceptions to these standards may be granted for impact tools and equipment providing either a housing or muffler, or other type of noise suppression equipment recommended by the manufacturer and approved by the Director of Public Works as best accomplishing maximum noise attenuation

2. GENERATION OF A SUBSTANTIAL PERMANENT INCREASE IN AMBIENT NOISE LEVELS IN THE VICINITY OF THE PROJECT IN EXCESS OF STANDARDS ESTABLISHED IN THE LOCAL GENERAL PLAN OR NOISE ORDINANCE, OR APPLICABLE STANDARDS OF OTHER AGENCIES (EIR IMPACT 4.4-2).

- (a) Potential Impact. The potential for the proposed project to cause a substantial permanent increase in ambient noise levels in excess of applicable standards is discussed on pages 4.4-19 through 4.4-25 of the Draft EIR.
- (b) Findings. Less than significant with mitigation incorporated. (Draft EIR, pg. 4.4-24). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
- (c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds that the proposed project's permanent increase in ambient noise levels would be reduced to a less-than-significant level with implementation of Mitigation Measures 4.4-2(a) and 4.4-2(b). The increase in noise levels associated with operational noise from the proposed project, including truck circulation noise related to deliveries, pallet or baling equipment, and HVAC equipment, is anticipated to be 58 dB  $L_{eq}$  at the nearest sensitive receptors, which would exceed the daytime (7:00 AM to 9:00 PM) threshold of 55 dB  $L_{eq}$ . However, according to the Environmental Noise Assessment prepared for the proposed project, a barrier of eight feet in height would reduce overall noise levels associated with loading docks, truck circulation, and other outdoor noise sources to the daytime (7:00 AM to 9:00 PM) standard of 55 dBA  $L_{eq}$ , and a 10-foot barrier would be required to reduce noise levels to the nighttime (9:00 PM to 7:00 AM) standard of 50 dB  $L_{eq}$ . Any remaining impacts

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related to a permanent increase in ambient noise levels after implementation of Mitigation Measures 4.4-2(a) and 4.4-2(b) would not be significant.

Mitigation Measure(s). The following mitigation measures are prescribed to mitigate the impact:

4.4-2(a) Prior to building permit issuance, the construction drawings shall include a noise barrier located along the north property line of the project site where trucks circulate for the loading docks. The partial loading dock walls may be eliminated, if desired. Based upon the Environmental Noise Assessment (October 2, 2019) prepared for this EIR, the noise barrier height requirements would be different depending upon the delivery hours, as follows:

- Daytime deliveries only (7:00 AM to 9:00 PM): An eight-foot wall shall be required along the north property line of the project site to meet the City's 55 dB  $L_{eq}$  daytime noise standard.
- Daytime AND Nighttime (9:00 PM to 7:00 AM): A 10-foot wall shall be required along the north property line of the project site to meet the City's daytime (55 dB  $L_{eq}$ ) and nighttime 50 dB  $L_{eq}$  noise standards.

The delivery truck hours and sound wall height shall be finalized prior to City approval of the Final Planned Development for the project. In the event that an opening in the barrier is included to provide access to the pedestrian/bicycle pathway on the adjacent property, the opening shall be designed by an acoustical consultant to ensure that the City's above-specified daytime and nighttime standards can still be met at the nearest sensitive receptors. Final design and height of the barrier shall be incorporated in the construction drawings for approval by the City of Davis Department of Community Development and Sustainability.

4.4-2(b) Alternatively, the applicant may submit a subsequent acoustical report in conjunction with the submittal of the Final Planned Development to the City. The subsequent acoustical report, using additional design-level details developed during the Final Planned Development process, shall estimate the delivery truck/loading dock noise levels at the nearest sensitive receptors to verify the height of the wall needed to meet the City's stationary noise level standards (55 dB  $L_{eq}$  daytime and 50 dB  $L_{eq}$  nighttime). If the report determines that a reduced sound wall height, compared to the heights identified in MM 4.4-2(a), could achieve the City's noise standards at the nearest sensitive receptors, then the reduced height should be considered acceptable.

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The subsequent acoustical report could also consider the feasibility of relocating or eliminating the loading dock. Any proposed relocation would require analysis within the acoustical report to ensure that those sensitive receptors located closest to the relocated loading dock would not be subject to noise levels in excess of the City's noise level standards. Final loading dock design and barrier height shall be approved by the City of Davis Department of Community Development and Sustainability.

### D. TRANSPORTATION AND CIRCULATION

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1. IMPACTS TO TRANSIT FACILITIES AND SERVICES UNDER EXISTING PLUS PROJECT CONDITIONS (EIR IMPACT 4.6-4).
  - (a) Potential Impact. The potential for the proposed project to result in impacts to transit facilities and services under Existing Plus Project conditions is discussed on pages 4.6-56 through 4.6-57 of the Draft EIR.
  - (b) Findings. Less than significant with mitigation incorporated. (Draft EIR, pg. 4.6-57). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
  - (c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds that impacts related to transit facilities and services under Existing Plus Project conditions will be mitigated to a less-than-significant level. The additional transit use associated with the proposed project could conflict with operations at the southbound bus stop on Anderson Road, located on the eastern project site boundary. The existing southbound bus stop on Anderson Road is currently outfitted with a bus stop sign, but lacks a shelter, seating, or dedicated passenger waiting area, which results in dwelling passengers waiting in the sidewalk or in the adjacent landscaped area. The addition of project-generated transit passenger demand would exacerbate the existing conditions, which could lead to more substantial blocking of the sidewalk by dwelling passengers, as well as dwelling passengers physically blocking passengers who wish to deboard buses as passengers arrive at the stop. However, Mitigation Measure 4.6-4 requires that the project applicant enhance the existing bus stop on southbound Anderson Road to improve operations by adding shelter, seating, a waste receptacle, and an expanded dedicated waiting area. Such improvements would sufficiently prevent the anticipated issues related to project-generated transit demand. Any remaining impacts to transit facilities and services under Existing Plus Project conditions after implementation of Mitigation Measure 4.6-4 would not be significant.



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Mitigation Measure(s). The following mitigation measure is prescribed to mitigate the impact:

- 4.6-4 Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall enhance the existing bus stop on southbound Anderson Road north of Russell Boulevard, to the satisfaction of the City Engineer. Bus stop enhancements shall include the addition of a shelter, seating, waste receptacle, as well as an expanded dedicated passenger waiting area that can sufficiently accommodate dwelling passenger without impeding the adjacent sidewalk. Bus stop enhancements shall be developed in consultation with Unitrans staff.

### 2. IMPACTS RELATED TO CONSTRUCTION VEHICLE TRAFFIC (EIR IMPACT 4.6-7).

- (a) Potential Impact. The potential for the proposed project to result in transportation and circulation impacts due to construction vehicle traffic is discussed on pages 4.6-59 through 4.6-60 of the Draft EIR.
- (b) Findings. Less than significant with mitigation incorporated. (Draft EIR, pg. 4.6-59). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
- (c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds that impacts related to construction vehicle traffic will be mitigated to a less-than-significant level. Project construction activities would disrupt vehicle, pedestrian, bicycle, and emergency vehicle access to and from on-site and adjacent uses active during construction, particularly Trader Joe's and the ARCO gas station. In addition, project construction activities would disrupt pedestrian, bicycle, and transit stop access on highly-utilized facilities on the east side of Sycamore Lane and the west side of Anderson Road. As such, implementation of Mitigation Measure 4.6-7 requires preparation of a Traffic Control Plan that would ensure that acceptable operating conditions on local roadways and freeway facilities are maintained during construction. Any remaining impacts related to construction vehicle traffic after implementation of Mitigation Measure 4.6-7 would not be significant.

Mitigation Measure(s). The following mitigation measure is prescribed to mitigate the impact:

- 4.6-7 Before commencement of any construction activities for the project site, the project applicant shall prepare a detailed Construction Traffic Control Plan and submit it for review and approval by the City Department of Public Works. The applicant and the City shall consult with Unitrans, Yolobus, and local emergency

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service providers for their input before approving the Plan. The Plan shall ensure that acceptable operating conditions on local roadways and freeway facilities are maintained during construction. At a minimum, the Plan shall include:

- The number of truck trips, time, and day of street closures;
- Time of day of arrival and departure of trucks;
- Limitations on the size and type of trucks, provision of a staging area with a limitation on the number of trucks that can be waiting;
- Provision of a truck circulation pattern;
- Provision of driveway access plan so that safe vehicular, pedestrian, and bicycle movements are maintained (e.g., steel plates, minimum distances of open trenches, and private vehicle pick up and drop off areas);
- Maintain safe and efficient access routes for emergency vehicles;
- Manual traffic control when necessary;
- Proper advance warning and posted signage concerning street closures; and
- Provisions for bicycle, pedestrian, and transit access and safety.

A copy of the Construction Traffic Control Plan shall be submitted to local emergency response agencies and these agencies shall be notified at least 14 days before the commencement of construction that would partially or fully obstruct roadways.

3. SUBSTANTIALLY INCREASE HAZARDS DUE TO A GEOMETRIC DESIGN FEATURE (E.G., SHARP CURVES OR DANGEROUS INTERSECTIONS) OR INCOMPATIBLE USES (E.G., FARM EQUIPMENT) (EIR IMPACT 4.6-8).
- (a) Potential Impact. The potential for the proposed project to substantially increase hazards due to geometric design features or incompatible uses under Existing Plus Project conditions is discussed on pages 4.6-60 through 4.6-63 of the Draft EIR.
- (b) Findings. Less than significant with mitigation incorporated. (Draft EIR, pg. 4.6-63). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
- (c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds that impacts related to a substantial increase in hazards due to a geometric design feature or incompatible uses under Existing Plus Project conditions will be mitigated to a less-than-significant level. Potential hazards related to vehicle queuing and site

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access/circulation, including pedestrian conflicts and bicycle, pedestrian, and transit access, were addressed. Per the Transportation Impact Study prepared for the proposed project, under Existing Plus Project conditions, peak hour maximum queues for the eastbound left-turn at the Russell Boulevard/Sycamore Lane intersection would spill back to a distance of 325 feet, 25 feet (one car length) beyond the 300 feet of available left-turn pocket storage capacity, and block of the adjacent eastbound through travel lane on Russell Boulevard. In addition, the maximum outbound queues during the PM peak hour would exceed the driveway throat depth at several locations on the project site under Existing Plus Project conditions. Queue spillback would be particularly problematic at the southern Sycamore Lane driveway and the western Russell Boulevard driveway, because both driveways serve highly desirable parking stalls in close proximity to the Trader Joe's entrance. Thus, the proposed project could result in detrimental effects related to vehicle queuing at the Russell Boulevard/Sycamore Lane intersection, as well as spillback of vehicle queues at the site access points. However, Mitigation Measures 4.6-8(a) and 4.6-8(b) require improvements sufficient to ensure queues and spillback do not result in any hazards by eliminating delays and conflicts from vehicles backing out of parking spaces near the driveway entrances and expediting circulation in the parking lot. Any remaining impacts related to hazards due to geometric design features or incompatible uses under Existing Plus Project after implementation of Mitigation Measures 4.6-8(a) and 4.6-8(b) would not be significant.

Mitigation Measure(s). The following mitigation measures are prescribed to mitigate the impact:

- 4.6-8(a) Prior to the issuance of demolition permits, the project applicant shall extend the eastbound left-turn pocket at the Russell Boulevard/Sycamore Lane intersection from 300 to 375 feet, which is the maximum distance feasible without affecting the adjacent westbound left-turn pocket at the Russell Boulevard/Orchard Park Drive intersection. The extension will enable the eastbound left-turn pocket to accommodate the maximum queue of 325 feet under Existing Plus Project conditions. The timing of this modification is necessary to accommodate the considerable number of truck trips related to the project's demolition and construction.
- 4.6-8(b) Prior to issuance of grading plans, the project improvement plans shall reflect the modifications listed below, or equivalent measures, based on the final site design, to reduce vehicle queuing spillback at the project driveways, to the satisfaction of the City Engineer. The modifications may include, but are not limited to, the following:
  - Southern Sycamore Lane Driveway
    - Parking stalls along the Retail 6 frontage shall be eliminated; and

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- Exclusive outbound left-turn and right-turn lanes shall be provided.
  - Southern Anderson Road Driveway
    - Parking stalls along the Retail 1, 2, and 3 frontages shall be angled.
  - Western Russell Boulevard Driveway
    - The drive aisle shall be aligned north into the parking garage, shifted further east into the project site to provide additional throat depth for the southern Sycamore Lane driveway, and access for the southernmost east-west drive aisle shall be closed off to/from the west (opposite the Trader Joe's loading dock).
- 4. SUBSTANTIALLY INCREASE HAZARDS DUE TO A GEOMETRIC DESIGN FEATURE (E.G., SHARP CURVES OR DANGEROUS INTERSECTIONS) OR INCOMPATIBLE USES (E.G., FARM EQUIPMENT) (EIR IMPACT 4.6-11).
  - (a) Potential Impact. The potential for the proposed project to substantially increase hazards due to geometric design features or incompatible uses under Cumulative Plus Project conditions is discussed on pages 4.6-72 through 4.6-73 of the Draft EIR.
  - (b) Findings. Less than significant with mitigation incorporated. (Draft EIR, pg. 4.6-73). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
  - (c) Explanation. Based upon the EIR and the entire record before this City Council, this City Council finds that impacts related to a substantial increase in hazards due to a geometric design feature or incompatible uses under Cumulative Plus Project conditions will be mitigated to a less-than-significant level. Implementation of the proposed project would increase AM and PM peak hour vehicle traffic at local intersections throughout the study area under Cumulative Plus Project conditions. Consequently, as noted in the Transportation Impact Study, the proposed project would increase vehicle demand for the eastbound left-turn at the Russell Boulevard/Sycamore Lane intersection. Under Cumulative Plus Project conditions, peak hour maximum queues for this movement would spill back to a distance of 350 feet and 375 feet during the AM and PM peak hours, respectively, beyond the 300 feet of available left-turn pocket storage capacity, and block the adjacent eastbound through travel lane on Russell Boulevard. However, according to the Transportation Impact Study prepared for the proposed project, implementation of Mitigation Measure 4.6-11, which would extend the eastbound left-turn pocket at the Russell Boulevard/Sycamore Lane intersection to a length of 375 feet, would sufficiently avoid design hazards. Any remaining impacts related to hazards due to geometric design features or incompatible uses under

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Cumulative Plus Project conditions after implementation of Mitigation Measure 4.6-11 would not be significant.

Mitigation Measure(s). The following mitigation measure is prescribed to mitigate the impact:

4.6-11 Implement Mitigation Measure 4.6-8.

Mitigation Measure 4.6-8 is presented again below for reference:

- 4.6-8(a) Prior to the issuance of demolition permits, the project applicant shall extend the eastbound left-turn pocket at the Russell Boulevard/Sycamore Lane intersection from 300 to 375 feet, which is the maximum distance feasible without affecting the adjacent westbound left-turn pocket at the Russell Boulevard/Orchard Park Drive intersection. The extension will enable the eastbound left-turn pocket to accommodate the maximum queue of 325 feet under Existing Plus Project conditions. The timing of this modification is necessary to accommodate the considerable number of truck trips related to the project's demolition and construction.
- 4.6-8(b) Prior to issuance of grading plans, the project improvement plans shall reflect the modifications listed below, or equivalent measures, based on the final site design, to reduce vehicle queuing spillback at the project driveways, to the satisfaction of the City Engineer. The modifications may include, but are not limited to, the following:
- Southern Sycamore Lane Driveway
    - Parking stalls along the Retail 6 frontage shall be eliminated; and
    - Exclusive outbound left-turn and right-turn lanes shall be provided.
  - Southern Anderson Road Driveway
    - Parking stalls along the Retail 1, 2, and 3 frontages shall be angled.
  - Western Russell Boulevard Driveway
    - The drive aisle shall be aligned north into the parking garage, shifted further east into the project site to provide additional throat depth for the southern Sycamore Lane driveway, and access for the southernmost east-west drive aisle shall be closed off to/from the west (opposite the Trader Joe's loading dock).

### E. INITIAL STUDY

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An initial study checklist can be used to focus the content of the EIR onto those environmental topics upon which the project could have a significant impact and require additional evaluation in the EIR. At the time of preparing the Initial Study for the proposed project (Appendix C to the Draft EIR), it was determined that certain environmental topics could be significantly impacted by the project, but sufficient information was then available to enable the City to make the determination that the impacts could be successfully mitigated to a less-than-significant level. These impacts were fully evaluated in the Initial Study and not addressed further in the EIR. This category of impacts is presented below.

1. HAVE A SUBSTANTIAL ADVERSE EFFECT, EITHER DIRECTLY OR THROUGH HABITAT MODIFICATIONS, ON A SPECIES IDENTIFIED AS A CANDIDATE, SENSITIVE, OR SPECIAL STATUS SPECIES IN LOCAL OR REGIONAL PLANS, OR REGULATIONS, OR BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE OR U.S. FISH AND WILDLIFE SERVICE (IS IMPACT IV.A).
  - (a) Potential Impact. The potential for the proposed project to have a substantial adverse effect on a species identified as a candidate, sensitive, or special-status species is discussed on pages 22 through 25 of the IS.
  - (b) Findings. Less than significant with mitigation incorporated. (Initial Study, pg. 23). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
  - (c) Explanation. Based upon the IS and the entire record before this City Council, this City Council finds that implementation of the mitigation measures set forth in the IS would mitigate impacts to a less-than-significant level. Because the project site is currently fully developed, the potential for any special-status plant or wildlife species to be present on the site is low. While the project site does not provide significant value as wildlife foraging habitat, the mature trees located along the Russell Boulevard street frontage, as well as the mature trees along the site's perimeter and within the parking lot area could provide suitable nesting habitat for Swainson's hawk, as well as other migratory birds afforded protection under the federal Migratory Bird Treaty Act (MBTA). The mitigation measures below set forth procedures to ensure that adverse effects to the species would not occur, should any of the above species be found on the project site. Any remaining impacts related to having a substantial adverse effect on a species identified as a candidate, sensitive, or special status species in local or regional plans or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS) after implementation of Mitigation Measure IV-1 and IV-2 would not be significant.

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Mitigation Measure(s). The following mitigation measures are prescribed to mitigate the impact:

### Swainson's Hawk

- IV-1 The project proponent shall retain a qualified biologist to conduct planning-level surveys and identify any nesting habitat present within 1,320 feet of the project footprint. Adjacent parcels under different land ownership shall be surveyed only if access is granted or if the parcels are visible from authorized areas.

If a construction project cannot avoid potential nest trees (as determined by the qualified biologist) within 1,320 feet, the project proponent shall retain a qualified biologist to conduct a preconstruction survey for active nests consistent with the recommended methodology of the Swainson's Hawk Technical Advisory Committee (2000), between March 20 and July 30, within 15 days prior to the beginning of the construction activity. The results of the survey shall be submitted to the Conservancy and CDFW. If active nests are found during the preconstruction survey, a 1,320-foot initial temporary nest disturbance buffer shall be established. If project related activities within the temporary nest disturbance buffer are determined to be necessary during the nesting season, then the qualified biologist shall monitor the nest and shall, along with the project proponent, consult with CDFW to determine the best course of action necessary to avoid nest abandonment or take of individuals. Work may be allowed only to proceed within the temporary nest disturbance buffer if Swainson's hawk or white-tailed kite are not exhibiting agitated behavior, such as defensive flights at intruders, getting up from a brooding position, or flying off the nest, and only with the agreement of CDFW and USFWS. The designated on-site biologist/monitor shall be on-site daily while construction-related activities, including tree pruning or removal, are taking place within the 1,320-foot buffer and shall have the authority to stop work if raptors are exhibiting agitated behavior. Up to 20 Swainson's hawk nest trees (documented nesting within the last 5 years) may be removed during the permit term, but they must be removed when not occupied by Swainson's hawks.

If this project involves pruning or removal of a potential Swainson's hawk or white-tailed kite nest tree, the project proponent shall conduct a preconstruction survey that is consistent with the guidelines provided by the Swainson's Hawk Technical Advisory Committee (2000). If active nests are found during the preconstruction survey, no tree pruning or removal of the nest tree shall occur during the period between March 1 and August 30, unless a qualified biologist determines that the young have fledged and the nest is no longer active.

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### Raptors and Nesting Migratory Birds

IV-2 The project applicant shall implement the following measures to avoid or minimize impacts to raptors and federally-protected nesting migratory birds:

- If any site disturbance or construction activity for any phase of development begins outside the February 1 to August 31 breeding season, a preconstruction survey for active nests shall not be required.
- If any site disturbance or construction activity for any phase of development is scheduled to begin between February 1 and August 31, a qualified biologist shall conduct a preconstruction survey for active nests from publicly accessible areas within 14 days prior to site disturbance or construction activity for any phase of development. The survey area shall cover the construction site and the area surrounding the construction site, including a 100-foot radius for MBTA birds, and a 500-foot radius for birds of prey. If an active nest of a bird of prey, MBTA bird, or other protected bird is not found, then further mitigation measures are not necessary. The preconstruction survey shall be submitted to the City of Davis Department of Community Development and Sustainability for review.
- If an active nest of a bird of prey, MBTA bird, or other protected bird is discovered that may be adversely affected by any site disturbance or construction or an injured or killed bird is found, the project applicant shall immediately:
  - Stop all work within a 100-foot radius of the discovery.
  - Notify the City of Davis Department of Community Development and Sustainability.
  - Do not resume work within the 100-foot radius until authorized by the biologist.
  - The biologist shall establish a minimum 500-foot Environmentally Sensitive Area (ESA) around the nest if the nest is of a bird of prey, and a minimum 100-foot ESA around the nest if the nest is of an MBTA bird other than a bird of prey. The ESA may be reduced if the biologist determines that a smaller ESA would still adequately protect the active nest. Further work may not occur within the ESA until the biologist determines that the nest is no longer active.

2. CONFLICT WITH ANY LOCAL POLICIES OR ORDINANCES PROTECTING BIOLOGICAL RESOURCES, SUCH AS A TREE PRESERVATION POLICY OR ORDINANCE (IS IMPACT IV.E)

- (a) Potential Impact. The potential for the proposed project to conflict with local policies or ordinances protecting biological resources is discussed on pages 25 through 29 of the IS.
- (b) Findings. Less than significant with mitigation incorporated. (Initial Study, pg. 27). Changes or alterations have been required in, or incorporated into, the proposed project which avoid



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or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

- (c) Explanation. Based upon the IS and the entire record before this City Council, this City Council finds that implementation of Mitigation Measure IV-3 would mitigate impacts to a less-than-significant level. According to the Arborist Report prepared for the proposed project, the project site contains 98 trees of significance. The proposed project would result in the removal of 82 on-site trees, and the remaining 16 on-site trees would be preserved. Considering the tree removal activity anticipated for the proposed project, the project applicant would be required to comply with the City's Municipal Code, including obtaining a tree removal permit and providing for (1) on-site replacement, (2) off-site replacement, and/or (3) payment of in-lieu fees. In addition, Mitigation Measure IV-3 requires the project applicant to implement tree preservation measures for the trees being preserved on-site consistent with the measures set forth in Article 37.05 of the City's Municipal Code.

Mitigation Measure(s). The following mitigation measure is prescribed to mitigate the impact:

- IV-3      The project applicant shall implement the following tree preservation measures prior to and during construction for the 16 on-site and eight off-site trees to be preserved.
- Tree Protection Zones (TPZs): The surveyed trunk locations and TPZs/ tree protection fencing shall be indicated on all construction plans for trees to be preserved;
  - Modified TPZs: Modified TPZs are areas where proposed infrastructure is located within protection zones. These Modified TPZs and fencing shall be indicated as close to infrastructure as possible (minimize overbuild);
  - The Consulting Arborist shall revise development impact assessment (as needed) for trees to be preserved once construction plans are drafted;
  - Grading, compaction, trenching, rototilling, vehicle traffic, material storage, spoil, waste, or washout, or any other disturbance within TPZs shall be avoided to the maximum extent feasible;
  - Any work that is to occur within the TPZs shall be monitored by the Consulting Arborist;
  - A meeting shall be conducted to discuss tree preservation guidelines with the Consulting Arborist and all contractors, subcontractors, and project managers prior to the initiation of demolition and construction activities;
  - Prior to any demolition activity on-site, tree protection fencing shall be installed in a circle centered at the tree trunk with a radius equal to the defined TPZ as indicated in the Arborist Report;

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- Tree protection fences should be made of chain-link with posts sunk into the ground, and shall not be removed or moved until construction is complete;
- Any pruning shall be performed per recommendations in the Arborist Report by an ISA Certified Arborist or Tree Worker. Pruning for necessary clearance should be the minimum required to build the project and performed prior to demolition by an ISA Certified Arborist;
- If roots larger than 2 inches or limbs larger than 3 inches in diameter are cut or damaged during construction, the Consulting Arborist shall be contacted immediately to inspect and recommend appropriate remedial treatments; and
- All trees to be preserved shall be irrigated once every two weeks, spring through fall, to uniformly wet the soil to a depth of at least 18 inches under and beyond the canopies of the trees.

The tree preservation measures shall be included in the notes on construction drawings.

3. CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A UNIQUE ARCHAEOLOGICAL RESOURCE PURSUANT TO SECTION 15064.5 (IS IMPACT V.B).

DIRECTLY OR INDIRECTLY DESTROY A UNIQUE PALEONTOLOGICAL RESOURCE ON SITE OR UNIQUE GEOLOGIC FEATURES (IS IMPACT V.C).

DISTURB ANY HUMAN REMAINS, INCLUDING THOSE INTERRED OUTSIDE OF FORMAL CEMETERIES (IS IMPACT V.D).

- (a) Potential Impact. The potential for the proposed project to cause a substantial adverse change in the significance of a unique archaeological resource, directly or indirectly destroy a unique paleontological resource or geological feature, or disturb any human remains is discussed on pages 33 through 35 of the IS.
- (b) Findings. Less than significant with mitigation incorporated. (Initial Study, pg. 33). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
- (c) Explanation. Based upon the IS and the entire record before this City Council, this City Council finds that the impacts related to an adverse change in the significance of a unique archaeological resource, destruction of a unique paleontological resource or geological feature, or disturbance of any human remains will be mitigated to a less-than-significant level with implementation of Mitigation Measures V-1, V-2, and V-3. Due to the disturbed

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nature of the site and the surrounding area, the discovery of underlying archeological, paleontological, and/or tribal resources is not expected. However, given the prehistoric and historic activity that has occurred over time in the project area, unknown archaeological resources, including human bone, or unique geological features have the potential to be uncovered during ground-disturbing construction activities at the proposed project site. Mitigation Measures V-1, V-2, and V-3 set forth the necessary procedures should any such resource(s) be uncovered during construction sufficient to ensure that a substantial adverse change in the significance of or destruction of the resource(s) does not occur. Any remaining impacts related to unique archaeological resources, paleontological resources, geologic features, or human remains after implementation of Mitigation Measures V-1, V-2, and V-3 would not be significant.

Mitigation Measure(s). The following mitigation measures are prescribed to mitigate the impact:

V-1 If any subsurface historic remains, prehistoric or historic artifacts, other indications of archaeological resources, or cultural and/or tribal resources are found during grading and construction activities, all work within 100 feet of the find shall cease, the City of Davis Department of Community Development and Sustainability shall be notified, and the applicant shall retain an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, to evaluate the find(s). The archaeologist shall have the authority to modify the no-work radius as appropriate, using professional judgement. If tribal resources are found during grading and construction activities, the applicant shall notify the Yocha Dehe Wintun Nation. If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, he or she shall immediately notify the City and landowner.

The archaeologist shall define the physical extent and the nature of any built features or artifact-bearing deposits. The investigation shall proceed immediately into a formal evaluation to determine the eligibility of the feature(s) for inclusion in the California Register of Historical Resources. The formal evaluation shall include, at a minimum, additional exposure of the feature(s), photo-documentation and recordation, and analysis of the artifact assemblage(s). If the evaluation determines that the feature(s) and artifact(s) do not have sufficient data potential to be eligible for the California Register, additional work shall not be required. However, if data potential exists (e.g., an intact feature is identified with a large and varied artifact assemblage), the City shall consult on a finding of eligibility and implement appropriate treatment measures. Further measures might include avoidance of further disturbance to the resource(s) through project redesign. If avoidance is determined to be infeasible, additional data recovery excavations shall be conducted for the

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resource(s), to collect enough information to exhaust the data potential of those resources.

Pursuant to CEQA Guidelines Section 15126.4(b)(3)(C), a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Data recovery efforts can range from rapid photographic documentation to extensive excavation depending upon the physical nature of the resource. The degree of effort shall be determined at the discretion of a qualified archaeologist and should be sufficient to recover data considered important to the area's history and/or prehistory.

Significance determinations for tribal cultural resources shall be measured in terms of criteria for inclusion on the California Register of Historical Resources (Title 14 CCR, §4852[a]), and the definition of tribal cultural resources set forth in PRC Section 21074 and 5020.1 (k). The evaluation of the tribal cultural resource(s) shall include culturally appropriate temporary and permanent treatment, which may include avoidance of tribal cultural resources, in-place preservation, and/or re-burial on project property so the resource(s) are not subject to further disturbance in perpetuity. Any re-burial shall occur at a location predetermined between the landowner and the Yocha Dehe Wintun Nation. The landowner shall relinquish ownership of all sacred items, burial goods, and all archaeological artifacts that are found on the project area to the Yocha Dehe Wintun Nation for proper treatment and disposition. If an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation.

Work may not resume within the no-work radius until the City, through consultation as appropriate, determines that the find(s) either: 1) is not eligible for the National or California Register; or 2) that treatment measure have been completed to the City's satisfaction.

The language of this mitigation measure shall be included on any future grading plans, utility plans, and subdivision improvement drawings approved by the City for the development of the proposed project site.

- V-2 If any vertebrate bones or teeth are found by the construction crew, the City of Davis Department of Community Development and Sustainability shall be notified and the contractor shall cease all work within 100 feet of the discovery until an archaeologist meeting the Secretary of the Interior's Professional

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Qualifications Standards in prehistoric or historical archaeology, as appropriate, inspects the discovery. If deemed significant with respect to authenticity, completeness, preservation, and identification, the resource(s) shall then be salvaged and deposited in an accredited and permanent scientific institution (e.g., the University of California Museum of Paleontology), where it shall be properly curated and preserved for the benefit of current and future generations. The language of this mitigation measure shall be included on any future grading plans, utility plans, and subdivision improvement drawings approved for the proposed project site, where excavation work would be required.

- V-3 If human remains are discovered during project construction, further disturbance shall not occur within 100 feet of the vicinity of the find(s) until the Yolo County Coroner has made the necessary findings as to origin. (California Health and Safety Code Section 7050.5) Further, pursuant to California PRC Section 5097.98(b), remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Yolo County Coroner determines the remains to be Native American and not the result of a crime scene, the Coroner shall notify the Native American Heritage Commission (NAHC) and the Yocha Dehe Wintun Nation within 24 hours. The NAHC and Yocha Dehe Wintun Nation must then identify the "most likely descendant(s)" (MLD). The landowner shall engage in consultations with the MLD. The MLD shall make recommendations concerning the treatment of the remains within 48 hours, as provided in PRC 5097.98. If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (PRC 5097.94). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (PRC 5097.98). This will also include either recording the site with the NAHC or the appropriate information center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the County in which the property is located (AB 2641). Work may not resume within the no-work radius until the City, through consultation as appropriate, determines that the treatment measures have been completed to their satisfaction.
4. CREATE A SIGNIFICANT HAZARD TO THE PUBLIC OR THE ENVIRONMENT THROUGH REASONABLY FORESEEABLE UPSET AND ACCIDENT CONDITIONS INVOLVING THE LIKELY RELEASE OF HAZARDOUS MATERIALS INTO THE ENVIRONMENT (IS IMPACT VIII.B).
- (a) Potential Impact. The potential for the proposed project to create a significant hazard to the public or the environment through release of hazardous materials into the environment is discussed on pages 41 through 44 of the IS.
- (b) Findings. Less than significant with mitigation incorporated. (Initial Study, pg. 43). Changes or alterations have been required in, or incorporated into, the proposed project which avoid

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or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

- (c) Explanation. Based upon the IS and the entire record before this City Council, this City Council finds that the impacts related to the release of hazardous materials into the environment will be mitigated to a less-than-significant level with implementation of Mitigation Measures VIII-1 and VIII-2. Based on the age of the existing on-site building, asbestos containing materials (ACM) and lead-based paints (LBP) are presumed to be present. The proposed project would include demolition of the structure. Without implementation of the appropriate safety measures, the proposed project could potentially expose construction workers during structure demolition to ACM and LBP. Mitigation Measures VIII-1 and VIII-2 require the proposed project applicant to provide a site assessment that determines whether the structure contains ACM and LBP. If either material is found, proper procedures are set forth sufficient to ensure that a significant hazard to the public or the environment does not occur. Any remaining impacts related to the creation of a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment after implementation of Mitigation Measures VIII-1 and VIII-2 would not be significant.

Mitigation Measure(s). The following mitigation measures are prescribed to mitigate the impact:

- VIII-1 Prior to issuance of a demolition permit by the City for the existing on-site structure, the project applicant shall provide a site assessment that determines whether the structure contains asbestos. If the structure does not contain asbestos, further mitigation is not required. If asbestos-containing materials are detected, the applicant shall prepare and implement an asbestos abatement plan consistent with federal, State, and local standards, subject to approval by the City Engineer, City Building Official, and the Yolo-Solano Air Quality Management District.

Implementation of the asbestos abatement plan shall include the removal and disposal of the asbestos-containing materials by a licensed and certified asbestos removal contractor, in accordance with local, State, and federal regulations. In addition, the demolition contractor shall be informed that all building materials shall be considered as containing asbestos. The contractor shall take appropriate precautions to protect his/her workers, the surrounding community, and to dispose of construction waste containing asbestos in accordance with local, State, and federal regulations subject to approval by the

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City Engineer, City Building Official, and the Yolo-Solano Air Quality Management District.

- VIII-2 Prior to issuance of a demolition permit by the City for the existing on-site structure, the project applicant shall provide a site assessment that determines whether the structure contains lead-based paint. If the structure does not contain lead-based paint, further mitigation is not required. If lead-based paint is found, all loose and peeling paint shall be removed and disposed of by a licensed and certified lead paint removal contractor, in accordance with federal, State, and local regulations. The demolition contractor shall be informed that all paint on the buildings shall be considered as containing lead. The contractor shall take appropriate precautions to protect his/her workers, the surrounding community, and to dispose of construction waste containing lead paint in accordance with federal, State, and local regulations subject to approval by the City Engineer.

5. VIOLATE ANY WATER QUALITY STANDARDS OR WASTE DISCHARGE REQUIREMENTS (IS IMPACT IX.A).

CREATE OR CONTRIBUTE TO RUNOFF WATER WHICH WOULD EXCEED THE CAPACITY OF EXISTING OR PLANNED STORMWATER DRAINAGE SYSTEMS OR PROVIDE SUBSTANTIAL ADDITIONAL SOURCES OF POLLUTED RUNOFF (IS IMPACT IX.E).

OTHERWISE SUBSTANTIALLY DEGRADE WATER QUALITY (IS IMPACT IX.F).

- (a) Potential Impact. The potential for the proposed project to violate any water quality standards or waste discharge requirements, create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, or otherwise substantially degrade water quality is discussed on pages 46 through 48 of the IS.
- (b) Findings. Less than significant with mitigation incorporated. (Initial Study, pg. 47). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
- (c) Explanation. Based upon the IS and the entire record before this City Council, this City Council finds that the proposed project's impacts related to water quality, waste discharge, and runoff that could exceed the capacity of existing stormwater drainage systems will be

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mitigated to a less-than-significant level with implementation of Mitigation Measure IX-1. In accordance with the State's Construction General Permit National Pollutant Discharge Elimination System (NPDES) regulations, the project applicant is required to have a Stormwater Pollution Prevention Plan (SWPPP) prepared by a Qualified SWPPP Developer for review and approval by the City Engineer prior to soil disturbance. With respect to water quality effects from operation of the proposed project, permanent stormwater quality treatment control measures (TCMs) for development in the City of Davis must be designed in accordance with the State's Phase II Small MS4 General Permit, the development standards of which have been adopted by reference in Chapter 30 of the City's Municipal Code. The City requires preliminary Stormwater Quality Plans at the discretionary phase to ensure that Drainage Management Areas (DMAs), TCMs and hydromodification measures are adequately designed into the conceptual development plan, demonstrating full compliance of the proposed project's drainage system with the Phase II Small MS4 General Permit. Treatment and retention and/or detention of site stormwater flows prior to flowing to existing public stormwater conveyance facilities, consistent with the State's Phase II Small MS4 General Permit, would ensure that the proposed project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. As such, implementation of Mitigation Measure IX-1 requires permanent stormwater control, treatment, and attenuation features, subject to review and approval by the City. Any remaining impacts related to water quality, waste discharge, and runoff that could exceed the capacity of existing stormwater drainage systems after implementation of Mitigation Measure IX-1 would not be significant.

Mitigation Measure(s). The following mitigation measure is prescribed to mitigate the impact:

IX-1 Prior to issuance of grading permits, the applicant shall submit to the City a plan, identifying permanent stormwater TCMs, SDMs, and Hydromodification Measures, for each DMA to be implemented on the project, as well as a copy of a stormwater maintenance agreement and corresponding maintenance plan signed and recorded by the County of Yolo Clerk's Office. The plan shall include LID measures consistent with the Preliminary Utility Study prepared for the project and shall be subject to review and approval by the Public Works Department.

6. CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A TRIBAL CULTURAL RESOURCE, DEFINED IN PUBLIC RESOURCES CODE SECTION 21074 AS EITHER A SITE, FEATURE, PLACE, CULTURAL LANDSCAPE THAT IS GEOGRAPHICALLY DEFINED IN TERMS OF THE SIZE AND SCOPE OF THE LANDSCAPE, SACRED PLACE, OR OBJECT WITH CULTURAL VALUE TO A CALIFORNIA NATIVE AMERICAN TRIBE, AND THAT IS:



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- A. LISTED OR ELIGIBLE FOR LISTING IN THE CALIFORNIA REGISTER OF HISTORICAL RESOURCES OR IN A LOCAL REGISTER OF HISTORICAL RESOURCES DEFINED IN PUBLIC RESOURCES CODE SECTION 5020.1(K) (IS IMPACT XVII.A).
  - B. A RESOURCE DETERMINED BY THE LEAD AGENCY, IN ITS DISCRETION AND SUPPORTED BY SUBSTANTIAL EVIDENCE, TO BE SIGNIFICANT PURSUANT TO CRITERIA SET FORTH IN SUBDIVISION (C) OF PUBLIC RESOURCES CODE SECTION 5024.1? IN APPLYING THE CRITERIA SET FORTH IN SUBDIVISION (C) OF PUBLIC RESOURCES CODE SECTION 5024.1, THE LEAD AGENCY SHALL CONSIDER THE SIGNIFICANCE OF THE RESOURCE TO A CALIFORNIA NATIVE AMERICAN TRIBE (IS IMPACT XVII.B).
- (a) Potential Impact. The potential for the proposed project to cause a substantial adverse change in the significance of a tribal cultural resource is discussed on pages 62 and 63 of the IS.
  - (b) Findings. Less than significant with mitigation incorporated. (Initial Study, pg. 62). Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the EIR. (State CEQA Guidelines, Section 15091(a)(1)). The City further finds that the change or alteration in the proposed project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.
  - (c) Explanation. Based upon the IS and the entire record before this City Council, this City Council finds that the impacts related to the proposed project causing a substantial adverse change in the significance of a Tribal Cultural Resource will be mitigated to a less-than-significant level with implementation of Mitigation Measure XVII-1. In compliance with Assembly Bill (AB) 52 (PRC Section 21080.3.1) and Senate Bill (SB) 18, project notification letters were distributed to the Lone Band of Miwok Indians and the Yocha Dehe Wintun Nation on June 5, 2018. Requests for consultation were not received prior to closure of the mandatory AB 52 30-day response period for consultation. However, the Yocha Dehe Wintun Nation subsequently provided a letter to the City stating that they were not aware of any known Tribal Cultural Resources near the project site, but suggested that cultural sensitivity training for personnel be conducted. Further comments were not received during the NOP or Draft EIR public comment period. The potential for unrecorded Tribal Cultural Resources to exist within the project site is relatively low based on existing developed site conditions, and Tribal Cultural Resources have not been identified within the vicinity of the project site. Nevertheless, the possibility exists that future development occurring on the proposed project site could result in a substantial adverse change in the significance of a Tribal Cultural Resource if previously unknown resources are uncovered during grading or other ground-disturbing activities. Mitigation Measure XVII-1, which requires implementation of Mitigation Measures V-1, V-2, and V-3, sets forth the necessary procedures should any Tribal Cultural Resources be uncovered on the site during project construction sufficient to ensure that a substantial adverse change in the significance of or

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destruction of the resource(s) does not occur. Any remaining impacts associated with Tribal Cultural Resources after implementation of Mitigation Measure XVII-1 would not be significant.

Mitigation Measure(s). The following mitigation measure is prescribed to mitigate the impact:

XVII-1. Implement Mitigation Measures V-1, V-2, and V-3.

Mitigation Measures V-1, V-2, and V-3 are presented again below for reference:

V-1 If any subsurface historic remains, prehistoric or historic artifacts, other indications of archaeological resources, or cultural and/or tribal resources are found during grading and construction activities, all work within 100 feet of the find shall cease, the City of Davis Department of Community Development and Sustainability shall be notified, and the applicant shall retain an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, to evaluate the find(s). The archaeologist shall have the authority to modify the no-work radius as appropriate, using professional judgement. If tribal resources are found during grading and construction activities, the applicant shall notify the Yocha Dehe Wintun Nation. If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, he or she shall immediately notify the City and landowner.

The archaeologist shall define the physical extent and the nature of any built features or artifact-bearing deposits. The investigation shall proceed immediately into a formal evaluation to determine the eligibility of the feature(s) for inclusion in the California Register of Historical Resources. The formal evaluation shall include, at a minimum, additional exposure of the feature(s), photo-documentation and recordation, and analysis of the artifact assemblage(s). If the evaluation determines that the feature(s) and artifact(s) do not have sufficient data potential to be eligible for the California Register, additional work shall not be required. However, if data potential exists (e.g., an intact feature is identified with a large and varied artifact assemblage), the City shall consult on a finding of eligibility and implement appropriate treatment measures. Further measures might include avoidance of further disturbance to the resource(s) through project redesign. If avoidance is determined to be infeasible, additional data recovery excavations shall be conducted for the resource(s), to collect enough information to exhaust the data potential of those resources.

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Pursuant to CEQA Guidelines Section 15126.4(b)(3)(C), a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Data recovery efforts can range from rapid photographic documentation to extensive excavation depending upon the physical nature of the resource. The degree of effort shall be determined at the discretion of a qualified archaeologist and should be sufficient to recover data considered important to the area's history and/or prehistory.

Significance determinations for tribal cultural resources shall be measured in terms of criteria for inclusion on the California Register of Historical Resources (Title 14 CCR, §4852[a]), and the definition of tribal cultural resources set forth in PRC Section 21074 and 5020.1 (k). The evaluation of the tribal cultural resource(s) shall include culturally appropriate temporary and permanent treatment, which may include avoidance of tribal cultural resources, in-place preservation, and/or re-burial on project property so the resource(s) are not subject to further disturbance in perpetuity. Any re-burial shall occur at a location predetermined between the landowner and the Yocha Dehe Wintun Nation. The landowner shall relinquish ownership of all sacred items, burial goods, and all archaeological artifacts that are found on the project area to the Yocha Dehe Wintun Nation for proper treatment and disposition. If an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation.

Work may not resume within the no-work radius until the City, through consultation as appropriate, determines that the find(s) either: 1) is not eligible for the National or California Register; or 2) that treatment measure have been completed to the City's satisfaction.

The language of this mitigation measure shall be included on any future grading plans, utility plans, and subdivision improvement drawings approved by the City for the development of the proposed project site.

- V-2 If any vertebrate bones or teeth are found by the construction crew, the City of Davis Department of Community Development and Sustainability shall be notified and the contractor shall cease all work within 100 feet of the discovery until an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, inspects the discovery. If deemed significant with respect to authenticity, completeness, preservation, and identification, the resource(s) shall then be

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salvaged and deposited in an accredited and permanent scientific institution (e.g., the University of California Museum of Paleontology), where it shall be properly curated and preserved for the benefit of current and future generations. The language of this mitigation measure shall be included on any future grading plans, utility plans, and subdivision improvement drawings approved for the proposed project site, where excavation work would be required.

- V-3 If human remains are discovered during project construction, further disturbance shall not occur within 100 feet of the vicinity of the find(s) until the Yolo County Coroner has made the necessary findings as to origin. (California Health and Safety Code Section 7050.5) Further, pursuant to California PRC Section 5097.98(b), remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Yolo County Coroner determines the remains to be Native American and not the result of a crime scene, the Coroner shall notify the Native American Heritage Commission (NAHC) and the Yocha Dehe Wintun Nation within 24 hours. The NAHC and Yocha Dehe Wintun Nation must then identify the "most likely descendant(s)" (MLD). The landowner shall engage in consultations with the MLD. The MLD shall make recommendations concerning the treatment of the remains within 48 hours, as provided in PRC 5097.98. If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (PRC 5097.94). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (PRC 5097.98). This will also include either recording the site with the NAHC or the appropriate information center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the County in which the property is located (AB 2641). Work may not resume within the no-work radius until the City, through consultation as appropriate, determines that the treatment measures have been completed to their satisfaction.

## V. FINDINGS AND RECOMMENDATIONS REGARDING THOSE ENVIRONMENTAL EFFECTS WHICH ARE FOUND TO HAVE NO IMPACT OR IMPACTS THAT ARE LESS THAN SIGNIFICANT OR LESS THAN CUMULATIVELY CONSIDERABLE

The following categories of environmental effects were found to have no impact as set forth in more detail in the IS.

Aesthetics: The following environmental effects were found to have no impact in the IS: I.a and I.b.

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Agriculture and Forest Resources: The following environmental effects were found to have no impact in the IS: II.a through II.e.

Biological Resources: The following environmental effects were found to have no impact in the IS: IV.b and IV.c.

Geology and Soils: The following environmental effect was found to have no impact in the IS: VI.e.

Hazards and Hazardous Materials: The following environmental effects were found to have no impact in the IS: VIII.c and VIII.h.

Hydrology and Water Quality: The following environmental effect was found to have no impact in the IS: IX.j.

Mineral Resources: The following environmental effects were found to have no impact in the IS: XI.a and XI.b.

Population and Housing: The following environmental effects were found to have no impact in the IS: XIII.b and XIII.c.

Specific impacts within the following categories of environmental effects were found to be less than significant as set forth in more detail in the Draft EIR and IS.

Aesthetics: The following specific impacts were found to be less than significant in the IS: I.c and I.d.

Air Quality: The following specific impacts were found to be less than significant in the Draft EIR: 4.1-1 and 4.1-2. The following impact was found to be less than significant in the IS: III.e.

Biological Resources: The following specific impacts were found to be less than significant in the IS: IV.d and IV.f.

Cultural Resources: The following impact was found to be less than significant in the IS: V.a

Geology and Soils: The following impacts were found to be less than significant in the IS: VI.a through VI.d.

Greenhouse Gas Emissions and Energy: The following specific impacts were found to be less than significant in the Draft EIR: 4.2-1 and 4.2-2.

Hazards and Hazardous Materials: The following specific impacts were found to be less than significant in the IS: VIII.a, VIII.d, VIII.e, and VIII.f and VIII.g.

Hydrology and Water Quality: The following specific impacts were found to be less than significant in the IS: IX.b, IX.c, IX.d, IX.g, IX.h, IX.i.

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Land Use and Planning: The following specific impact was found to be less than significant in the Draft EIR: 4.3-1. The following specific impacts were found to be less than significant in the IS: X.a and X.c.

Noise: The following specific impact was found to be less than significant in the Draft EIR: 4.4-3. The following specific impacts were found to be less than significant in the IS: XII.e and XII.f.

Population and Housing: The following specific impact was found to be less than significant in the IS: XIII.a.

Public Services and Utilities: The following specific impacts were found to be less than significant in the Draft EIR: 4.5-1, 4.5-2, 4.5-3, 4.5-4, 4.5-5, and 4.5-6. The following specific impacts were found to be less than significant in the IS: XIV.c, XIV.d, XIV.e, and XVIII.c.

Recreation: The following specific impacts were found to be less than significant in the IS: XV.a and XV.b.

Transportation and Circulation: The following specific impacts were found to be less than significant in the Draft EIR: 4.6-1, 4.6-5, and 4.6-6. The following specific impact was found to be less than significant in the IS: XVI.c.

Specific cumulative impacts within the following categories of environmental effects were found to be less than significant or less than cumulatively considerable as set forth in more detail in the Draft EIR.

Air Quality: The following specific impacts were found to be less than cumulatively considerable: 4.1-4 and 4.1-5.

Greenhouse Gas Emissions and Energy: The following specific impact was found to be less than cumulatively considerable: 4.2-4.

Land Use and Planning: The following specific impact was found to be less than significant: 4.3-2.

Noise: The following specific impact was found to be less than significant: 4.4-4.

Public Services and Utilities: The following specific impacts were found to be less than cumulatively considerable: 4.5-7 and 4.5-8.

Transportation and Circulation: The following specific impact was found to be less than significant: 4.6-10.

The above impacts are less than significant or less than cumulatively considerable for one of the following reasons:

- The EIR determined that the impact is less than significant for the proposed project.

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- The EIR determined that the proposed project would have a less than cumulatively considerable contribution to the cumulative impact.
- The EIR determined that the impact is beneficial (would be reduced) for the proposed project.
- The EIR determined that the cumulative impact was fully addressed in the General Plan EIR and that the proposed project would not result in new or expanded cumulative impacts.

### VI. FINDINGS REGARDING SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

Pursuant to Section 15126.2(c) of the CEQA Guidelines, an EIR must identify any significant irreversible environmental outcomes that could result from the implementation of a proposed project. These may include current or future uses of nonrenewable resources. CEQA requires that irretrievable commitments of resources should be evaluated to ensure that such current consumption is justified. The proposed project's significant irreversible environmental changes are addressed in Section 5.3 of Chapter 5, Statutorily Required Sections, of the Draft EIR.

As discussed in the Draft EIR, for the purposes of the EIR analysis, the required evaluation of this topic is addressed from three perspectives:

1. Use of nonrenewable resources that would commit future generations;
2. Irreversible damage from environmental accidents; and
3. Irretrievable commitments of nonrenewable resources to justify current consumption.

Each of the perspectives was discussed in the EIR as provided below:

#### 1. USE OF NONRENEWABLE RESOURCES THAT WOULD COMMIT FUTURE GENERATIONS

The proposed project constitutes an infill development in an urban area. The proposed project would include a mixed-use development consisting of retail and residential components and, thus, would result in a commitment of energy resources associated with maintaining the proposed development over the lifetime of the buildings. A portion of the energy demand required of the proposed project would be supplied by non-renewable resources such as fossil fuels. Energy demands associated with operation of the proposed project are discussed in greater detail in Section 4.2, Greenhouse Gas Emissions and Energy, of this EIR. Section 4.2 of the EIR concludes that, although the proposed project operations would involve an increase in energy consumption, the proposed project would comply with all applicable standards and regulations regarding energy conservation and fuel efficiency, which would ensure that the future uses would be designed to be energy efficient. In addition, Mitigation Measures 4.2-3(a) and 4.2-3(b) would ensure that the proposed project would achieve carbon neutrality (zero MTCO<sub>2</sub>e/yr) by the year 2040. Accordingly, the proposed project would not be considered to result in a wasteful, inefficient, or unnecessary usage of energy. Therefore, while the proposed

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project would involve the use of nonrenewable resources, the proposed project's use of nonrenewable resources would not place an unreasonable burden on future generations.

### 2 IRREVERSIBLE DAMAGE FROM ENVIRONMENTAL ACCIDENTS

The proposed project would not involve uses in which irreversible damage could result from potential environmental accidents. As discussed in the Initial Study prepared for the proposed project, the proposed project could potentially expose construction workers during demolition of the existing on-site structure to ACM and LBP due to the age of the structure. However, mitigation measures required would ensure that the appropriate safety measures are implemented to reduce any potential risks. Because the proposed project consists of a mixed-use residential and retail development, which is not typically associated with environmental hazards, the occurrence of environmental accidents following completion of construction activities and operation of the proposed project is not anticipated.

### 3 IRRETRIEVABLE COMMITMENTS OF NONRENEWABLE RESOURCES

Construction of the proposed project would involve consumption of building materials and energy, some of which are nonrenewable or locally limited natural resources (e.g., fossil fuels). Nonrenewable resources used for the proposed project could no longer be used for other purposes. Consumption of building materials and energy is common to most other development in the region, and commitments of resources are not unique or unusual to the proposed project. The main resource consumption of the proposed project would be of energy, fuel, and wood and metal building materials that would be used for construction of the buildings. Development would not be expected to involve an unusual commitment of nonrenewable resources, nor be expected to consume any resources in a wasteful manner.

## VII. FINDINGS REGARDING GROWTH-INDUCING IMPACTS

State CEQA Guidelines Section 15126.2(d) requires an EIR to evaluate the potential growth-inducing impacts of a proposed project. Specifically, an EIR must discuss the ways in which a proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Growth can be induced in a number of ways, including the elimination of obstacles to growth, or by encouraging and/or facilitating other activities that could induce growth. Examples of projects likely to have growth-inducing impacts include extensions or expansions of infrastructure systems beyond what is needed to serve project-specific demand, and development of new residential subdivisions or office complexes in areas that are currently only sparsely developed or are undeveloped.

As discussed throughout the EIR, the proposed project would be consistent with the Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) adopted by the Sacramento Area Council of Governments (SACOG). One benefit of the CEQA streamlining process is that projects that are consistent with SACOG's MTP/SCS are granted CEQA streamlining benefits, including that the EIR is not required to reference, describe, or discuss growth-inducing impacts (Public Resources Code, § 21159.28,



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subd. [a]). Therefore, in accordance with Public Resources Code 21159.28, the EIR did not include an analysis of growth-inducing impacts.

### VIII. FINDINGS REGARDING ENERGY CONSUMPTION

In order to ensure energy implications are considered in project decisions, Public Resources Code Section 21100(b)(3) and CEQA Guidelines Appendix F require a discussion of the potential energy impacts of project, with particular emphasis on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy. Pursuant to Public Resources Code Section 21100(b)(3) and CEQA Guidelines Appendix F, the Draft EIR addressed energy impacts in Section 4.2, Greenhouse Gas Emissions and Energy, specifically under Impact 4.2-4 beginning on page 4.2-39 of the Draft EIR.

Appendix F identifies several potential sources of energy conservation impacts, which are listed as follows and discussed in detail in the Draft EIR:

- The proposed project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the proposed project including construction, operation, maintenance and/or removal.
- The effects of the proposed project on local and regional energy supplies and on requirements for additional capacity.
- The effects of the proposed project on peak and base period demands for electricity and other forms of energy.
- The degree to which the proposed project complies with existing energy standards.
- The effects of the proposed project on energy resources.
- The proposed project's projected transportation energy use requirements and its overall use of efficient transportation alternatives.

As discussed in the Draft EIR, the proposed project operations would involve an increase in energy consumption. However, the proposed project would comply with all applicable standards and regulations regarding energy conservation and fuel efficiency, which would ensure that the future uses would be designed to be energy efficient to the maximum extent practicable. Accordingly, the proposed project would not be considered to result in a wasteful, inefficient, or unnecessary usage of energy, and impacts related to operational energy would be considered less than significant. The City finds that the analysis within the Draft EIR is consistent with and meets the requirements of Appendix F of the State CEQA Guidelines regarding energy conservation.

### IX. REVIEW AND REJECTION OF PROJECT ALTERNATIVES

The State CEQA Guidelines Section 15126.6 mandates that every EIR evaluate a no-project alternative, plus a feasible and reasonable range of alternatives to the proposed project or its location. Four alternatives to the proposed project were developed based on City of Davis staff and City Council input, input from the public during the NOP review period, and the technical analysis performed to identify the environmental effects of the proposed project. Alternatives provide a basis of comparison to the proposed project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is used to consider reasonable feasible options for minimizing environmental consequences of a project.

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Typically, where a project causes significant impacts and an EIR is prepared, the findings must discuss not only how mitigation can address the potentially significant impacts but whether project alternatives can address potentially significant impacts. Where all significant impacts can be substantially lessened, particularly to a less-than-significant level, solely by adoption of mitigation measures, the lead agency, in drafting its findings, has no obligation to consider the feasibility that project alternatives might reduce an impact, even if the alternative would mitigate the impact to a greater degree than the proposed project, as mitigated (Public Resources Code Section 21002; Laurel Hills Homeowners Association v. City Council (1978) 83 Cal.App.3d 515, 521; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 730-733; Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376, 400-403).

Because not all significant effects can be substantially reduced to a less-than-significant level either by adoption of mitigation measures or by standard conditions of approval, the following section considers the feasibility of the proposed project alternatives as compared to the proposed project.

As explained below, these findings describe and reject, for reasons documented in the EIR and summarized below, each one of the proposed project alternatives, and the City finds that approval and implementation of the proposed University Commons Project is appropriate. The evidence supporting these findings is presented in Chapter 6.0 of the Draft EIR.

### A. IDENTIFICATION OF PROJECT OBJECTIVES

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As described above, an EIR is required to identify a “range of potential alternatives to the project [which] shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one of more of the significant effects.” Chapter 3.0 of the Draft EIR identifies the proposed project’s goals and objectives. The proposed project objectives include:

1. Develop a vibrant mixed-use center that maintains and enhances the community and neighborhood retail uses and services and incorporates complementary residential uses.
2. Increase the supply and variety of housing options close to employment centers and convenient for daily needs.
3. Create a diverse community that utilizes the site's proximity to the UC Davis campus and provides housing for students, employees, and university-related personnel.
4. Foster a sustainable community that addresses building efficiency, transportation, efficient use of land, and reduces the community’s carbon footprint and vehicle miles travelled.
5. Redevelop and revitalize an aged, existing shopping center with a financially feasible, vertical mixed-use project consistent with SACOG’s sustainable community strategies.
6. Increase the variety of retail providers and uses in the City.
7. Increase the capture of local sales tax through increased retail activity within City limits.
8. Increase the opportunity for vehicle trip reduction through the provision of additional housing within close proximity to the UC Davis campus, additional employment and new retail uses.
9. Develop a vertical mixed-use infill project that balances adequate parking needs between commercial and residential uses.

### B. ALTERNATIVES CONSIDERED BUT DISMISSED

As discussed throughout the EIR, the proposed project would be consistent with the MTP/SCS adopted by the SACOG. One benefit of the CEQA streamlining process is that projects that are consistent with the SACOG's MTP/SCS requirements for Transportation Priority Projects (TPPs) are granted CEQA streamlining benefits. Per CEQA streamlining benefits, the EIR is not required to reference, describe, or discuss project-specific or cumulative impacts from cars and light-duty truck trips generated by the proposed project on global warming or the regional transportation network (Pub. Resources Code, §21159.28, subd. (a).); alternative locations, densities, and building intensities to the proposed project need not be considered (Pub. Resources Code, § 21159.28, subd. (b) and 21155.2, subd. (c)(2).); nor is the EIR required to consider potential impacts related to aesthetics or parking issues (Pub. Resources Code, § 21099, subd. (d)(1).).

Consistent with CEQA, primary consideration was given to alternatives that could reduce significant impacts, while still meeting most of the basic project objectives.

As stated in Guidelines Section 15126.6(c), among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are:

- Failure to meet most of the basic project objectives;
- Infeasibility; or
- Inability to avoid significant environmental impacts.

Regarding infeasibility, among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site (or the site is already owned by the proponent). Not one of these factors establishes a fixed limit on the scope of reasonable alternatives.

Two alternatives were considered but dismissed from detailed analysis in the EIR. The two alternatives are discussed below, along with the reason(s) for dismissal, within the context of the three above-outlined permissible reasons.

#### Off-Site Alternative

An Off-Site Alternative was initially considered for CEQA alternatives analysis. A parcel located in the City of Davis at the northwest corner of Alhambra Drive and Mace Boulevard was identified. The 6.0-acre site is slightly smaller than the University Mall parcel. It was vacant at the time and could accommodate a similar type of development under its land use and zoning designations for retail uses with residential uses above the first floor. The site has since been rezoned and developed with office and light industrial buildings.

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As noted previously, the proposed project is consistent with SACOG's MTP/SCS. As such, a detailed analysis of alternative locations to the project site is not required (Pub. Resources Code, § 21159.28, subd. (b) and 21155.2, subd. (c)(2)). Development of the proposed project at an off-site location would be capable of meeting the majority of project objectives. However, a number of the proposed project objectives are specific to the existing University Mall operations and/or site. For example, Objective 3 directly relates to the site's proximity to the UC Davis campus and the availability of the site to provide housing for students, employees, and university-related personnel. Objective 5 relates to redevelopment of the project site and revitalization of an aged, existing shopping center. Furthermore, the City of Davis includes relatively few properties that are capable of accommodating multi-story mixed-use development close to existing employment centers. Thus, an off-site alternative likely would not meet Objectives 1 or 2. Overall, an environmentally feasible off-site location that would meet the requirements of CEQA, as well as meet the basic objectives of the proposed project, does not exist.

### Conventional Apartments Alternative

Development of the project site with conventional apartments, as opposed to the mixed-use development currently proposed, was briefly considered by the City. The site would be redeveloped with residential uses only, which would not necessarily be intended for student residents. Apartment units would primarily consist of 1, 2, and 3-bedroom units and shared bathrooms and would be rented by the unit instead of by the bed. There would be a similar number of bedrooms but fewer bedrooms per unit and greater number of units than the proposed project. This Alternative would not reduce any significant impacts identified in the EIR, and would not meet Objectives 1, 4, 5, 6, or 7, and would only partially meet Objective 8. Per Section 15126.6(f) of CEQA Guidelines, the Conventional Apartments Alternative was dismissed from detailed analysis within the EIR because the alternative would not avoid or substantially lessen any of the significant effects of the proposed project or attain most of the proposed project objectives.

## C. ALTERNATIVES ANALYSIS IN EIR

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Pursuant to Section 15126.6 of the CEQA Guidelines, the EIR considered four alternatives to the proposed project. The potential alternatives were screened against a set of criteria. The criteria addressed two primary topics: the ability of the alternative to meet the proposed project objectives and purpose, and the feasibility and reasonableness of the alternative. The four alternatives were analyzed in Chapter 6 of the Draft EIR and consist of the following:

1. No Project Alternative;
2. Retail Project Only Alternative;
3. Existing Zoning Mixed Use Build Out Alternative; and
4. Low Parking Alternative.

Based on impacts identified in the EIR, and other reasons documented below, the City Council finds that the University Commons Project, as proposed, is the most desirable, feasible, and appropriate action and rejects the other alternatives as infeasible based on consideration of the relevant factors identified

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herein. A summary of each alternative, its relative characteristics, and documentation of the City Council's findings in support of rejecting the alternative as infeasible are provided below.

### D. GENERAL FINDINGS FOR PROJECT ALTERNATIVES

The City Council finds that the range of alternatives studied in the EIR reflects a reasonable attempt to identify and evaluate various types of alternatives that would potentially be capable of reducing the environmental effects of the proposed project. The City Council finds that the alternatives analysis is sufficient to inform the Council, other agencies, and the public regarding the tradeoffs between the degree to which alternatives could reduce environmental impacts and the corresponding degree to which the alternatives would hinder achievement of the proposed project objectives and/or be infeasible.

The City Council is free to reject an alternative that it considers undesirable from a policy standpoint, provided that such a decision reflects a reasonable balancing of various "economic, social, and other factors." Based on impacts identified in the EIR, and other reasons documented below, the City Council finds that approval of the University Commons Project is the most desirable, feasible, and appropriate alternative, and rejects other alternatives and other combinations and/or variations of alternatives as infeasible.

### E. FINDINGS FOR REJECTION OF ALTERNATIVES

#### 1. NO PROJECT ALTERNATIVE:

The No Project Alternative is discussed on pages 6-8 through 6-10 of the Draft EIR. The No Project Alternative assumes that the project site would remain in its existing state and additional development would not occur. The current condition of the project site consists of a 90,653-square foot (sf) portion of a community shopping center (University Mall) that includes a variety of commercial uses and restaurants. Current tenants of the University Mall include Cost Plus World Market, Starbucks, Forever 21, Fluffy Donuts, and smaller shops and services. Professional offices are located on a partial second floor. For the purpose of this analysis, the portion of the existing University Mall to be analyzed in the No Project Alternative does not include the existing 13,200-sf Trader Joe's. Under the No Project Alternative, the project site would remain in the current condition, and the existing on-site commercial uses would remain in operation.

- (a) Findings: The No Project Alternative is rejected as an alternative because it would not achieve any of the nine identified objectives.
- (b) Explanation: All of the significant impacts identified for the proposed project would not occur under the No Project Alternative. However, the No Project Alternative would not realize the benefits of the proposed project nor achieve any of the proposed project objectives. The City of Davis has identified the need for an updated, mixed-use center that provides housing options in close proximity to the UC Davis campus. The No Project Alternative would not result in redevelopment of the site and, thus, would not involve development of new housing opportunities or revitalized commercial uses. The existing demand for such uses would be satisfied by developing commercial centers and residential

## FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

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projects on other sites in the City or by the conversion of agricultural land to increase land zoned for commercial and residential units within the City limits. Vacancy would persist and the economic viability of University Mall would be uncertain because the mall concept is outdated with respect to market preferences.

### 2. RETAIL PROJECT ONLY ALTERNATIVE:

The Retail Project Only Alternative is discussed on pages 6-10 through 6-14 of the Draft EIR. Under the Retail Project Only Alternative, only the retail portion of the proposed project would be developed, and does not include residential uses. The Alternative assumes demolition of 90,563 sf of the existing shopping center and redevelopment of the site with a total of 136,800 sf of retail uses, an increase of approximately 46,237 sf relative to the existing shopping center. The site would continue to operate as community retail center, albeit with additional square footage and possibly a smaller parking structure for additional required parking. Given that the Retail Project Only would not include residential uses, the Alternative would not qualify as a Transit Priority Project and, therefore, streamlining benefits would not apply to the Alternative. The Retail Project Only Alternative would result in a floor-to-area ratio (FAR) of 0.38, which is permitted under the project site's existing zoning and land use designations. In addition, because the Alternative would not include multiple stories of residential uses, the overall height of the proposed buildings would be substantially reduced compared to the proposed project. Therefore, unlike the proposed project, the Retail Project Only Alternative would not require a General Plan Amendment nor an amendment of the site's current PD #2-97B zoning designation.

- (a) Findings: The Retail Project Only Alternative is rejected because it would not meet any of the objectives related to residential uses (Objectives 1, 2, 3, 5 and 8) and would not avoid the significant and unavoidable impacts identified for the proposed project.
- (b) Explanation: Due to the reduced scale of the Retail Project Only Alternative, fewer impacts related to air quality, GHG emissions and energy, and transportation and circulation would occur. Implementation of the Retail Project Only Alternative would result in a reduction in on-site energy demand relative to existing conditions, and Mitigation Measures 4.2-3(a) and 4.2-3(b) would not be required. As a result, the Retail Project Only Alternative would be considered the environmentally superior alternative to the proposed project. Demolition and renovation of on-site retail uses would still be required under the Retail Project Only Alternative. As such, impacts related to noise would remain similar to those resulting from the proposed project. Although the Alternative would result in reduced pedestrian, bicycle, transit, and vehicle trips during operations, it would still add pedestrian and bicycle trips and degrade the already busy facilities, as well as add vehicle trips to impacted study intersections, and the significant and unavoidable impacts related to transportation and circulation would remain. In addition, because the Alternative would not include any residential uses, the Alternative would not achieve the primary objective of the proposed project of developing new housing opportunities. Without the inclusion of residential uses, multi-family residential units would not be added to the City's supply, housing for students, young professionals, and families would be accommodated elsewhere, the synergy created by a vertical mixed-use project with residential and commercial uses would not occur, and

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fewer benefits to VMT would occur, as all customers of the commercial uses would travel to the site from elsewhere in the City. Furthermore, compared to the proposed project, the Retail Project Only Alternative is 63 percent less expensive to construct, but would result in a 74 percent reduction in revenue, as compared to the proposed project. Economic benefits to offset the projected reduction in revenue do not exist. Additional parking would be needed to accommodate the addition of 46,237 sf in the Alternative. The cost of the parking structure could not be supported by commercial uses alone. For the aforementioned reasons, the Retail Project Only Alternative would be considered economically infeasible.

### 3. EXISTING ZONING MIXED USE BUILD OUT ALTERNATIVE:

The Existing Zoning Mixed Use Build Out Alternative is discussed on pages 6-14 through 6-17 of the Draft EIR. Under the Existing Zoning Mixed Use Build Out Alternative, the majority of existing on-site retail uses would be demolished. The site would be redeveloped and the mixed uses, building heights, and floor area would be per the property's current Community Retail land use designation and PD 2-97B zoning district. The Alternative assumes that the same amount of retail proposed for the proposed project (136,800 sf) is included on-site, with the remaining allowable space comprising residential uses (83,590 sf) resulting in a total of 220,360 sf of retail and residential space. The total number of residential units included in the Alternative is assumed to be 53, with the mixed-use buildings anticipated to be between two and three stories. Similar to the proposed project, the Alternative would include a parking structure; however, the overall size of the structure would be reduced to accommodate the reduction in residential units.

- (a) Findings: The Existing Zoning Mixed Use Build Out Alternative is rejected because Objective 4 would only be partially met, the Alternative would result in a less efficient use of land compared to the proposed project, and the significant and unavoidable impacts identified for the proposed project would not be avoided.
- (b) Explanation: Due to the reduction in scale, the Existing Zoning Mixed Use Build Out Alternative would result in reduced impacts related to air quality, GHG emissions and energy, and transportation and circulation. Impacts related to noise would remain similar to those resulting from the proposed project. However, the significant and unavoidable impacts related to transportation and circulation would remain. In addition, Objective 4 would only be partially met as the Alternative would include a reduced amount of development compared to the proposed project, but would include a similar building footprint, thereby resulting in a less efficient use of land compared to the proposed project and an increased per capita carbon footprint. The reduction in scale would reduce and/or eliminate economies of scale necessary to support retailers and project improvements, including the parking structure. Compared to the proposed project, the Alternative would be 45 percent less expensive to construct, but results in a 60 percent reduction in revenue. Economic benefits to offset the projected reduction in revenue do not exist. For the aforementioned reasons, the Existing Zoning Mixed Use Build Out Alternative would be considered economically infeasible.

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### 4. LOW PARKING ALTERNATIVE:

The Low Parking Alternative is discussed on pages 6-17 through 6-19 of the Draft EIR. Under the Low Parking Alternative, the project site would be redeveloped as a mixed-use center of similar scale and intensity as the proposed project. However, the Alternative would include aggressive transportation demand strategies and parking demand management measures with incentives to encourage alternative transportation and disincentives to discourage car ownership by residents and vehicle trips by customers. A maximum of 50 resident permit parking spaces would be provided on-site under the Low Parking Alternative, compared to 264 under the proposed project. The full retail parking requirement of 429 spaces would continue to be provided under this Alternative. The Low Parking Alternative could also include advanced bicycle and pedestrian facilities, connections, and improvements, bicycle- and car-sharing programs, shuttle services, monetary incentives, parking charges, and other similar measures. Similar to the proposed project, the Alternative would include a parking structure; however, the overall size of the structure would be reduced to accommodate the reduction in resident permit parking spaces.

- (a) Findings: The Low Parking Alternative is rejected because Objective 9 would only partially be met and the significant and unavoidable impacts identified for the proposed project would not be avoided.
- (b) Explanation: Due to the reduction in residential parking and smaller parking structure, the Low Parking Alternative would result in fewer impacts related to air quality, GHG emissions and energy. Because the Low Parking Alternative would involve demolition of the existing on-site structure and a similar overall area of disturbance as the proposed project, impacts related to noise would remain similar to those resulting from the proposed project. Reductions in vehicle traffic impacts would generally be offset by increased impacts related to alternative transportation modes. Thus, overall, the Low Parking Alternative would result in similar impacts related to transportation and circulation compared to the proposed project, including the significant and unavoidable impacts. While the majority of project objectives would generally be met, Objective 9, which aims to provide adequate parking, would only be partially met, as the Alternative would include substantially reduced residential parking relative to the City's standard requirements. The reduction in parking could hinder some renters, and, compared to other apartment projects in the City, would be a competitive disadvantage. In addition, reducing the amount of parking could result in residents illegally parking in spaces designated for commercial customers or parking off-site on nearby public streets or in nearby apartment communities. Thus, burdensome operational controls to patrol parking would be necessary. For the aforementioned reasons, the Low Parking Alternative is deemed operationally infeasible due to the burdens created by the parking restriction on residents, commercial tenants, and adjacent uses.

### E. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Section 15126(e)(2) of the CEQA Guidelines requires that an environmentally superior alternative be designated and states, "If the environmentally superior alternative is the 'no project' alternative, the EIR



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shall also identify an environmentally superior alternative among the other alternatives." CEQA does not require the City to choose the environmentally superior alternative.

Designating a superior alternative depends in large part on what environmental effects one considers most important. Generally, the environmentally superior alternative is the one that would result in the fewest environmental impacts as a result of project implementation. However, it should be noted that the environmental considerations are one portion of the factors that must be considered. Other factors of importance include urban design, economics, social factors, and fiscal considerations. In addition, the superior alternative would, ideally, still provide opportunities to achieve the proposed project objectives.

As stated in the EIR, the No Project Alternative would not meet any of the proposed project objectives. The Retail Project Only Alternative would not meet Objectives 1, 2, 3, 5, or 8, and would only partially meet Objective 4. The Existing Zoning Mixed Use Build Out Alternative and the Low Parking Alternative would generally meet all of the proposed project objectives, with the exception of Objectives 4 and 9, respectively, which would be only partially met.

The environmentally superior alternative to the proposed project was discussed in Section 6.5 of Chapter 6, Alternatives Analysis, of the Draft EIR. All of the significant impacts identified for the proposed project would not occur or would be fewer under the No Project Alternative. Compared to the proposed project, both the Retail Project Only Alternative and the Existing Zoning Build Out Alternative would both result in fewer impacts related to Air Quality, GHG Emissions and Energy, and Transportation and Circulation, with similar impacts related to noise. The Low Parking Alternative would result in fewer impacts related to Air Quality and GHG Emissions and Energy and similar impacts related to Noise and Transportation and Circulation. Of the alternatives considered, only the No Project Alternative would avoid the significant and unavoidable impacts identified for Transportation and Circulation issues and would be considered the environmentally superior alternative. However, as stated above, when it is the No Project Alternative, the environmentally superior alternative shall be identified among the other alternatives.

Both the Retail Project Only Alternative and the Existing Zoning Mixed Use Build Out Alternative result in fewer impacts than the proposed project for three resource areas, as opposed to only two resource areas under the Low Parking Alternative. However, the Retail Project Only Alternative would result in a reduced number of pedestrian, bicycle, transit, and vehicle trips during operations relative to the Existing Zoning Mixed Use Build Out Alternative, thereby resulting in fewer traffic impacts. In addition, the Retail Project Only Alternative would not require implementation of Mitigation Measures 4.2-3(a) and 4.2-3(b) related to GHG emissions. As a result, the Retail Project Only Alternative was determined to be the environmentally superior alternative to the proposed project.

Nonetheless, the Retail Project Only Alternative would still add pedestrian and bicycle trips and degrade the already busy facilities, as well as add vehicle trips to impacted study intersections, and, as discussed above, the significant and unavoidable impacts identified in the EIR for bicycle and pedestrian facilities and to intersections under Cumulative Plus Project conditions would remain under the Retail Project Only Alternative. In addition, given that the Retail Project Only Alternative would not include residential

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uses, the Alternative would not qualify as a mixed-use project consistent with the SCS and, therefore, would not benefit from CEQA streamlining. Furthermore, the Retail Project Only Alternative would only be capable of meeting three of the nine project objectives, and would only partially achieve Objective 4. For these reasons, the proposed project is deemed superior to the Retail Project Only Alternative. As noted above, CEQA does not require the City to choose the environmentally superior alternative.

### X. STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO THE UNIVERSITY COMMONS PROJECT FINDINGS

As described in Section III of these Findings, the following significant and unavoidable impacts could occur with implementation of the proposed project:

- Project implementation may result in a significant impact to bicycle facilities under Existing Plus Project Conditions (EIR Impact 4.6-2).
- Project implementation may result in a significant impact to pedestrian facilities under Existing Plus Project Conditions (EIR Impact 4.6-3).
- Project implementation may result in a significant impact to study intersections under Cumulative Plus Project Conditions (EIR Impact 4.6-9).

The adverse effects identified above are substantive issues of concern to the City of Davis. General Plan Policy UD 2.4 aims to create affordable and multi-family residential areas that include innovative designs and on-site open space amenities that are linked with public bicycle/pedestrian ways, neighborhood centers, and transit stops. General Plan Policy TRANSPORTION 1.3 aims to locate higher intensity residential development near existing centers and along corridors well served by non-motorized transportation infrastructure and public transportation. The proposed project meets this policy as described.

The following reasons demonstrate that the benefits of the proposed project outweigh its unavoidable adverse environmental effect, thereby justifying approval of the proposed project. There is substantial evidence that these public benefits outweigh the significant impact of the proposed project and therefore is acceptable to the City of Davis. The proposed project will provide for the following benefits:

1. Provision of affordable and market-rate rental housing opportunities;
2. Reduction of long-term GHG emissions by updating building design features and utilizing mixed-use strategies;
3. Financial benefits to the City of Davis and other local agencies through project fees and property and sales tax revenues that will help support local public services and maintain public infrastructure;
4. Creation of jobs and new economic activity through construction of residences and commercial buildings and an expansion of business activity at the retail center;
5. Redevelopment of an outdated commercial site; and

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6. Beneficial use of a strategic infill site on a high quality transit corridor to address local growth pressures.

Regarding Item 1, the demand for rental housing in Davis is well documented. The 2017 Apartment Vacancy and Rental Rate Survey prepared for UC Davis indicates a vacancy rate of just 0.2 percent. While several apartment projects are currently proposed or recently approved, in a Housing Workshop presentation to the Davis City Council on July 11, 2017, City staff noted that 816 to 1,059 new apartment units would be required to meet existing student housing needs. As such, the need for rental housing throughout the City persists. The proposed project would contribute an additional 264 multi-family residential units to increase the City's housing supply, which will help the City satisfy its RHNA goals, and variety of housing options available for students, employees, and university-related personnel. The project also includes 26 studio and two-bedroom units with rents affordable for a mix of low- and moderate-income tenants.

With respect to Item 2, the overall development of the proposed project would address efficiency and sustainable site design in order to benefit the City as a whole. The existing retail buildings would be redeveloped with more energy-efficient design features. The proposed project would be designed to be consistent with SACOG's sustainable community strategies, and would provide convenient alternatives to auto travel by incorporating safe and convenient bicycle and pedestrian access within the site and facilitating access to on-site retail and the nearby UC Davis campus. The mixed-use design and proximity to the UC Davis campus would foster an efficient use of land and help reduce VMT, thereby reducing the community's carbon footprint.

With respect to Item 3, redevelopment of the project site would generate significantly more tax revenue for the City of Davis and other local government agencies, such as Yolo County and the Davis Joint Unified School District, than the current shopping center. It would increase the amount of retail square footage at the center with a proportionate increase in sales and property value with the redeveloped retail building and substantially increase the property's value with the new residential development. The proposed retail project would be anticipated to generate additional property and sales taxes, development impact fees, construction taxes, and business license fees. Additional governmental revenues would be generated through future sales tax revenue generated by purchases made at various local businesses in the community by the proposed residential project residents. Specifically, the proposed project is anticipated to result in an estimated \$200 million investment in capital improvements, and, at stabilization, approximately \$65 million in total sales annually. Thus, the City and its residents will benefit from the positive fiscal benefits of the proposed project.

With regard to Item 4, the proposed project would create jobs by increasing the number of construction workers and permanent new business activity in the project area. Considering the nature and size of the proposed project, a significant amount of construction workers would likely be needed in demolition of the existing buildings and construction of the proposed commercial and residential uses and other proposed improvements. Specifically, the proposed project is anticipated to generate approximately 2,000 direct and indirect short-term construction jobs. Additionally, building materials would most likely

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be purchased in the area, stimulating the local economy and businesses. During operations, the expanded retail center is anticipated to employ 300 people.

With regard to Item 5 the current University Mall is a nearly vacant and antiquated commercial center built in the 1960s. University Mall is outdated and requires redevelopment to become more responsive to the retail and service demands of Davis residents. The proposed project will demolish the University Mall structures and redevelop the site with a contemporary mix of commercial and residential uses in a concept that is responsive to modern market demands. Redevelopment of the site will improve the vitality of the site, contribute to the Russell Boulevard corridor, and improve the interface with the UC Davis campus.

Regarding Item 6, as an infill, vertical mixed-use project, the proposed project will increase commercial square footage and introduce multi-family residential uses to the existing University Mall site. The proposed project reduces growth pressures with uses being proposed on an infill site within the City limits rather than converting agricultural land to create developable parcels outside of the existing City limits. The proposed project is consistent with the MTP/SCS, being an infill project with a mix of residential and commercial uses proximate to transit opportunities. The proposed project would provide housing opportunities near commercial services and UC Davis, a designated employment center in the SCS, with densities that support transit, cycling, and walking. The MTP/SCS identifies the proposed project as a Transit Priority Project because more than half of the residential uses will be denser than 20 units per acre and within a half-mile of the Russell Boulevard transit corridor. Infill projects such as the proposed project that are consistent with the MTP/SCS are eligible for regulatory streamlining. These benefits inure projects where the combination of land uses, design features, and proximity to transit will significantly reduce GHG emissions and promote the attainment of the SCS goals.

Based on the above, despite the significant environmental effects, the City Council, in accordance with Public Resources Code Sections 21001, 21002.1(c), 21081(b) and CEQA Guidelines Section 15093, chooses to approve the proposed project because, in its judgment, the economic, social, and other benefits that the proposed project will produce will render the significant effect acceptable.

## XI. CONCLUSION

After balancing the specific economic, legal, social, technological, and other benefits of the proposed project, the Council finds that the unavoidable adverse environmental impact identified may be considered “acceptable” due to the specific considerations listed above, which outweigh the unavoidable, adverse impact of the proposed project.

The Davis City Council has considered information contained in the EIR prepared for the proposed University Commons Project, as well as the public testimony and record of proceedings in which the proposed project was considered. Recognizing that significant and unavoidable impacts related to transportation and circulation may result from implementation of the proposed project, the Council finds that the benefits of the proposed project and overriding considerations outweigh the adverse effects of the proposed project. Having included all feasible mitigation measures in the Mitigation

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Monitoring and Reporting Program, adopted in conjunction with these findings, and recognized all unavoidable significant impacts, the Council hereby finds that each of the separate benefits of the proposed University Commons Project, as stated herein, is determined to be unto itself an overriding consideration, independent of other benefits, that warrants adoption of the proposed project and outweighs and overrides its unavoidable significant effects, and thereby justifies the adoption of the proposed University Commons Project.

Based on the foregoing findings and the information contained in the record, the Council hereby determines that:

1. All significant effects on the environment due to implementation of the proposed University Commons Project have been eliminated or substantially lessened where feasible;
2. There are no feasible alternatives to the proposed University Commons Project which would mitigate or substantially lessen the impacts; and
3. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations above.

### XII. LIST OF ACRONYMS AND ABBREVIATIONS

The following is a list of the acronyms and abbreviations used in this document:

#### A

ACM	Asbestos Containing Materials
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#### C

CAMUTCD	California Manual on Uniform Traffic Control Devices
CARB	California Air Resources Board
CBSC	California Building Standards Code
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
City	City of Davis
Council	City Council

#### D

dB	Decibel
DMA	Drainage Management Area

#### E

EIR	Environmental Impact Report
ESA	Environmentally Sensitive Area

#### F

Findings	Findings of Fact
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#### G

GHG	Greenhouse Gas
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#### I

IS	Initial Study
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#### L

LBP	Lead-Based Paints
LED	Light-Emitting diode
LID	Low Impact Development

#### M

MBTA	Migratory Bird Treaty Act
MLD	Most Likely Descendant(s)
MTP/SCS	Metropolitan Transportation Plan/Sustainable Communities Strategy

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### N

NAHC	Native American Heritage Commission
NOA	Notice of Availability
NOP	Notice of Preparation
NPDES	National Pollutant Discharge Elimination System

### P

PERP	Portable Equipment Registration Program
Proposed project	University Commons Project
PTO	Permit to Operate

### S

SACOG	Sacramento Area Council of Governments
SCH	State Clearinghouse
SDMs	Site Design Measures
sf	Square Feet
SWPPP	Stormwater Pollution Prevention Plan

### T

TCMs	Treatment Control Measures
TMC	Technical Memorandum of Compliance
TPPs	Transportation Priority Projects
TPZs	Tree Protection Zones

### U

USFWS	United States Fish and Wildlife Service
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### Y

YSAQMD	Yolo Solano Air Quality Management District
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## 4. MITIGATION MONITORING AND REPORTING PROGRAM

### 4.1 INTRODUCTION

Section 15097 of the California Environmental Quality Act (CEQA) requires all State and local agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of either a “mitigated negative declaration” or specified environmental findings related to an EIR.

The following is the Mitigation Monitoring and Reporting Program (MMRP) for the University Commons Project. The intent of the MMRP is to ensure implementation of the mitigation measures identified within the EIR for the University Commons Project. Unless otherwise noted, the cost of implementing the mitigation measures as prescribed by this MMRP shall be funded by the project applicant.

### 4.2 COMPLIANCE CHECKLIST

The MMRP contained herein is intended to satisfy the requirements of CEQA as they relate to the EIR for the University Commons Project prepared by the City of Davis. This MMRP is intended to be used by City staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMRP were developed in the EIR that was prepared for the proposed project.

The University Commons Project EIR presents a detailed set of mitigation measures that will be implemented throughout the lifetime of the project. Mitigation is defined by CEQA Guidelines, Section 15370, as a measure that:

- Avoids the impact altogether by not taking a certain action or parts of an action;
- Minimizes impacts by limiting the degree or magnitude of the action and its implementation;
- Rectifies the impact by repairing, rehabilitating, or restoring the impacted environment;
- Reduces or eliminates the impact over time by preservation and maintenance operations during the life of the project; or
- Compensates for the impact by replacing or providing substitute resources or environments.

The intent of the MMRP is to ensure the implementation of adopted mitigation measures. The MMRP will provide for monitoring of construction activities as necessary and in-the-field identification and resolution of environmental concerns.

Monitoring and documenting the implementation of mitigation measures will be coordinated by the City of Davis. The table attached to this report identifies the mitigation measure, the monitoring action for the mitigation measure, the responsible party for the monitoring action, and timing of the monitoring action. The applicant will be responsible for fully understanding and effectively implementing the mitigation measures contained within the MMRP. The City will be responsible for monitoring compliance.





#### **4.3 MITIGATION MONITORING AND REPORTING PROGRAM**

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The following table indicates the mitigation measure number, the impact the measure is designed to address, the measure text, the monitoring agency, implementation schedule, and an area for sign-off indicating compliance.



MITIGATION MONITORING AND REPORTING PROGRAM University Commons Project					
Impact Number	Impact	Mitigation Measure	Monitoring Agency	Implementation Schedule	Sign-off
4.1 Air Quality					
4.1-3	Expose sensitive receptors to substantial pollutant concentrations.	<p>4.1-3 Prior to approval of any grading or demolition plans, the project applicant shall show on the plans via notation that the contractor shall ensure that all off-road diesel-powered equipment over 25 horsepower to be used in the construction of the project (including owned, leased, and subcontractor equipment) shall meet California Air Resources Board (CARB) Tier 4 emissions standards or cleaner. The plans shall be submitted for review and approval to the Department of Community Development and Sustainability. In addition, all off-road equipment operating at the construction site must be maintained in proper working condition according to manufacturer's specifications. Idling shall be limited to 5 minutes or less in accordance with the Off-Road Diesel Fueled Fleet Regulation as required by CARB.</p> <p>Portable equipment over 50 horsepower must have either a valid District Permit to Operate (PTO) or a valid statewide Portable Equipment Registration Program (PERP) placard and sticker issued by CARB.</p> <p>Idling shall be limited to five minutes or less for all on-road related and/or delivery trucks in accordance with CARB's On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation.</p>	City of Davis Department of Community Development and Sustainability	Prior to approval of any grading or demolition plans	



MITIGATION MONITORING AND REPORTING PROGRAM University Commons Project					
Impact Number	Impact	Mitigation Measure	Monitoring Agency	Implementation Schedule	Sign-off
		<i>Clear Signage regarding idling restrictions should be placed at the entrances to the construction site.</i>			
4.2 Greenhouse Gas Emissions and Energy					
4.2-3	Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment, or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.	<p>4.2-3(a) <i>The project proponent shall prepare and implement a GHG Reduction Plan, to the satisfaction of the City, to demonstrate a downward trajectory in GHG emissions, towards the goal of zero net GHG emissions by the year 2040. Prior to the issuance of a building permit for the proposed project the project proponent shall implement the following steps:</i></p> <ol style="list-style-type: none"> <li><i>1. Model net non-mobile operational GHG emissions using CalEEMod, or another method accepted for the purpose of modeling GHG emissions for the proposed project, taking into account applicable building standards and other regulatory requirements, as well as building design, use of renewable energy, etc. The updated modeling shall take into account any updated project design measures incorporated in compliance with this mitigation measure or as proposed in future project design details.</i></li> <li><i>2. Based on the construction and operational schedules proposed at the time of building permitting, the</i></li> </ol>	City of Davis Department of Community Development and Sustainability	<p>Prior to the issuance of a building permit</p> <p>On-going as needed</p>	



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		<p><i>modeled emissions shall be compared to the maximum permitted emissions for the first year of occupancy, based on the Table below:</i></p> <table><tr><th>Year</th><th>Maximum Permitted Net Project Emissions (MTCO<sub>2</sub>e)</th><th>Emissions Reductions Achieved (MTCO<sub>2</sub>e)</th></tr><tr><td>2024</td><td>326.69</td><td>0.00</td></tr><tr><td>2025</td><td>306.27</td><td>20.42</td></tr><tr><td>2026</td><td>285.85</td><td>40.84</td></tr><tr><td>2027</td><td>265.44</td><td>61.25</td></tr><tr><td>2028</td><td>245.02</td><td>81.67</td></tr><tr><td>2029</td><td>224.60</td><td>102.09</td></tr><tr><td>2030</td><td>204.18</td><td>122.51</td></tr><tr><td>2031</td><td>183.76</td><td>142.93</td></tr><tr><td>2032</td><td>163.35</td><td>163.35</td></tr><tr><td>2033</td><td>142.93</td><td>183.76</td></tr><tr><td>2034</td><td>122.51</td><td>204.18</td></tr><tr><td>2035</td><td>102.09</td><td>224.60</td></tr><tr><td>2036</td><td>81.67</td><td>245.02</td></tr><tr><td>2037</td><td>61.25</td><td>265.44</td></tr><tr><td>2038</td><td>40.84</td><td>285.85</td></tr><tr><td>2039</td><td>20.42</td><td>306.27</td></tr><tr><td>2040</td><td>0</td><td>326.69</td></tr><tr><td colspan="2">Total Emissions Reductions</td><td>2,776.87</td></tr></table> <p>3. Should net operational emissions be shown to exceed the maximum</p>	Year	Maximum Permitted Net Project Emissions (MTCO <sub>2</sub> e)	Emissions Reductions Achieved (MTCO <sub>2</sub> e)	2024	326.69	0.00	2025	306.27	20.42	2026	285.85	40.84	2027	265.44	61.25	2028	245.02	81.67	2029	224.60	102.09	2030	204.18	122.51	2031	183.76	142.93	2032	163.35	163.35	2033	142.93	183.76	2034	122.51	204.18	2035	102.09	224.60	2036	81.67	245.02	2037	61.25	265.44	2038	40.84	285.85	2039	20.42	306.27	2040	0	326.69	Total Emissions Reductions		2,776.87			
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		<p>emissions levels presented in the table above, the project applicant shall identify feasible actions to achieve sufficient emissions reductions for the year or years being modeled. Reduction measures may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Design of all or portions of the project without infrastructure to support natural gas appliances;</li> <li>• Installation of only all-electric, energy-star large appliances (i.e. ranges, ovens, water heating, and/or space heating equipment) in all or part of the project;</li> <li>• Require future refrigeration systems to only use low GWP potential gases;</li> <li>• Include electric outlets in outdoor areas sufficient to allow for the use of electric-powered landscaping equipment;</li> <li>• Construct all proposed loading docks with electric outlets sufficient to provide adequate electrical power for docking trucks;</li> <li>• Installation of on-site photovoltaic systems in</li> </ul>			



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		<p>excess of the City's standards in place at the time of this environmental analysis;</p> <ul style="list-style-type: none"> <li>• Use of LED lights in proposed parking areas and other outdoor areas;</li> <li>• Construct on-site or fund off-site carbon sequestration projects (such as tree plantings or reforestation projects);</li> <li>• Implement a Transportation Demand Management Program in accordance with Section 22.15 of the City of Davis Municipal Code;</li> <li>• Provide electric vehicle charging infrastructure in excess of existing CBSC requirements; and/or</li> <li>• Purchase carbon credits to offset Project annual emissions. Carbon offset credits shall be verified and registered with The Climate Registry, the Climate Action Reserve, or another source approved by CARB, YSAQMD, or the City of Davis.</li> </ul> <p>4. The emissions reductions resulting from implementation of the above measures shall be calculated, using</p>			



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		<p>methods acceptable to the City.</p> <p>5. Proof of compliance with the maximum annual net emissions targets and the steps above shall be verified through the submittal of a Technical Memorandum of Compliance (TMC) to the City of Davis Department of Community Development and Sustainability. The TMC shall document the following minimum items: modeling (step 1); comparison of modeled emissions to maximum emissions levels identified in step 2; chosen feasible actions to achieve required reductions (step 3); and measurable GHG reduction value of each action (step 4). TMCs prepared in compliance with the foregoing steps may cover individual operational years or multiple operational years. Should a TMC be prepared for multiple operational years, the TMC shall demonstrate compliance with the maximum emissions levels for each year included in the TMC.</p> <p>6. Implement the authorized actions and provide evidence of this to the City of Davis Department of Community Development and Sustainability. Purchase of any carbon credits shall be completed prior to certificate of occupancy. The</p>			



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		<p><i>City upon review and acceptance of implementation, shall issue the certificate of occupancy.</i></p> <p><b>4.2-3(b)</b> <i>The owner of the project shall submit a GHG Emissions Reduction Accounting and Program Effectiveness Report for the project to demonstrate the project's compliance with the GHG emissions targets established by Mitigation Measure 4.2-3(a). The Report shall be submitted prior to the issuance of a certificate of occupancy for the first residential unit leased. The Report shall identify the following minimum items. Other documentation requirements may be added by the City if found to be necessary to satisfy this mitigation measure.</i></p> <ol style="list-style-type: none"> <li><i>1. Projected annual net GHG emissions from the initial date of operations through the year 2040.</i></li> <li><i>2. Running total of project emissions reductions and reduction credits.</i></li> <li><i>3. Comprehensive database and summary of implemented reduction actions.</i></li> </ol> <p><i>Should the initial Report demonstrate that measures have been incorporated into the project sufficient to achieve the GHG emissions targets established by Mitigation Measure 4.2-3(a), further Reports are not required.</i></p>	City of Davis Department of Community Development and Sustainability	Prior to the issuance of a certificate of occupancy for the first residential unit leased and every five years until such time that demonstration is made that the project has achieved the required emissions reductions	





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		<i>If the initial Report does not demonstrate that measures have been incorporated into the project sufficient to achieve the aforementioned emissions targets at the time of initial occupancy, the owner shall be required to submit subsequent Reports every five years until such time that demonstration is made that the project has achieved the required emissions reductions. Subsequent Reports shall contain the same content as required of the initial Report, and demonstrate the implementation of additional measures sufficient to reduce project GHG emissions in compliance with Mitigation Measure 4.2-3(a). Upon demonstration that the project has achieved the required emissions reductions, further Reports are not required.</i>			
<b>4.4 Noise</b>					
4.4-1	Generation of a substantial temporary increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.	<p>4.4-1 <i>Prior to issuance of any grading permit, the applicant shall submit a construction noise management plan, identifying proposed noise-reduction practices for review and approval by the Department of Community Development and Sustainability. The following measures shall be utilized to reduce the impact of construction noise:</i></p> <ul style="list-style-type: none"> <li><i>Comply with the hours of operations between 7:00 AM and 7:00 PM on Mondays through Fridays, and between the hours of 8:00 AM and</i></li> </ul>	City of Davis Department of Community Development and Sustainability	Prior to issuance of any grading permit	



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		<p>8:00 PM on Saturdays and Sundays;</p> <ul style="list-style-type: none"> <li>All equipment shall not exceed 86 dBA outside of the property line. Based upon Table 4.4-7, compactors, dozers and excavators shall maintain a distance of 50-feet from the north property line. Concrete saws and jackhammers shall maintain a distance of 100-feet from the nearest property line. If equipment such as compactors, dozers and excavators need to be within 50 feet of the north property line, temporary barriers such as "Noise Soaker" curtains may be applied at the construction site fence. The barriers shall be eight feet in height along the north property line.</li> <li>In accordance with City Code Section 24.02.040(b)(3), certain exceptions to these standards may be granted for impact tools and equipment providing either a housing or muffler, or other type of noise suppression equipment recommended by the manufacturer and approved by the Director of Public Works as best accomplishing maximum noise attenuation.</li> </ul>			
4.4-2	Generation of a substantial permanent increase in ambient noise levels in the vicinity of the	4.4-2(a) Prior to building permit issuance, the construction drawings shall include a noise barrier located along the north property line of the project site where trucks circulate for the	City of Davis Department of Community Development	Delivery hours and sound wall height prior to approval of the Final Planned	



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	project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.	<p><i>loading docks. The partial loading dock walls may be eliminated, if desired. Based upon the Environmental Noise Assessment (October 2, 2019) prepared for this EIR, the noise barrier height requirements would be different depending upon the delivery hours, as follows:</i></p> <ul style="list-style-type: none"> <li>• <i>Daytime deliveries only (7:00 AM to 9:00 PM): An eight-foot wall shall be required along the north property line of the project site to meet the City's 55 dB L<sub>eq</sub> daytime noise standard.</i></li> <li>• <i>Daytime (7:00 AM to 9:00 PM) <u>AND</u> Nighttime (9:00 PM to 7:00 AM): A 10-foot wall shall be required along the north property line of the project site to meet the City's daytime (55 dB L<sub>eq</sub>) and nighttime 50 dB L<sub>eq</sub> noise standards.</i></li> </ul> <p><i>The delivery truck hours and sound wall height shall be finalized prior to City approval of the Final Planned Development for the project. In the event that an opening in the barrier is included to provide access to the pedestrian/bicycle pathway on the adjacent property, the opening shall be designed by an acoustical consultant to ensure that the City's above-specified daytime and nighttime standards can still be met at the nearest sensitive receptors. Final design and height of the barrier shall be incorporated in the</i></p>	and Sustainability	<p>Development.</p> <p>Final design and height of the wall prior to issuance of any building permit</p>	



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		<p>construction drawings for approval by the City of Davis Department of Community Development and Sustainability.</p> <p>4.4-2(b) Alternatively, the applicant may submit a subsequent acoustical report in conjunction with the submittal of the Final Planned Development to the City. The subsequent acoustical report, using additional design-level details developed during the Final Planned Development process, shall estimate the delivery truck/loading dock noise levels at the nearest sensitive receptors to verify the height of the wall needed to meet the City's stationary noise level standards (55 dB Leq daytime and 50 dB Leq nighttime). If the report determines that a reduced sound wall height, compared to the heights identified in MM 4.4-2(a), could achieve the City's noise standards at the nearest sensitive receptors, then the reduced height should be considered acceptable.</p> <p>The subsequent acoustical report could also consider the feasibility of relocating or eliminating the loading dock. Any proposed relocation would require analysis within the acoustical report to ensure that those sensitive receptors located closest to the relocated loading dock would not be subject to noise levels in excess of the City's noise level standards. Final loading dock design and barrier height shall be approved by the</p>	City of Davis Department of Community Development and Sustainability	In conjunction with the submittal of the Final Planned Development	



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		City of Davis Department of Community Development and Sustainability.			
<b>4.6 Transportation and Circulation</b>					
4.6-2	Impacts to bicycle facilities under Existing Plus Project conditions.	<p>4.6-2(a) Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall implement modifications to improve the southbound bike lane approach at the Russell Boulevard/Sycamore Lane intersection to reduce the potential for bicycle-vehicle conflicts, to the satisfaction of the City Engineer. Improvements shall either physically separate bicyclists and vehicles, or more clearly demarcate the existing bicycle-vehicle mixing zone if the City is unable to physically separate bicyclists and vehicles. Potential improvement alternatives include (but shall not be limited to):</p> <ol style="list-style-type: none"> <li>1. Switch the placement of the southbound right-turn lane and the bike lane. Consistent with CAMUTCD standards (for a bicycle facility adjacent to a right-turn lane), such a configuration would place a Class IV separated bikeway immediately against the curb, enabling bicyclists to queue against the curb prior to crossing during the exclusive bicycle crossing signal phase (during which southbound right-turns for vehicles are prohibited). This configuration would eliminate the need for</li> </ol>	City Engineer	Prior to issuance of certificates of occupancy	



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		<p>southbound bicyclists to weave across vehicular traffic at the intersection approach. The configuration shall include vertical separation between the bikeway and the right-turn lane, consistent with standard Class IV separated bikeway design.</p> <p>2. Highlight the existing bicycle-vehicle mixing zone with additional pavement markings (e.g., green skip pavement markings) and warning signage.</p> <p>4.6-2(b) Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall implement modifications to improve the southbound bike lane approach at the Russell Boulevard/Anderson Road/La Rue Road intersection to reduce the potential for bicycle-vehicle conflicts, to the satisfaction of the City Engineer. Improvements shall more clearly demarcate the existing bicycle-vehicle mixing zone. Potential improvement alternatives include highlighting the existing bicycle-vehicle mixing zone with additional pavement markings (e.g., green skip pavement markings) and warning signage. Implementation of such improvements, or an improvement of equal effectiveness, would enhance the southbound bike lane approach at the Russell Boulevard/Anderson Road/La Rue Road intersection and reduce the potential for conflicts between bicyclists and</p>	City Engineer	Prior to issuance of certificates of occupancy	



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		<p>vehicles.</p> <p>4.6-2(c) The project applicant shall implement one of the following options prior to issuance of certificates of occupancy, with the bicycle facility and final design to be determined by the City Engineer and the City Traffic Engineer as follows:</p> <p><u>Option A: Off-Street Shared-use Path.</u> Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall construct an off-street shared-use path on the north side of Russell Boulevard between Sycamore Lane and Anderson Road along the project site frontage, generally along the alignment of the existing sidewalk. The path may need to be widened into the existing roadway (i.e., into the parking lane) due to right-of-way constraints such as existing trees and driveways (e.g., along the ARCO gas station frontage). The new path shall be sufficiently sized to prevent crowding and minimize the potential for conflicts between bicyclists and pedestrians. The City of Davis 2016 Street Design Standards specifies a shared-use path width of 12 feet for arterial roadways, with two-foot wide all-weather shoulders on either side of the path where sufficient space exists to accommodate the standard. The City may determine that a narrower shared path, split path, combination, or alternative path design</p>	<p>City Engineer</p> <p>City Traffic Engineer</p>	<p>Prior to issuance of certificates of occupancy</p>	



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		<p><i>is acceptable in instances where right-of-way or design constraints, preservation of existing trees, or other considerations would limit the ability to implement the standard path width and design.</i></p> <p><u>Option B: Protected Bike Lane/Cycle Track.</u> Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall construct a protected bike lane on the north side of Russell Boulevard, between Sycamore Lane and Anderson Road along the project site frontage.</p> <p>4.6-2(d) Consistent with cumulative Mitigation Measure 4.6-9, prior to the occupancy of the project, the project applicant shall contribute funding to cover their proportionate cost of bicycle improvements to the Russell Boulevard/Anderson Road/La Rue Road intersection as determined by the City Engineer in an amount that considers the project's impact on the intersection. The funding shall be submitted to the City of Davis. Given the multi-modal nature of the intersection and future improvements, fair share calculations should consider all modes of transportation utilizing the intersection.</p> <p>Modifications to improve crossings at the Russell Boulevard/Anderson Road/La Rue Road intersection shall be implemented to reduce the potential for bicycle-bicycle,</p>	<p>City of Davis Department of Community Development and Sustainability  City Engineer</p>	<p>Prior to issuance of certificates of occupancy</p>	





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		<p>bicycle-pedestrian, pedestrian-vehicle, and bicycle-vehicle conflicts. Because intersection modifications would affect right-of-way on the UC Davis campus, the City shall coordinate with UC Davis to identify the ultimate modifications. Improvements shall, to the extent feasible, physically separate bicyclists, pedestrians, and vehicles and reduce bicycle crossing distances and exposure time. Potential improvement alternatives include (but are not limited to):</p> <ol style="list-style-type: none"> <li>1. For all intersection crosswalks, widen crosswalks to increase the capacity for crossing bicyclists and pedestrians and reduce the frequency of meeting and passing events that diminish the performance of the crosswalks.</li> <li>2. Reconfigure the intersection into a protected intersection with corner refuge islands, setback crossings, and exclusive bicycle and pedestrian crossing phases (i.e., vehicles would not be permitted to turn on red during this phase). For all intersection crosswalks, physically separate bicyclists and pedestrians by installing special pavement treatment or striping to clearly demarcate pedestrian and bicycle crossing zones, increase the capacity for crossing bicyclists and pedestrians,</li> </ol>			



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		<p>and reduce the frequency of meeting and passing events that diminish the performance of the crossings. This alternative would also include the removal of the eastbound and northbound channelized right-turn lanes.</p> <p>4.6-2(e) Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall contribute funding to cover their proportionate cost of improvements to the shared-use path on the south side of Russell Boulevard between Sycamore Lane and the UC Davis softball field; the project's proportionate cost shall be determined by the City Engineer in an amount that considers the project's impact on the intersection. The funding shall be submitted to the City of Davis. The City shall negotiate funding contributions with UC Davis as part of the City's Corridor Plan process. Path improvements shall reduce the potential for bicycle-bicycle and bicycle-pedestrian conflicts, to the satisfaction of the City Engineer. Potential improvement alternatives include (but are not limited to):</p> <ol style="list-style-type: none"> <li>1. Widen the existing shared-use path to accommodate bicyclists and pedestrians within a shared facility. Consider installing special pavement treatment or striping to clearly</li> </ol>	<p>City of Davis Department of Community Development and Sustainability  City Engineer</p>	<p>Prior to issuance of certificates of occupancy</p>	



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		<p>demarcate pedestrian and bicycle zones.</p> <p>2. Physically separate bicyclists and pedestrians by constructing a new pedestrian pathway parallel to the existing shared-use path.</p> <p>3. Install pedestrian-scale lighting to improve visibility.</p> <p>4.6-2(f) Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall contribute funding to cover their proportionate cost of improvements to the shared-use path on the south side of Russell Boulevard between Anderson Road and the bicycle roundabout near Primero Grove; the project's proportionate cost shall be determined by the City Engineer in an amount that considers the project's impact on the intersection. The funding shall be submitted to the City of Davis. The City shall negotiate funding contributions with UC Davis as part of the City's Corridor Plan process. Path improvements should reduce the potential for bicycle-bicycle and bicycle-pedestrian conflicts, to the satisfaction of the City Engineer. Potential improvement alternatives include (but are not limited to):</p> <p>1. Widen the existing shared-use path to accommodate bicyclists and pedestrians within a shared facility. Consider installing special pavement</p>	<p>City of Davis Department of Community Development and Sustainability  City Engineer</p>	<p>Prior to issuance of certificates of occupancy</p>	



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		<p><i>treatment or striping to clearly demarcate pedestrian and bicycle zones.</i></p> <p>2. <i>Physically separate bicyclists and pedestrians by constructing a new pedestrian pathway parallel to the existing shared-use path.</i></p> <p>3. <i>Install pedestrian-scale lighting to improve visibility.</i></p>			
4.6-3	Impacts to pedestrian facilities under Existing Plus Project conditions.	4.6-3 <i>Implement Mitigation Measures 4.6-2(d), 4.6-2(e), and 4.6-2(f).</i>	See Mitigation Measures 4.6-2(d), 4.6-2(e), and 4.6-2(f)	See Mitigation Measures 4.6-2(d), 4.6-2(e), and 4.6-2(f)	
4.6-4	Impacts to transit facilities and services under Existing Plus Project conditions.	4.6-4 <i>Prior to issuance of certificates of occupancy for the proposed project, the project applicant shall enhance the existing bus stop on southbound Anderson Road north of Russell Boulevard, to the satisfaction of the City Engineer. Bus stop enhancements shall include the addition of a shelter, seating, waste receptacle, as well as an expanded dedicated passenger waiting area that can sufficiently accommodate dwelling passenger without impeding the adjacent sidewalk. Bus stop enhancements shall be developed in consultation with Unitrans staff.</i>	City Engineer	Prior to issuance of certificates of occupancy	
4.6-7	Impacts related to construction vehicle traffic.	4.6-7 <i>Before commencement of any construction activities for the project site, the project applicant shall prepare a detailed Construction Traffic Control Plan and submit it for review and approval by the City Department of Public Works. The applicant and the City shall consult with Unitrans,</i>	City of Davis Department of Public Works	Prior to commencement of any construction activities	



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		<p><i>Yolobus, and local emergency service providers for their input before approving the Plan. The Plan shall ensure that acceptable operating conditions on local roadways and freeway facilities are maintained during construction. At a minimum, the Plan shall include:</i></p> <ul style="list-style-type: none"> <li><i>• The number of truck trips, time, and day of street closures;</i></li> <li><i>• Time of day of arrival and departure of trucks;</i></li> <li><i>• Limitations on the size and type of trucks, provision of a staging area with a limitation on the number of trucks that can be waiting;</i></li> <li><i>• Provision of a truck circulation pattern;</i></li> <li><i>• Provision of driveway access plan so that safe vehicular, pedestrian, and bicycle movements are maintained (e.g., steel plates, minimum distances of open trenches, and private vehicle pick up and drop off areas);</i></li> <li><i>• Maintain safe and efficient access routes for emergency vehicles;</i></li> <li><i>• Manual traffic control when necessary;</i></li> <li><i>• Proper advance warning and posted signage concerning street closures; and</i></li> </ul>			



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		<ul style="list-style-type: none"> <li>Provisions for bicycle, pedestrian, and transit access and safety.</li> </ul> <p>A copy of the Construction Traffic Control Plan shall be submitted to local emergency response agencies and these agencies shall be notified at least 14 days before the commencement of construction that would partially or fully obstruct roadways.</p>			
4.6-8	Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).	4.6-8(a) Prior to the issuance of demolition permits, the project applicant shall extend the eastbound left-turn pocket at the Russell Boulevard/Sycamore Lane intersection from 300 to 375 feet, which is the maximum distance feasible without affecting the adjacent westbound left-turn pocket at the Russell Boulevard/Orchard Park Drive intersection. The extension will enable the eastbound left-turn pocket to accommodate the maximum queue of 325 feet under Existing Plus Project conditions. The timing of this modification is necessary to accommodate the considerable number of truck trips related to the project's demolition and construction.	City Engineer	Prior to the issuance of demolition permits	
		4.6-8(b) Prior to issuance of grading plans, the project improvement plans shall reflect the modifications listed below, or equivalent measures based on the final site design, to reduce vehicle queuing spillback at the project driveways, to the satisfaction of the City Engineer. The modifications may	City Engineer	Prior to the issuance of grading plans	



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		<p><i>include, but are not limited to, the following:</i></p> <ul style="list-style-type: none"> <li>• Southern Sycamore Lane Driveway <ul style="list-style-type: none"> <li>○ Parking stalls along the Retail 6 frontage shall be eliminated; and</li> <li>○ Exclusive outbound left-turn and right-turn lanes shall be provided.</li> </ul> </li> <li>• Southern Anderson Road Driveway <ul style="list-style-type: none"> <li>○ Parking stalls along the Retail 1, 2, and 3 frontages shall be angled.</li> </ul> </li> <li>• Western Russell Boulevard Driveway <ul style="list-style-type: none"> <li>○ The drive aisle shall be aligned north into the parking garage, shifted further east into the project site to provide additional throat depth for the southern Sycamore Lane driveway, and access for the southernmost east-west drive aisle shall be closed off to/from the west (opposite the Trader Joe's loading dock).</li> </ul> </li> </ul>			
4.6-9	Impacts to study intersections under Cumulative Plus Project conditions.	<p>4.6-9 Modifications to Russell Boulevard shall be implemented to reduce peak hour vehicle delay at the Russell Boulevard/Orchard Park Drive, Russell Boulevard/Anderson Road/La Rue Road, and Russell Boulevard/California Avenue intersections:</p> <ul style="list-style-type: none"> <li>• Prior to issuance of certificates of</li> </ul>	City Engineer	Prior to issuance of	



MITIGATION MONITORING AND REPORTING PROGRAM University Commons Project					
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		<p>occupancy, the project applicant shall construct the pedestrian bulbouts at Russell Boulevard/Sycamore Lane, to the satisfaction of the City Engineer, as follows:</p> <ul style="list-style-type: none"> <li>○ At the Russell Boulevard/Sycamore Lane intersection, construct pedestrian bulbouts at the northwest and northeast corners of the intersection to reduce pedestrian crossing distances. The resulting excess green time shall be reallocated to the major east-west through movements to improve overall corridor operations. The pedestrian bulbouts shall be integrated with the design of the bike lane modification described in Mitigation Measure 4.6-2(a) (at the northwest corner) and the shared-use path described in Mitigation Measure 4.6-2(c) (at the northeast corner).</li> </ul> <ul style="list-style-type: none"> <li>• Implement Mitigation Measure 4.6-8.</li> <li>• Prior to issuance of certificates of occupancy, the project applicant shall contribute funding, to the satisfaction</li> </ul>	<p>See Mitigation Measure 4.6-8</p> <p>City Engineer</p>	<p>certificates of occupancy</p> <p>See Mitigation Measure 4.6-8</p> <p>Prior to issuance of certificates of occupancy</p>	





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		<p>of the City Engineer, to cover the proportionate cost of improvements described in Alternatives 1, 4, 5, 6, and 7 above, the requirements of which are listed below.<sup>1</sup> The funding shall be submitted to the City of Davis:</p> <ul style="list-style-type: none"> <li>○ At the Russell Boulevard/Orchard Park Drive intersection, either: <ul style="list-style-type: none"> <li>a. Prohibit northbound left-turns, or</li> <li>b. Prohibit northbound left-turns and westbound left-turns (i.e., right-in/right-out only).</li> </ul> </li> <li>○ At the Russell Boulevard/Anderson Road/La Rue Road intersection, either <ul style="list-style-type: none"> <li>a. Install five-section traffic signal for the northbound right-turn lane and an accompanying bicycle/pedestrian signal to control crossing movements across the northbound</li> </ul> </li> </ul>			

<sup>1</sup> Consistent with *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, contribution of mitigation funds is not feasible for impacts where the City does not have full jurisdiction, nor a plan in place to ensure implementation of mitigation measures. Nevertheless, the applicant has agreed to contribute mitigation funds to the City for Alternatives 1, 4, 5, 6, and 7.



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		<p>channelized right-turn lane, or</p> <p>b. Implement Alternative 2 described in Mitigation Measure 4.6-2(d) (conversion of the Russell Boulevard/Anderson Road/La Rue Road intersection to a protected intersection).</p> <ul style="list-style-type: none"> <li>o At the Russell Boulevard/Oak Avenue intersection, prohibit eastbound U-turn movements and convert the eastbound left-turn movement from a permitted to a protected left-turn signal phase.</li> <li>o At the Russell Boulevard/College Park/Howard Way intersection, convert the northbound and southbound approaches to split phase operations and eliminate the west leg crossing.</li> <li>o At all signalized intersections on Russell Boulevard, increase the PM peak hour cycle length from 90 to 100 seconds to match the existing AM peak hour cycle length. The signal timing adjustment</li> </ul>			



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		<p><i>shall be applied to all coordinated signals along the corridor between and inclusive of Sycamore Lane and G Street.</i></p> <p><i>The ultimate modifications constructed along Russell Boulevard shall be consistent with the preferred improvements identified in the Russell Boulevard Corridor Plan currently being prepared by the City.</i></p>			
4.6-11	Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).	4.6-11 <i>Implement Mitigation Measure 4.6-8.</i>	See Mitigation Measure 4.6-8	See Mitigation Measure 4.6-8	
Initial Study					
IVa.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.	<p><i>Swainson's Hawk</i></p> <p>IV-1 <i>The project proponent shall retain a qualified biologist to conduct planning-level surveys and identify any nesting habitat present within 1,320 feet of the project footprint. Adjacent parcels under different land ownership shall be surveyed only if access is granted or if the parcels are visible from authorized areas.</i></p> <p><i>If a construction project cannot avoid potential nest trees (as determined by the qualified biologist) within 1,320 feet, the</i></p>	<p>City of Davis Department of Community Development and Sustainability</p> <p>CDFW</p>	If construction cannot avoid potential nest trees within 1,320 feet, then between March 20 and July 30, within 15 days prior to the beginning of the construction activity	



MITIGATION MONITORING AND REPORTING PROGRAM University Commons Project					
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		<p>project proponent shall retain a qualified biologist to conduct a preconstruction survey for active nests consistent with the recommended methodology of the Swainson's Hawk Technical Advisory Committee (2000), between March 20 and July 30, within 15 days prior to the beginning of the construction activity. The results of the survey shall be submitted to the Conservancy and CDFW. If active nests are found during the preconstruction survey, a 1,320-foot initial temporary nest disturbance buffer shall be established. If project related activities within the temporary nest disturbance buffer are determined to be necessary during the nesting season, then the qualified biologist shall monitor the nest and shall, along with the project proponent, consult with CDFW to determine the best course of action necessary to avoid nest abandonment or take of individuals. Work may be allowed only to proceed within the temporary nest disturbance buffer if Swainson's hawk or white-tailed kite are not exhibiting agitated behavior, such as defensive flights at intruders, getting up from a brooding position, or flying off the nest, and only with the agreement of CDFW and USFWS. The designated on-site biologist/monitor shall be on-site daily while construction-related activities, including tree pruning or removal, are taking place within the 1,320-foot buffer and shall have the authority to stop work if</p>			



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		<p>raptors are exhibiting agitated behavior. Up to 20 Swainson's hawk nest trees (documented nesting within the last 5 years) may be removed during the permit term, but they must be removed when not occupied by Swainson's hawks.</p> <p>If this project involves pruning or removal of a potential Swainson's hawk or white-tailed kite nest tree, the project proponent shall conduct a preconstruction survey that is consistent with the guidelines provided by the Swainson's Hawk Technical Advisory Committee (2000). If active nests are found during the preconstruction survey, no tree pruning or removal of the nest tree shall occur during the period between March 1 and August 30, unless a qualified biologist determines that the young have fledged and the nest is no longer active.</p> <p>Raptors and Nesting Migratory Birds</p> <p>IV-2 The project applicant shall implement the following measures to avoid or minimize impacts to raptors and federally-protected nesting migratory birds:</p> <ul style="list-style-type: none"> <li>If any site disturbance or construction activity for any phase of development begins outside the February 1 to August 31 breeding season, a preconstruction survey for active</li> </ul>			
			City of Davis Department of Community Development and Sustainability	If any site disturbance or construction activity is scheduled to begin between February 1 and August 31, then within 14 days prior to site disturbance or construction	



**MITIGATION MONITORING AND REPORTING PROGRAM**  
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		<p>nests shall not be required.</p> <ul style="list-style-type: none"> <li>If any site disturbance or construction activity for any phase of development is scheduled to begin between February 1 and August 31, a qualified biologist shall conduct a preconstruction survey for active nests from publicly accessible areas within 14 days prior to site disturbance or construction activity for any phase of development. The survey area shall cover the construction site and the area surrounding the construction site, including a 100-foot radius for MBTA birds, and a 500-foot radius for birds of prey. If an active nest of a bird of prey, MBTA bird, or other protected bird is not found, then further mitigation measures are not necessary. The preconstruction survey shall be submitted to the City of Davis Department of Community Development and Sustainability for review.</li> <li>If an active nest of a bird of prey, MBTA bird, or other protected bird is discovered that may be adversely affected by any site disturbance or construction or an injured or killed bird is found, the project applicant shall immediately: <ul style="list-style-type: none"> <li>Stop all work within a 100-foot</li> </ul> </li> </ul>		activity	



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Impact Number	Impact	Mitigation Measure	Monitoring Agency	Implementation Schedule	Sign-off
		<p><i>radius of the discovery.</i></p> <ul style="list-style-type: none"> <li>○ <i>Notify the City of Davis Department of Community Development and Sustainability.</i></li> <li>○ <i>Do not resume work within the 100-foot radius until authorized by the biologist.</i></li> <li>○ <i>The biologist shall establish a minimum 500-foot Environmentally Sensitive Area (ESA) around the nest if the nest is of a bird of prey, and a minimum 100-foot ESA around the nest if the nest is of an MBTA bird other than a bird of prey. The ESA may be reduced if the biologist determines that a smaller ESA would still adequately protect the active nest. Further work may not occur within the ESA until the biologist determines that the nest is no longer active.</i></li> </ul>			
IVe.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<p>IV-3 <i>The project applicant shall implement the following tree preservation measures prior to and during construction for the 16 on-site and eight off-site trees to be preserved.</i></p> <ul style="list-style-type: none"> <li>• <i>Tree Protection Zones (TPZs): The surveyed trunk locations and TPZs / tree protection fencing shall be</i></li> </ul>	City of Davis Department of Community Development and Sustainability	Prior to and during construction and demolition activities	



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Impact Number	Impact	Mitigation Measure	Monitoring Agency	Implementation Schedule	Sign-off
		<p><i>indicated on all construction plans for trees to be preserved;</i></p> <ul style="list-style-type: none"> <li>• <i>Modified TPZs: Modified TPZs are areas where proposed infrastructure is located within protection zones. These Modified TPZs and fencing shall be indicated as close to infrastructure as possible (minimize overbuild);</i></li> <li>• <i>The Consulting Arborist shall revise development impact assessment (as needed) for trees to be preserved once construction plans are drafted;</i></li> <li>• <i>Grading, compaction, trenching, rototilling, vehicle traffic, material storage, spoil, waste, or washout, or any other disturbance within TPZs shall be avoided to the maximum extent feasible;</i></li> <li>• <i>Any work that is to occur within the TPZs shall be monitored by the Consulting Arborist;</i></li> <li>• <i>A meeting shall be conducted to discuss tree preservation guidelines with the Consulting Arborist and all contractors, subcontractors, and project managers prior to the initiation of demolition and construction activities;</i></li> <li>• <i>Prior to any demolition activity on-site, tree protection fencing shall be installed in a circle centered at the</i></li> </ul>			





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		<p>tree trunk with a radius equal to the defined TPZ as indicated in the Arborist Report;</p> <ul style="list-style-type: none"> <li>• Tree protection fences should be made of chain-link with posts sunk into the ground, and shall not be removed or moved until construction is complete;</li> <li>• Any pruning shall be performed per recommendations in the Arborist Report by an ISA Certified Arborist or Tree Worker. Pruning for necessary clearance should be the minimum required to build the project and performed prior to demolition by an ISA Certified Arborist;</li> <li>• If roots larger than 2 inches or limbs larger than 3 inches in diameter are cut or damaged during construction, the Consulting Arborist shall be contacted immediately to inspect and recommend appropriate remedial treatments; and</li> <li>• All trees to be preserved shall be irrigated once every two weeks, spring through fall, to uniformly wet the soil to a depth of at least 18 inches under and beyond the canopies of the trees.</li> </ul> <p>The tree preservation measures shall be included in the notes on construction drawings.</p>			



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Impact Number	Impact	Mitigation Measure	Monitoring Agency	Implementation Schedule	Sign-off
Vb-d.	<p>Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5.</p> <p>Directly or indirectly destroy a unique paleontological resource on site or unique geologic features.</p> <p>Disturb any human remains, including those interred outside of formal cemeteries.</p>	<p>V-1 <i>If any subsurface historic remains, prehistoric or historic artifacts, other indications of archaeological resources, or cultural and/or tribal resources are found during grading and construction activities, all work within 100 feet of the find shall cease, the City of Davis Department of Community Development and Sustainability shall be notified, and the applicant shall retain an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, to evaluate the significance of the find(s). The archaeologist shall have the authority to modify the no-work radius as appropriate, using professional judgement. If tribal resources are found during grading and construction activities, the applicant shall notify the Yocha Dehe Wintun Nation. If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, he or she shall immediately notify the City and landowner.</i></p> <p><i>The archaeologist shall define the physical extent and the nature of any built features or artifact-bearing deposits. The investigation shall proceed immediately into a formal evaluation to determine the eligibility of the feature(s) for inclusion in the National Register of Historic Places or California Register of Historical Resources. The formal</i></p>	<p>City of Davis Department of Community Development and Sustainability</p> <p>Yocha Dehe Wintun Nation</p>	<p>If any subsurface historic remains, prehistoric or historic artifacts, other indications of archaeological resources, or cultural and/or tribal resources are found during grading and construction activities</p>	



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Impact Number	Impact	Mitigation Measure	Monitoring Agency	Implementation Schedule	Sign-off
		<p>evaluation shall include, at a minimum, additional exposure of the feature(s), photo-documentation and recordation, and analysis of the artifact assemblage(s). If the evaluation determines that the feature(s) and artifact(s) do not have sufficient data potential to be eligible for the National or California Register, additional work shall not be required. However, if data potential exists (e.g., an intact feature is identified with a large and varied artifact assemblage), the City shall consult on a finding of eligibility and implement appropriate treatment measures. Further measures might include avoidance of further disturbance to the resource(s) through project redesign. If avoidance is determined to be infeasible, additional data recovery excavations shall be conducted for the resource(s), to collect enough information to exhaust the data potential of those resources.</p> <p>Pursuant to CEQA Guidelines Section 15126.4(b)(3)(C), a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Data recovery efforts can range from rapid photographic documentation to extensive excavation depending upon the physical</p>			



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		<p><i>nature of the resource. The degree of effort shall be determined at the discretion of a qualified archaeologist and should be sufficient to recover data considered important to the area's history and/or prehistory.</i></p> <p><i>Significance determinations for tribal cultural resources shall be measured in terms of criteria for inclusion on the California Register of Historical Resources (Title 14 CCR, §4852[a]), and the definition of tribal cultural resources set forth in PRC Section 21074 and 5020.1 (k). The evaluation of the tribal cultural resource(s) shall include culturally appropriate temporary and permanent treatment, which may include avoidance of tribal cultural resources, in-place preservation, and/or re-burial on project property so the resource(s) are not subject to further disturbance in perpetuity. Any re-burial shall occur at a location predetermined between the landowner and the Yocha Dehe Wintun Nation. The landowner shall relinquish ownership of all sacred items, burial goods, and all archaeological artifacts that are found on the project area to the Yocha Dehe Wintun Nation for proper treatment and disposition. If an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation.</i></p>			



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Impact Number	Impact	Mitigation Measure	Monitoring Agency	Implementation Schedule	Sign-off
		<p><i>Work may not resume within the no-work radius until the City, through consultation as appropriate, determines that the find(s) either: 1) is not eligible for the National or California Register; or 2) that treatment measures have been completed to the City's satisfaction.</i></p> <p><i>The language of this mitigation measure shall be included on any future grading plans, utility plans, and subdivision improvement drawings approved by the City for the development of the proposed project site.</i></p> <p>V-2 <i>If any vertebrate bones or teeth are found by the construction crew, the City of Davis Department of Community Development and Sustainability shall be notified and the contractor shall cease all work within 100 feet of the discovery until an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, inspects the discovery. If deemed significant with respect to authenticity, completeness, preservation, and identification, the resource(s) shall then be salvaged and deposited in an accredited and permanent scientific institution (e.g., the University of California Museum of Paleontology), where it shall be properly curated and preserved for the benefit of current and future generations. The language</i></p>	City of Davis Department of Community Development and Sustainability	If any vertebrate bones or teeth are found during construction	



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		<p><i>of this mitigation measure shall be included on any future grading plans, utility plans, and subdivision improvement drawings approved for the proposed project site, where excavation work would be required.</i></p> <p>V-3 <i>If human remains are discovered during project construction, further disturbance shall not occur within 100 feet of the vicinity of the find(s) until the Yolo County Coroner has made the necessary findings as to origin. (California Health and Safety Code Section 7050.5) Further, pursuant to California PRC Section 5097.98(b), remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Yolo County Coroner determines the remains to be Native American and not the result of a crime scene, the Coroner shall notify the Native American Heritage Commission (NAHC) and the Yocha Dehe Wintun Nation within 24 hours. The NAHC and Yocha Dehe Wintun Nation must then identify the "most likely descendant(s)" (MLD). The landowner shall engage in consultations with the MLD. The MLD shall make recommendations concerning the treatment of the remains within 48 hours, as provided in PRC 5097.98. If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (PRC 5097.94). If no agreement is reached, the landowner must rebury the remains where</i></p>	<p>City of Davis Department of Community Development and Sustainability</p> <p>Yolo County Coroner</p> <p>NAHC</p> <p>Yocha Dehe Wintun Nation</p>	If human remains are discovered during project construction	



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		<i>they will not be further disturbed (PRC 5097.98). This will also include either recording the site with the NAHC or the appropriate information center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the County in which the property is located (AB 2641). Work may not resume within the no-work radius until the City, through consultation as appropriate, determines that the treatment measures have been completed to their satisfaction.</i>			
VIIIb.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment.	<p><i>VIII-1 Prior to issuance of a demolition permit by the City for the existing on-site structure, the project applicant shall provide a site assessment that determines whether the structure contains asbestos. If the structure does not contain asbestos, further mitigation is not required. If asbestos-containing materials are detected, the applicant shall prepare and implement an asbestos abatement plan consistent with federal, State, and local standards, subject to approval by the City Engineer, City Building Official, and the Yolo-Solano Air Quality Management District.</i></p> <p><i>Implementation of the asbestos abatement plan shall include the removal and disposal of the asbestos-containing materials by a licensed and certified asbestos removal contractor, in accordance with local, State, and federal regulations. In addition, the</i></p>	<p>City Engineer</p> <p>City Building Official</p> <p>YSAQMD</p>	Prior to issuance of a demolition permit	





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		<p>demolition contractor shall be informed that all building materials shall be considered as containing asbestos. The contractor shall take appropriate precautions to protect his/her workers, the surrounding community, and to dispose of construction waste containing asbestos in accordance with local, State, and federal regulations subject to approval by the City Engineer, City Building Official, and the Yolo-Solano Air Quality Management District.</p> <p>VIII-2 Prior to issuance of a demolition permit by the City for the existing on-site structure, the project applicant shall provide a site assessment that determines whether the structure contains lead-based paint. If the structure does not contain lead-based paint, further mitigation is not required. If lead-based paint is found, all loose and peeling paint shall be removed and disposed of by a licensed and certified lead paint removal contractor, in accordance with federal, State, and local regulations. The demolition contractor shall be informed that all paint on the buildings shall be considered as containing lead. The contractor shall take appropriate precautions to protect his/her workers, the surrounding community, and to dispose of construction waste containing lead paint in accordance with federal, State, and local regulations subject to approval by the City Engineer.</p>	City Engineer	Prior to issuance of a demolition permit	





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IXa,e,f.	Violate any water quality standards or waste discharge requirements.  Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.  Otherwise substantially degrade water quality.	IX-1 Prior to issuance of grading permits, the applicant shall submit to the City a plan, identifying permanent stormwater TCMs, SDMs, and Hydromodification Measures, for each DMA to be implemented on the project, as well as a copy of a stormwater maintenance agreement and corresponding maintenance plan signed and recorded by the County of Yolo Clerk's Office. The plan shall include LID measures consistent with the Preliminary Utility Study prepared for the project and shall be subject to review and approval by the Public Works Department.	City of Davis Public Works Department  Yolo County Clerk	Prior to issuance of grading permits	
XVIIa-b.	Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is:	XVII-1. Implement Mitigation Measures V-1, V-2, and V-3.	See Mitigation Measures V-1, V-2, and V-3	See Mitigation Measures V-1, V-2, and V-3	



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	<p>Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k).</p> <p>A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.</p>				



## ATTACHMENT 2

### RESOLUTION NO. \_\_\_\_\_ 2020 SERIES

#### **RESOLUTION OF THE CITY OF DAVIS STATING ITS INTENT TO AMEND THE CITY OF DAVIS GENERAL PLAN LAND USE ELEMENT TO ADD THE LAND USE CATEGORY “MIXED USE” AND TO AMEND THE CITY OF DAVIS LAND USE MAP TO REDESIGNATE THE PARCEL LOCATED AT 737-885 RUSSELL BOULEVARD FROM COMMUNITY RETAIL TO MIXED USE (GPA 2-18)**

**WHEREAS**, the Davis General Plan contains several goals and policies expressing a desire to encourage infill development and discourage urban sprawl; and

**WHEREAS**, amending the General Plan Land Use Element to create a new designation of Mixed Use provides for a combination of residential and non-residential uses in the same zone, provided it has been determined that those uses are compatible; and

**WHEREAS**, the Mixed Use designation will provide the city with another tool to encourage infill development in the areas deemed suitable; and

**WHEREAS**, a General Plan Amendment shall be required on any parcel for a change to the new designation of Mixed Use; and

**WHEREAS**, the General Plan Amendment is appropriate in that it is compatible and consistent with existing infill development policies in the General Plan; and

**WHEREAS**, the General Plan Amendment will not adversely impact the health, safety or general welfare of the city of Davis; and

**WHEREAS**, the property located at 737-885 Russell Boulevard (APN 034-253-007), consisting of approximately 8.25 acres is currently designated “Community Retail”; and

**WHEREAS**, amending the General Plan designation of the property to “Mixed Use” enables a project that reflects General Plan policies that contribute to infill housing within the City limits, contributes to a mix of uses in the neighborhood, and promotes transit use; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on May 27, 2020, to receive comments and consider the amendment of the General Plan related to the property at 737-885 Russell Boulevard (APN 034-253-007), and the Planning Commission rejected approval of the project; and

**WHEREAS**, the City Council held a duly noticed public hearing on July 21, 2020 and August 18, 2020 to receive comments, review all the information pertaining to the project, including the Planning Commission hearing minutes or comments, reports, and all evidence received by the Planning Commission, consider the amendment of the General Plan related to the property, and adopted the amendment based on the findings that:

1. The development is consistent with the General Plan Land policy LU 2.1 in that it provides needed infill development within the city limits by providing mixed uses and transit oriented development in established neighborhoods.
2. The proposed development contributes to the broad range of housing types and configurations.
3. The proposed project provides residential uses which is an appropriate means of meeting the city's housing needs.
4. The proposed project provides for the opportunity to reduce vehicle miles travelled by placing residential units near the job producing non-residential uses and the surrounding commercial uses in the neighborhood; and

**WHEREAS**, based on oral testimony and documentary evidence reviewed during the public hearing, the City Council certified that the Environmental Impact Report (SCH: 2018112044) prepared for the project and determined that the potential environmental impacts of the project are adequately addressed and the appropriate findings were made.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Davis that the General Plan Land Use Element shall be amended to add a Mixed Use designation as shown on Exhibit A, and the General Plan Land Use Map shall be amended as shown on the map attached as Exhibit B of this resolution.

**PASSED AND ADOPTED** by the City Council of the City of Davis on this 18<sup>th</sup> day of August, 2020 by the following vote.

AYES:

NOES:

ABSENT:

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Gloria J. Partida, Mayor

ATTEST:

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Zoe S. Mirabile, CMC  
City Clerk

**GPA 2-18**  
**EXHIBIT A**

## **U. Mixed Use**

**Intent:** To provide sustainable and transit oriented opportunities for medium and large-scale multi-story, mixed use development that integrates retail uses and/or office and research and development related uses with higher density multifamily residential uses. The Mixed Use designation is intended to create housing opportunities; retain and encourage healthy, active retail centers for the community; promote innovative design by integrating residential and non-residential uses; facilitate neighborhood connections and convenient transportation alternatives in the vicinity of the project.

**Allowable uses:**

1. Retail uses.
2. Offices.
3. Personal services (i.e. dry cleaners, salons, yoga studios,)
4. Restaurants
5. Research and development space, including laboratories.
6. Residential uses, including home occupations and live/work uses.
7. Light manufacturing and assembly with limits on the sizes of factories.
8. Open Space, including green belts, squares and plazas.

The specific types, maximum amounts and densities of allowable uses shall be established in the site's zoning regulations. The zoning is anticipated to be a Planned Development district or an equivalent zone. The Mixed Use land use must be found to be compatible with the existing surrounding land uses and the surrounding planned land uses.

**Prohibited Uses**

1. Major manufacturing.
2. Warehouse and distribution.
3. Outdoor storage.
4. Agricultural Uses, including but not limited to crop production and animal husbandry.

## **Special Considerations for Mixed Use Developments.**

The following special considerations shall be applied:

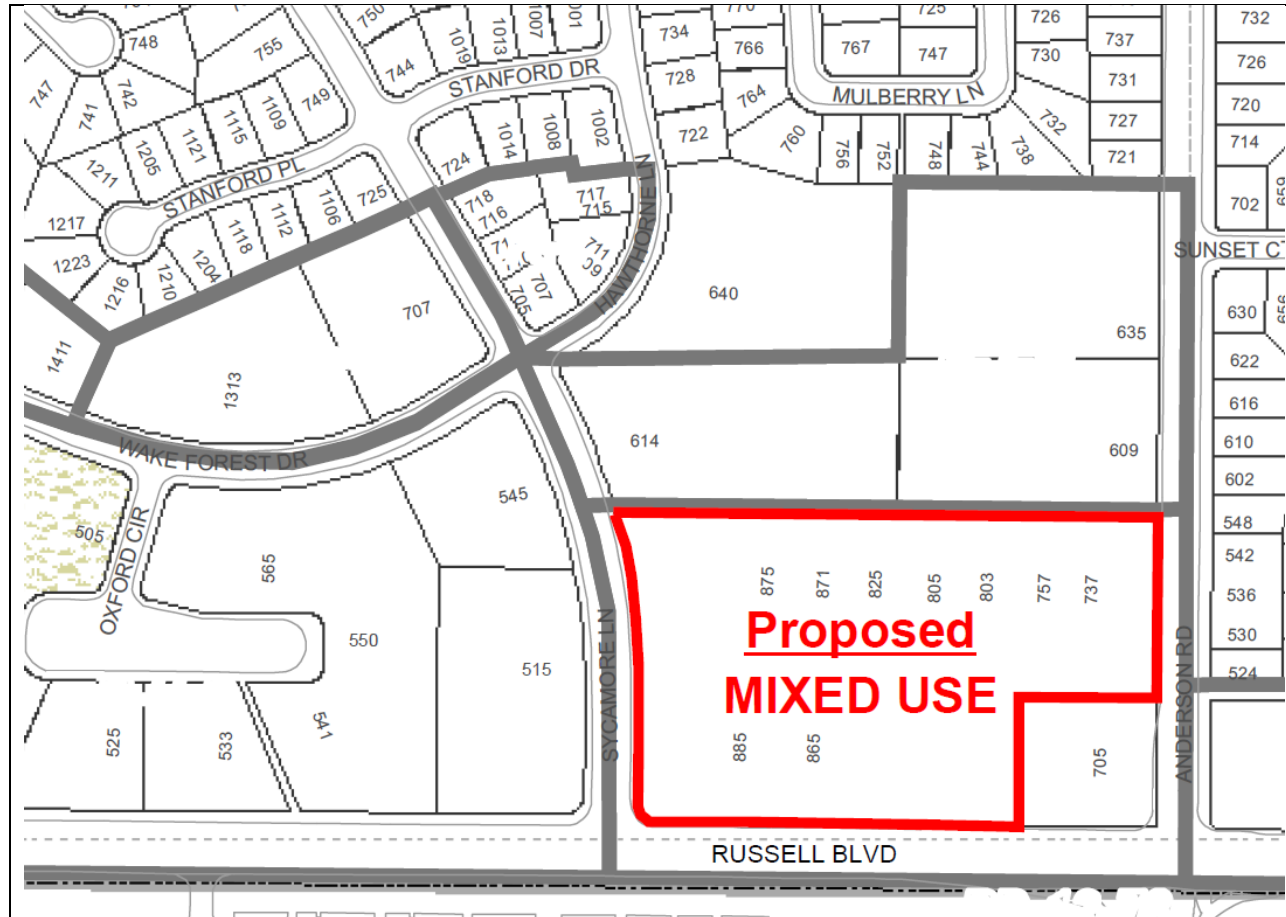
1. Include a mix of high density residential uses with convenient retail and services for the daily needs of residents or with space for job-generating office uses and/or research and development (laboratory) uses.
2. Provide site amenities and outdoor gathering spaces for employees, customers and residents.
3. Incorporate measures to reduce the reliance on vehicle ownership and use.
4. Provide on site improvements, access and facilities, designed to encourage and facilitate pedestrian, bicycle, transit, and other alternative transportation options as well as emerging mobility technologies.
5. The determination for whether residential or non-residential shall be permitted on the first floor and what is permitted on the floors above the first floor shall be included within the commensurate Planned Development or its equivalent applicable zone.
6. Support high-density developments that provide high quality design in an appropriate urban scale and enhances the City's character.
7. Provide site improvements, access, and on-site facilities and design that encourage and facilitate pedestrians, bicycles, transit, other alternative transportation options, and emerging mobility technologies.

## **Policies**

**Policy LU U.1** Promote compact development patterns, mixed-uses, and higher-development intensities that use land efficiently; reduce greenhouse gas emissions and auto dependence and the expenditure of energy and other resources; and that promote walking bicycling, and transit use, consistent with SACOG's strategies to facilitate and streamline the development of residential mixed-use projects and Transit Priority Projects.

**GPA 2-18**  
**EXHIBIT B**

**General Plan Land Use Map Amendment to redesignate  
737-885 Russell Boulevard (APN: 034-253-007)  
from “Community Retail” to “Mixed Use”**



# ATTACHMENT 3

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 40 OF THE CITY OF DAVIS  
MUNICIPAL CODE REZONING THE PARCEL LOCATED AT  
737-885 RUSSELL BOULEVARD (APN: 034-253-007) FROM PD 2-97B TO  
PRELIMINARY PLANNED DEVELOPMENT (PD) #03-18 (UNIVERSITY COMMONS)**

THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

## **SECTION 1. PROPERTY AREA**

Planned Development (PD) #03-18 (University Commons) includes approximately 8.25 acres located at 737-885 Russell Boulevard (APN 034-253-007) north of Russell Boulevard, east of Sycamore Lane, and west of Anderson Road, as shown in Exhibit A.

## **SECTION 2. ZONING MAP CHANGE**

Section 40.01.090 (Zoning Map) of Chapter 40 of the Municipal Code of the City of Davis, as amended, is hereby amended by changing the land use designation of the parcel located at 737-885 Russell Boulevard (APN: 034-253-007) as shown in Exhibit A, to Planned Development (PD) #03-18 (University Commons).

## **SECTION 3. PURPOSE**

The purpose of this planned development is to provide a mixed use district combining high density multifamily residential with retail uses and businesses that:

- A. Optimize an underutilized infill location within the City of Davis;
- B. Contribute to the overall character and livability of the surrounding neighborhood and UC Davis by redeveloping an existing retail center;
- C. Provide a flexible mixed-use project with residential uses, neighborhood and community-serving retail and services, offices, business services, employment;
- D. Provide additional housing adjacent to the University of California Davis, near existing mobility infrastructure (e.g. pedestrian, bicycle facilities and transit) to reduce vehicle trips, vehicle miles traveled, and parking demand;
- E. Provide housing density proximate to UC Davis and the downtown area of the City of Davis; and
- F. Provide energy efficient building design that incorporates sustainable design elements.

## **SECTION 4. LAND USE DEVELOPMENT**

Land use areas for PD #03-18 along with residential square footage/bed count and retail square footage allocations are as follows.

Use	Square Footage
Mixed Use – Residential	412,500 square feet
Residential Bed Count	894 beds in a unit/bedroom configuration that does not exceed the impacts identified in the



	Environmental Impact Report associated with the University Commons Project (2020)
Residential Unit Mix	4-bedroom units shall comprise to no more than 45% of the total number of units. No units shall contain more than 4 bedrooms.
Mixed Use – Retail, Offices	150,000 square feet
Parking Structure	246,000 square feet
Total Square Feet:	808,500 square feet

Final allocations shall be determined in the Final Planned Development consistent with the above allocations and Section 7.

## **SECTION 5. USES**

Permitted, accessory, and conditional uses are as follows.

- A. Permitted Uses. Permitted uses shall be as established in Section 40.18A.015 (C-R Zoning District, Permitted Uses), as amended, except as modified herein. In addition, the following uses shall be permitted:

1. Residential dwelling units above the ground floor.
2. Retail and service uses including, but not limited to, general merchandise, food, alcohol, beer and wine retail sales, home goods, clothing, drug stores, pharmacies, electronics, technology, business and mailing services, postal substation, fitness, indoor recreation, entertainment, financial and education services, spa, salons, day care, medical, health and educational services. Retail and service uses to allow for local distribution, pick up and drop off services.
3. Sit-down and fast casual restaurants, cafes, bakeries, breweries, and pubs may include sale and service of alcohol, beer and wine for on-site consumption.
4. Office, administrative, entertainment, service, medical, research/development and associated laboratory space, and recreational uses shall be allowed on the first floor and second floor.
5. Outdoor seating areas are permitted and do not count against maximum square footages of the center or required parking.
6. Other uses as determined by the Director of Community Development and Sustainability to be of the same general character as the permitted uses.

- B. Accessory Uses. Accessory uses shall be as established in Section 40.18A.020 (C-R Zoning District, Accessory Uses), as amended, except as modified herein. In addition, the following uses shall be considered accessory uses:

1. Property management office, clubhouse, pool, recreation and fitness areas and other amenities associated with residential uses.
2. Required parking may be provided via on-grade and/or above grade structures.
3. Bicycle storage, bicycle rental, bicycle, pickup/drop-off, package lockers and other transportation share facilities.
4. Seasonal/Special events.

5. Other uses as determined by the Director of Community Development and Sustainability to be of the same general character as the accessory uses.

C. Conditional Uses. Conditional uses shall be as established in Section 40.18A.030 (C-R Zoning District, Conditional Uses), as amended, except as modified herein. In addition, the following uses shall be conditionally permitted:

1. Nightclubs.
2. Other uses as determined by the Director of Community Development and Sustainability to be of the same general character as the conditional uses.

## **SECTION 6. DEVELOPMENT STANDARDS**

Development standards shall be specified herein or as further established in the Final Planned Development, provided that the requirements of Section 40.18A.050 and 40.18A.060 of the Davis Municipal Code as they relate to the C-R district shall be used as requirements in the absence of specific standards.

Maximum building height	No building shall exceed eighty (80') feet in height or more than seven stories in height. Tower elements not to exceed eighty-five (85') feet.
Front setback	Zero (0') feet
Interior and street side yard setback	Zero (0') feet
Rear setback	Minimum zero (0') feet; except when abutting an R district, then minimum twenty (20') feet.
Landscaping	In addition to parking lot shading and screening, landscaping shall cover a minimum of five (5%) percent of the site and must be provided consistent with provisions of landscaping and screening for commercial districts (Section 40.26.250(b) and (c)).
Parking – Non-Residential	Off-street parking for non-residential uses shall be provided in the ratio of 1.0 space per 350 square feet of gross floor area. This ratio may be reduced through the Minor Modification process.
Parking – Residential Uses	Off-street parking for residential uses shall be provided in the ratio of 1.0 space per residential unit. This ratio may be reduced through the Minor Modification process.
Bicycle Parking	Bicycle parking shall be provided for all uses in accordance with Section 40.25A.
Signage	Subject to the provisions of Section 40.26.20, except as modified by the adopted site-specific program for University Commons.

## **SECTION 7. FINAL PLANNED DEVELOPMENT**

Consistent with Section 40.22, a Final Planned Development (FPD) approval shall be required before the development of the site. The FPD shall be consistent with the University Commons

Planned Development #03-18. Development standards for the University Commons project shall be contained in the FPD and may include design guidelines.

## **SECTION 8. CONFLICTS**

For provisions not covered by this ordinance or the final planned development, the provisions of Chapter 40 of the Davis Municipal Code, as amended, shall apply. Where there is a conflict between the provisions of Chapter 40 and this ordinance, the provisions of this ordinance shall apply.

## **SECTION 9. MITIGATION MEASURES**

The Planned Development District is subject to the mitigation measures in the Environmental Impact Report #4-18 (SCH#2018112044) prepared for this project.

## **SECTION 10. SPECIAL CONDITIONS**

The following special conditions shall apply.

- A. Site plan and architectural approval are required for any new construction, as provided in Section 40.31 (Site Plan and Architectural Approval).
  - a. The building design shall have four-sided architecture and shall incorporate design elements to create visual interest, reduce building massing, and avoid long unbroken wall planes, through measures including, but not limited to, building recesses and offsets, articulation, fenestration, overhangs, and material changes. The building's horizontal wall plane shall provide a building break or offset a minimum of every 100 feet, including on the north elevation.
- B. All signage shall be reviewed, subject to Section 40.26.020 and City-wide Sign Design Guidelines and/or a specific master sign program for University Commons as applicable.
- C. Each use shall be conducted wholly within a completely enclosed building, except specialty grocery store, restaurants, or those uses which front on outdoor plaza areas. Merchandise displayed on plaza areas shall not disrupt pedestrian movement.

## **SECTION 11. FINDINGS**

The City Council of the City of Davis hereby finds:

1. The proposed project is in conformance with the General Plan, as amended, and the project would be consistent with the amendments to the General Plan that is designating the site Mixed Use with related text amendments. This allows for a consistent land use designation and zoning for the parcels, which would facilitate the development of the proposed project.
2. The property is suitable for the proposed development and the proposed project constitutes a mixed use development of sustained desirability and stability in harmony with the character of the surrounding neighborhood.
3. Public necessity, convenience and general welfare require the adoption of the proposed amendment, given that the PD 3-18 zoning provides for areas to meet City retail and housing needs.

4. The proposed project with the adoption of the rezone will be consistent with the Zoning Ordinance, as the purpose of the PD District is to provide a suitable residential environment for a mix of housing types and cost including multi-family residential and student-oriented housing, and to promote creative approach and variety in the physical development pattern of the city. The planned development district provides for diversification in the relationship of various buildings and structures and provide relief from the rigid standards of conventional zoning in order to allow for new and compatible development with surrounding uses.
5. The proposed project includes multi-bedroom units, which may be leased by the bed or bedroom, but is not limited to student residents and is consistent as a multiple family dwelling unit.
6. The proposed project incorporates sustainability features consistent with General Plan and city policies to ensure long-term stability of the project, reduce energy consumption, and promote reduction in automobile trips.
7. The Planning Commission held a public hearing on May 27, 2020 to receive comments and consider the rezone and voted to reject adoption of the rezone.
8. The City Council held a duly noticed public hearing on July 21, 2020 and August 18, 2020 and based on oral testimony and documentary evidence reviewed during the public hearing, including Planning Commission minutes or comments, report and evidence reviewed by the Planning Commission, certified the Environmental Impact Report (SCH#2018112044) prepared for the project and adopted a Mitigation Monitoring Plan. A Draft EIR was prepared and circulated for public review in accordance with CEQA requirements and addressed CEQA streamlining in regards to project consistency with the Sacramento Area Council of Governments Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS). The EIR adequately analyzed the significant and potentially significant environmental impacts of the project, identified appropriate mitigation, project alternatives, and significant and unavoidable cumulative impacts related to transportation. Public comments were received and a response to comments was included in the Final EIR. Additional text and information was provided to clarify discussion but the modifications did not alter the conclusions of the EIR. A statement of overriding considerations for significant and unavoidable impacts was adopted. The EIR represents the independent judgment of the lead agency.

## **SECTION 12. CONTINGENCIES AND EFFECTIVE DATE**

The ordinance shall become effective on and after the thirtieth (30<sup>th</sup>) day following its adoption and only upon approval of General Plan Amendment #02-18.

INTRODUCED on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and PASSED AND ADOPTED at a regular meeting of the City Council of the City of Davis this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by the following vote:

AYES:

NOES:

ABSENT:

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Gloria Partida, Mayor

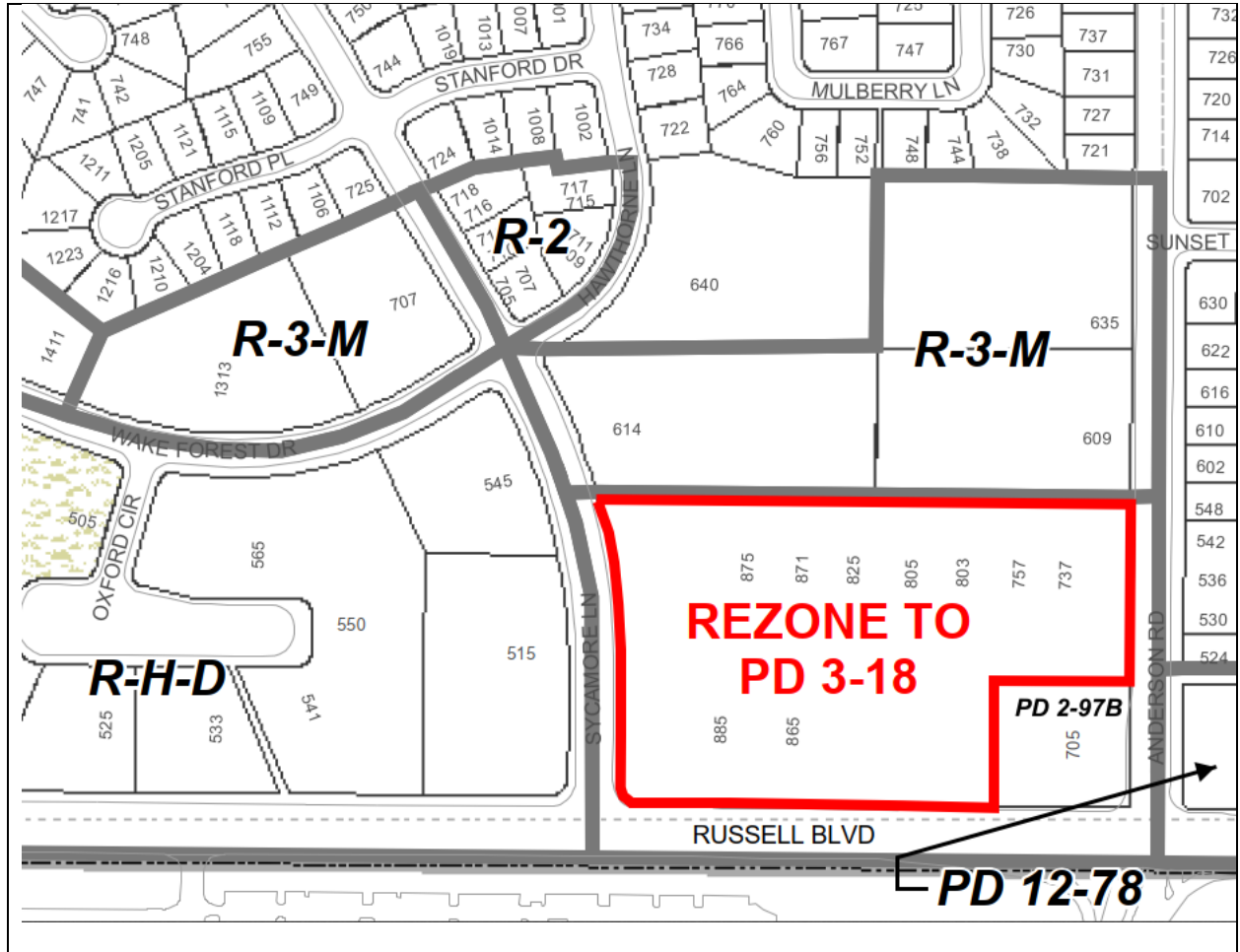
ATTEST:

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Zoe Mirabile, CMC  
City Clerk

## EXHIBIT A

**Parcel to be Rezoned to PD 3-18 (University Commons)  
737-885 Russell Boulevard (APN: 034-253-007)**



## ATTACHMENT 4

### **FINDINGS & CONDITIONS OF APPROVAL**

#### **University Commons Project – 737-885 Russell Boulevard Planning Application (PA) #18-17 for Demolition #11-18**

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#### **FINDINGS:**

1. **Demolition.** The proposed demolition is consistent with and supportive of identified goals and policies of the General Plan and the proposed action will not have a significant effect on the goals and purposes of zoning provisions addressing historical resources and historic districts, in that the existing site has been adequately evaluated pursuant to CEQA and the City's Demolition and Historical Resources Management Ordinance and it has been determined that the site is not a historical resource for the purposes of CEQA or the City's Historical Resources Management Ordinance.
2. **CEQA.** An Environmental Impact Report (SCH#2018112044) evaluating the environmental impacts was prepared for the project and circulated for public review in accordance with CEQA requirements. The EIR adequately analyzed the potential environmental impacts of the project and identified significant and unavoidable impacts related to transportation, which requires adoption of a statement of overriding considerations, but determined that all other impacts would be less than significant or less than significant with mitigation. Potentially significant impacts were identified, but impacts were reduced to a less-than-significant level through the implementation of mitigation measures. Public comments on the EIR were received, but did not alter the analysis or conclusions of the EIR. Based on the whole record, including oral testimony and documentary evidence reviewed during the public hearing and the Final EIR with public comments received, the City Council certified the EIR and adopted of CEQA Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring or Reporting Plan. The EIR represents the independent judgment of the lead agency.

#### **CONDITIONS OF APPROVAL:**

1. The University Commons Mixed Use Redevelopment Project (PA#18-17) for Demolition #11-18 is hereby approved by the City Council, subject to the conditions listed below. Approval of this project is contingent upon the approval of the associated General Plan Amendment and PD Rezone.
2. The applicant shall defend, indemnify, and hold harmless the City of Davis, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City of Davis concerning this approval, including but not limited to any approval of condition of approval of the City Council. The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees and agents in the defense of the matter.
3. Prior to issuance of a demolition permit for the University Commons Project, approval of a Final Planned Development and Design Review is required and will include updated studies as determined necessary, including but not limited to an updated arborist report and tree removal plan.

## ATTACHMENT 5

ORDINANCE NO. \_\_\_\_\_

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS APPROVING THE DEVELOPMENT AGREEMENT FOR THE UNIVERSITY COMMONS PROJECT

**WHEREAS**, 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 Government Code Sections 65864 *et seq.* (the "Development Agreement Statute") which authorizes cities to enter into agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property;

**WHEREAS**, in accordance with the Development Agreement Statute, the City of Davis (the "City") has enacted regulations (the "Development Agreement Regulations") to implement procedures for the processing and approval of development agreements in accordance with the Development Agreement Statute;

**WHEREAS**, the Developer of the site desires to carry out the development for the University Commons Project ("Project") on the approximately 8.25-acre property located at 737-885 Russell Boulevard (APN: 034-253-007) as described in the Development Agreement (the "Property") consistent with the General Plan, as amended, and the Development Agreement (the "Development Agreement"), and the vested entitlements referenced therein;

**WHEREAS**, the City Council of Davis adopted project entitlements for the University Commons Project, including the General Plan Amendment, Rezoning and Preliminary Planned Development Permit;

**WHEREAS**, the City Council certified the Environmental Impact Report (SCH 2018112044) and the Mitigation Monitoring and Reporting Program adopted therewith for the University Commons Project;

**WHEREAS**, the Development Agreement will assure both the City and the Developer that the Project can proceed without disruption caused by a change in City planning and development policies and requirements, which assurance will thereby reduce the actual or perceived risk of planning, financing and proceeding with construction of the Project and promote the achievement of the private and public objectives of the Project;

**WHEREAS**, the Planning Commission held a duly noticed public hearing on May 27, 2020 on the Project entitlements, including the Development Agreement, during which public hearing the Planning Commission received comments from the Developer, City staff, and members of the general public and rejected approval of the project; and

**WHEREAS**, the City Council held a duly noticed public hearing on July 21, 2020 and August 18, 2020 on the Project entitlements, including the Development Agreement, during which public hearing the City Council received comments from the Developer, City staff, and members of the general public, and reviewed all the information pertaining to the project including the



Planning Commission hearing minutes or comments, reports, and all evidence received by the Planning Commission.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.**

This Ordinance incorporates, and by this reference makes a part hereof, the Development Agreement attached hereto as Exhibit A, subject to the provisions of Section 5 hereof.

**SECTION 2.**

This Ordinance is adopted under the authority of Government Code Section 65864 et seq., and pursuant to "Development Agreement Regulations".

**SECTION 3.**

In accordance with the Development Agreement Regulations, the City Council hereby finds and determines, as follows:

- A. The Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan, in that it establishes certain development rights, obligations and conditions for the implementation of the University Commons Project;
- B. The Development Agreement is compatible with the uses authorized therein, and the regulations prescribed for, the general plan designations which will apply to the Property;
- C. The Development Agreement is in conformity with public convenience, general welfare and good land use practice;
- D. The Development Agreement will not be detrimental to the public health, safety and general welfare;
- E. The Development Agreement will not adversely affect the orderly development of the Property or the preservation of property values; and
- F. The Development Agreement is consistent with the provisions of Government Code Sections 65864 through 65869.5.

**SECTION 4.**

The foregoing findings and determinations are based upon the following:

- A. The Recitals set forth in this Ordinance, which are deemed true and correct;
- B. The City's General Plan, as amended;

- C. Resolution No. \_\_\_\_\_, adopted by the City Council on \_\_\_\_\_, 2020 certifying the University Commons Project EIR (SCH#2018112044) and Mitigation Monitoring and Reporting Program, which Resolution and exhibits are incorporated herein by reference as if set forth in full;
- D. The City's General Plan, as amended by the General Plan Amendment adopted by the City Council by Resolution No. \_\_\_\_\_ prior to adoption of this Ordinance;
- E. All City staff reports (and all other public reports and documents) prepared for the Planning Commission and City Council, relating to the Development Agreement and other actions and entitlements relating to the Property, including all attachments hereto;
- F. All documentary and oral evidence received at public hearings or submitted to the City during the comment period relating to the Amendment to the Development Agreement, and other actions relating to the Property; and
- G. All other matters of common knowledge to the Planning Commission and City Council, including, but not limited to the City's fiscal and financial status; City policies and regulations; reports, projections and correspondence related to development within and surrounding the City; State laws and regulations and publications.

#### **SECTION 5.**

The City Council hereby approves the Development Agreement, attached hereto as Exhibit A, subject further to such minor, conforming and clarifying changes consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto, and conformity to the General Plan, as amended, as approved by the City Council.

#### **SECTION 7.**

Upon the effective date of this Ordinance, the Mayor and City Clerk are hereby authorized and directed to execute the Development Agreement on behalf of the City of Davis

#### **SECTION 6.**

The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Development Agreement pursuant to the terms of the Development Agreement.

#### **SECTION 8.**

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

#### **SECTION 9.**

This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption; provided, however, that if the General Plan Amendment is approved at a later date, then the effective date of this Ordinance shall be the date on which the General Plan Amendment becomes effective.

INTRODUCED on the \_\_\_\_ day of \_\_\_\_\_ 2020 and PASSED AND ADOPTED at a regular meeting of the City Council of the City of Davis this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by the following vote:

AYES:

NOES:

ABSENT:

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Gloria Partida  
Mayor

ATTEST:

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Zoe Mirabile, CMC  
City Clerk

## **EXHIBIT A**

### **University Commons Development Agreement**

## **ATTACHMENT 6**

### **University Commons Development Agreement - with redline changes from July 21, 2020 version**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

City of Davis,  
Community Development and  
Sustainability Department  
23 Russell Boulevard, Suite 2  
Davis, California 95616

SPACE ABOVE THIS LINE FOR RECORDER'S USE

## AGREEMENT

BY AND BETWEEN

THE CITY OF DAVIS AND BRIXMOR

Relating to the Development of the Property Commonly Known as University Commons

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the CITY OF DAVIS, a municipal corporation (herein the "City"), and California Property Owner I, LLC (the "Developer"). 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 Developer 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 Developer owns in fee certain real property as described in Exhibit A attached hereto and incorporated herein by this reference. Developer seeks to develop the property as a retail commercial and residential vertical mixed use development project (the “Project”). The Project will consist of approximately 136,800 square feet of new retail commercial space, 13,200 square feet of existing retail commercial for a total of approximately 150,000 square feet, and residential units with 894 beds. The Project will include structured parking, signage, landscaping, site amenities, and other improvements outlined in the project entitlements.

C. This Agreement is voluntarily entered into by Developer in order to implement the General Plan and in consideration of the rights conferred and the procedures specified herein for the development of the approximately 8.25± acre property located on the north side of Russell Boulevard and bordered by Anderson Road and Sycamore Lane (APN 034-253-007) (“the Property”), and further detailed in Recital D below. 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 Developer hereunder.

D. City has granted the Developer the following land use approvals for the Project (hereinafter “Project Approvals”) which are incorporated and made a part of this Agreement:

- (1) Certification of the EIR and adoption of the Mitigation Monitoring Plan for the Project.
- (2) General Plan Amendment #2-18;
- (3) Rezone and Preliminary Planned Development #3-18;

(3) Development Agreement #2-19.

E. This Agreement will provide certainty with respect to planning and orderly development of the Project and will enable the Developer to make significant investments in public infrastructure and other improvements, assure the timely and progressive installation of necessary improvements and public services, build-out the Project consistent with the desires of the City to develop at a pace that will assure integration of the Project 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 Developer will be assured that it 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 Developer by Government Code Section 65864.



## **AGREEMENT**

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, THE CITY AND THE DEVELOPER 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. Developer represents that it has 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 fifteen (15) 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 Sections 105 through 106 hereof. Following the expiration of said Term, this Agreement shall be deemed terminated and of no further force and effect, except as noted in Section 407 hereof.

If this Agreement is terminated by the City Council pursuant to Section 400 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, after all appeals have been exhausted, upon entry of a final judgment or issuance of a final judicial 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;

C. [Sec. 102] Equitable Servitudes and Covenants Running with the Land. Any successors in interest to the City and the Developer shall be subject to the provisions set forth in Government Code sections 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 103, 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 Developer in writing pursuant to Section 103. In any event, no owner or any retail or residential tenant within the Project shall have any rights under this Agreement.

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

1. The Developer 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. Except as to an assignment by Developer to an affiliate or entity in which Developer is a member or holds an ownership interest, 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 development experience and financial ability to meet the obligations proposed to be assigned and to undertake and complete the obligations of this Agreement affected by the assignment.

(b) 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 identity, 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 and assignor 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 to the Developer at the address set forth in Section 900, or as alternatively described in Section 104,

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 Specific Development Obligations set forth in Section 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, other than in accordance with this Section 103, that attempts to sever such conditions shall constitute a default under this Agreement and, subject to the procedure set forth in Section 400, and shall entitle the City to terminate this Agreement in its entirety.

4. Notwithstanding subsection 2 of this Section, 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 or refinancing 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.

5. Nothing in this Section shall be deemed to constitute or require City consent to the approval of any subdivision or parcelization of the Property. 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 Developer's business structure, such as: (i) any sale, pledge, assignment or other transfer of all or a portion of the Project Site to an entity directly controlled by Developer or its affiliates, or an entity in which Developer is a member or holds an ownership interest; and (ii) any change in Developer entity form, such as a transfer from a corporation to a limited liability company or partnership, that does not affect or change beneficial ownership of the Project Site; provided, however, in such event, Developer shall provide to City written notice, together with such backup materials or information reasonably requested by City, within thirty (30) days following the date of such reorganization or City's request for backup information, as applicable.

E. [Sec. 104] Notices. Formal written notices, demands, correspondence and communications between the City and the Developer shall be sufficiently given if dispatched by certified mail, postage prepaid, to the principal offices of the City and the Developer, as set forth in Article 9 hereof. Alternatively, formal written notices, demands, correspondence and communications between the City and the Developer may be sent by electronic mail (e-mail) and shall be deemed sufficient upon confirmation of receipt of the e-mail by recipient Party. 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 Developer 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 and any assignment of this Agreement, specifying the name or names of the transferee, the transferee's mailing address, the acreage 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 pursuant to Section 103 or any other action City is required to take under this Agreement.

F. [Sec. 105] Amendment of Agreement. This Agreement may be amended in writing 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] 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 for public use or purposes; (d) provisions regarding Developer's fulfillment of its obligations to make fair share financial contributions to off-site road and bike and pedestrian improvements as set forth in this Agreement; (e) changes to conditions, terms, restrictions or requirements applicable to subsequent discretionary actions; (f) an increase in the density or intensity of use of the Property or the maximum height or maximum gross square footage, which shall not include changes to residential unit count pursuant to Section 201(10) below unless they impact the maximum height or maximum gross square footage of the Property; or (g) other 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, and mutual consent of the Parties. Any amendment which is not a Major Amendment shall be deemed a Minor Amendment subject to Section 106(2) below. The City Manager or his or her delegee shall have the authority to determine if an amendment is a Major Amendment subject to this Section 106(1)

or a Minor Amendment subject to Section 106(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 106(1), they shall effectuate such clarifications, minor changes or minor adjustments through a written Minor Amendment approved in writing by the Developer and City Manager or his or her designee. Minor amendments authorized by this subsection may not constitute an "amendment" for the purposes of Government Code sections 65867, 65867.5, and 65868. Unless otherwise required by law, no such Minor Amendment shall require prior notice or hearing, nor shall it constitute an amendment to this Agreement. Revisions to the residential unit count, as described in Section 201(10) below may be handled through a Minor Amendment.

## 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 Developer shall have a vested right to develop, but not the affirmative obligation to proceed with the development of, 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 B 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 Developer hereby agrees that development of the Project shall be in accordance with the Project Approvals, including any conditions of approval 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 106(2), *supra*. Nothing in this Agreement shall require Developer or Landowner to construct the Project or to pay fees for any portion of the Project that Developer or Landowner does not construct.

B. [Sec. 201] Specific Development Obligations. In addition to the conditions of approval contained in the Project Approvals, the Developer and the City have agreed that the development of the Property by the Developer is subject to certain specific development obligations, described herein and also described and attached hereto as Exhibits \_ through \_ 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. Development Impact Fees Connections Fees, and Community Enhancement Funds. The Developer shall pay Development Impact Fees, Connection Fees, and Community Enhancement Funds identified in Exhibit C.

2. Affordable Housing Requirements. The Developer shall meet affordable housing requirements as set forth in Exhibit D.

3. Local Hiring Program. The Developer, shall implement a Local Hiring Policy as set forth in Exhibit E.



4. Environmental Sustainability Implementation Plan. The City and the Developer have agreed that environmental concerns and energy efficiency are critical issues for new developments. Developer shall implement the items described in Exhibit F

5. Residential Occupancy Management Plan. Developer shall implement the Residential Occupancy Management Plan set forth in Exhibit G.

6. Parking Management Plan. Developer shall implement the Parking Management Plan set forth in Exhibit H.

7. Construction of or Fair Share Contributions to Off-Site Road, Bike and Pedestrian Improvements. The Developer shall make its fair share financial contributions to off-site road and bike and pedestrian improvements as set forth in Exhibit I entitled “Developer Fair Share Contributions to “Construction of or Off-Site Road, Bike and Pedestrian Improvements”.

8. Landscaping and Water Conservation Measures. The Developer shall implement the Landscaping and Water Conservation Measures set forth in Exhibit J.

9. Reimbursement for Property Taxes. Prior to issuance of building permit, Developer shall record a covenant on the title to the Project Site regarding property tax payments. The covenant shall include a permanent obligation for the property owner to make payments to the City in lieu of the City’s share of otherwise-required property taxes in the event that the Property is acquired or master leased by an entity exempt from payment of property taxes. Wording of the covenant is subject to review and approval of the City Attorney.

10. Residential Unit Mix. The maximum number of bedrooms in any Project unit shall not exceed four (4) bedrooms. A minimum of fifty five percent (55%) of the total units in the Project shall be comprised of studios, one (1), two (2) and three (3) bedroom units. In no event shall the total Project four (4) bedroom units exceed forty five percent (45%) of the total

unit count. Any modification by Developer to the total unit count at the time of submittal of the Final PD shall be subject to evaluation by City to determine whether or not the potential environmental impacts resulting from the modified total unit count are addressed within the analysis contained in the project EIR or whether additional environmental analysis shall be required pursuant to CEQA.

11. Unit Distribution. The Developer shall design the residential portion of the Project in a manner that allocates a portion of the studio, one (1), two (2), and three (3) bedroom units into one area of the Project.

12. Residential Floors. Residential housing shall be limited to four (4) stories over a retail podium.

13. Rental Program. The rental program shall include units available for rent by the bed as well as options to rent by the unit.

C. [Sec. 202] Subsequent Approvals and Subsequent Actions.

1. Subsequent Approvals. The Developer has the vested right to develop Project pursuant to and consistent with this Agreement and the Project Approvals and is subject only to subsequent discretionary approvals for the Project or portions of the Project, including approval of a Final Planned Development and Design Review. 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.

Conditional use permits may be reviewed and approved by the City during the term of this Agreement but shall not “vest” under this Agreement and will 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 conditions of approval of the conditional use permit and shall not be extended by reason of this Agreement.

2. Subsequent Actions. Subject to applicable law relating to the vesting provisions of development agreements, Developer 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, Developer 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 Developer and the Property and to all other public or private owners and properties directly affected thereby.

D. [Sec. 203] Development Timing. In developing the Project, Developer 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. Parties acknowledge that the Developer cannot at this time predict with certainty when or the rate at which the Property would be developed. Such decisions depend upon numerous factors, including 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 Developer to hereby acknowledge and provide for the right of the Developer 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 Developer's 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 Developer will use its best efforts, in accordance with sound business judgment and taking into consideration market conditions and other economic factors, in whether or not 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.

E. [Sec. 204] Rules, Regulations and Official Policies.

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, applicable to the development of the Property, including the maximum height and size of proposed buildings, consistent with this Development Agreement and with Project Approvals, shall, to the extent applicable, 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 Sections 105 through 106 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; 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 only to the degree 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 Developer is required, at its 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).

1. 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. Design, Construction, and Improvement Plans. All Project construction and improvement plans shall comply with the rules, regulations and design guidelines in effect at the time the construction improvement plans are 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 Developer 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 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 submittal of the appropriate building, grading, encroachment or other construction permits for the Project. If no permits are required for the infrastructure improvements, such improvements will 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 Developer agrees 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 Developer’s rights to develop the Property;

(b) The Developer waives, for itself and its 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. No such waiver is recognized for rights vesting in accordance with the decision of *Avco Community Developers, Inc. v. South Coast Regional Commission*, 17 Cal. 3d 785 (1976); and

(c) The Developer will 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.

(d) 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.

F. [Sec. 205]. Fees, Exactions, Conditions and Dedications.

1. Except as provided herein, the Developer shall be obligated to pay only those fees, in the amounts with applicable future adjustments as set forth in this Agreement, 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



Developer prior to the issuance of a certificate of occupancy for the building in question. As set forth expressly in this Agreement, Developer shall be entitled to a credit for certain impact fees previously paid with respect to the existing development on the Property.

2. Except as otherwise provided by this Agreement, the Developer shall, for a period of five (5) years following the Effective Date of this Agreement, pay the fee amount in effect at the time of the Project Approvals. The City retains discretion thereafter to revise such fees as the City deems appropriate, in accordance with applicable law. After the five (5) year period referenced in this Sub-Section 205 (2), 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) prior to the Developer obtaining a certificate of occupancy, then the Developer shall thereafter pay the revised fee. The Developer may, at its sole discretion, participate in any hearings or proceedings regarding the adjustment of such fees. Nothing in this Agreement shall constitute a waiver by the Developer of its right to challenge such changes in fees in accordance with applicable law, provided that the Developer hereby waives its right to challenge the increased fees solely on the basis of any vested rights that are granted under this Agreement.

3. The City may charge and the Developer shall pay processing fees for land use approvals, building permits, and other similar permits and entitlements which are in force and effect on a city-wide basis at the time the application is submitted for those permits, as permitted pursuant to California Government Code Section 66000 et seq.

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 a Major Amendment to the Project Approvals or this Agreement, which amendment is either requested by the Developer or agreed to by the Developer; however, such additional fees, charges, dedication requirements, or improvement requirements shall relate only to the subject Major Amendment and shall be delineated in the Major Amendment.

5. Compliance with Government Code Section 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 Section 66006 pertaining to the payment of fees for the development of the Property.

6. Wastewater Treatment Capacity. The City and the Developer agree that there is capacity in the wastewater treatment plant 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 Developer 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 Developer 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 Developer shall pay the applicable connection charge in effect pursuant to City-wide ordinance at the time of building permit issuance as set forth in Exhibit C. The Developer acknowledges that connection charges may increase substantially over time and that the cost to comply with the City's new National Pollution Discharge Elimination System ("NPDES") permit, as may be approved from time to time during the term of this Agreement, may be substantial.

G. [Sec. 206] Completion of Improvements. All improvements necessary to service new development shall be completed prior to issuance of a certificate of occupancy for the Project or any portion of the Project.

### ARTICLE 3 Obligations of the Developer.

A. [Sec. 300] Improvements. The Developer shall develop the Property in accordance with and subject to the terms and conditions of this Agreement, the Project Approvals, 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 Developer to comply with any material term or condition of or fulfill any obligation of the Developer under this Agreement, the Project 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 Developer under this Agreement. Any such default shall be subject to cure by the Developer as set forth in Article 4 hereof.

B. [Sec. 301] Developer's Obligations. Except as otherwise provided herein, the Developer 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. The City agrees that it will accept, in good faith, for processing, review and action, all complete applications for General Plan, Final Planned Development and/or amendments, zoning, special permits, development permits, or other entitlements for use of the Property in accordance with this Agreement.

The City shall inform the Developer, 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.

#### 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 material 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 the notice specified above and expiration of the thirty (30) day period, if such default has not been cured or Developer has failed to reasonably prosecute and/or implement a cure 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] Developer's 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.

C. [Sec. 402] 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 Developer 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 Developer. Such notice shall require the Developer 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 pursuant to the procedures set forth in Sections 105, 106, and 400. The costs of

notice and reasonable related costs incurred by the City for the annual review conducted by the City pursuant to this Section shall be borne by the Developer.

If, following such review, the City Manager is not satisfied that the Developer has demonstrated good faith compliance with all the terms and conditions of this Agreement, or for any other reason, after advising the Developer in writing of the specific areas of concern, the City Manager may, with written notice to the Developer, 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 Developer have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

D. [Sec. 403] 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 pandemic resulting in a declared state of emergency, war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental entities, other than the City, 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 such time as developers should reasonably have known 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 Developer 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, Developer 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 Developer. The tolling shall commence upon receipt by the City of written notice from Developer invoking this right to tolling. The tolling shall terminate upon the earliest date on which either the appeal period has expired following the issuance of a final order 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 Developer from taking actions with regard to the Project as a result of such litigation that would preclude the Parties 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.

E. [Sec. 404] 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 Developer's 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.

F. [Sec. 405] Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. The Developer acknowledges and agrees 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.

G. [Sec. 406] 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 407 hereof.

H. [Sec. 407] Effect of Termination on Developer Obligations. Termination of this Agreement shall not affect the Developer's 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 and not otherwise invalidated by a court; nor shall it affect any other covenants of the Developer specified in this Agreement to continue after the termination of this Agreement, provided such covenants have not been invalidated by a court.

ARTICLE 5 Hold Harmless Agreement.

A. [Sec. 500] Hold Harmless Agreement. The Developer hereby agrees to and shall hold Landowner and 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 Developer's or the Developer's contractors, subcontractors, agents or employees operations



under this Agreement, whether such operations be by the Developer, or by any of the Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by or acting as agent for the Developer or any of the Developer's contractors or subcontractors.

In the event any claim, action, or proceeding is instituted against the City, and/or its officers, agents and employees, by any third party on account of the processing, approval, or implementation of the Project Approvals and/or this Agreement, Developer shall defend, indemnify and hold harmless the City, and/or its officers, agents and employees. This obligation includes, but is not limited to, the payment of all costs of defense, any amounts awarded by the Court by way of damages or otherwise, including any attorneys' fees and court costs. City may elect to participate in such litigation at its sole discretion and at its sole expense. As an alternative to defending any such action, Developer may request that the City rescind any approved land use entitlement. The City will promptly notify Developer of any claim, action, or proceeding, and will cooperate fully.

#### ARTICLE 6 Prevailing Wages.

A. [Sec. 601] Prevailing Wages. Without limiting the foregoing, Developer acknowledges the requirements of California Labor Code Section 1720, *et seq.*, and 1770 *et seq.*, as well as California Code of Regulations, Title 8, Section 16000 *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 on off-site improvements 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., Developer agrees to fully comply with such Prevailing Wage Laws.

ARTICLE 7 Project as a Private Undertaking.

A. [Sec. 700] 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 Developer and the City is formed by this Agreement. The only relationship between the City and the Developer is that of a governmental entity regulating the development of private property and the owner of such private property.

ARTICLE 8 Consistency With General Plan.

A. [Sec. 800] 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 9 Notices.

A. [Sec. 900] 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, or alternatively via e-mail as set forth in Section 104.

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

City Manager  
City of Davis  
23 Russell Boulevard  
Davis, CA 95616  
E-mail: mwebb@cityofdavis.org

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

Andrew Gracey  
Brixmor Property Group  
Vice President Re/Development, West  
1525 Faraday Avenue, Suite 350  
Carlsbad, CA 92008

E-mail: [andrew.gracey@brixmor.com](mailto:andrew.gracey@brixmor.com)

With a copies to:

Brixmor General Counsel  
Steve Siegel  
Brixmor Property Group  
EVP, General Counsel & Secretary  
450 Lexington Avenue, Floor 13  
New York, NY 10017  
[steven.siegel@brixmor.com](mailto:steven.siegel@brixmor.com)

George Phillips  
Phillips Land Law, Inc.  
5301 Montserrat Lane  
Loomis, CA 95650  
E-mail: [gphillips@phillipslandlaw.com](mailto:gphillips@phillipslandlaw.com)

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 10 Recordation.

A. [Sec. 1000] When fully executed, this Agreement will 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 11 Estoppel Certificates.

A. [Sec. 1100] 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 Developer hereunder. Developer 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 will 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 Developer to execute an estoppel certificate shall not be deemed a default. In the event Developer does not respond within the required thirty (30) day period, City may send a second and final request to Developer and failure of Developer to respond within fifteen (15) days from receipt thereof shall be deemed approval by Developer of the estoppel certificate (but only if City's request contains a clear statement that failure of Developer to respond within this fifteen (15) day period shall constitute an approval) 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. In the event City fails to respond within the required thirty (30) day period, Developer 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 shall be deemed approval by City of the estoppel certificate (but only if Developer's request contains a clear statement that failure of City to respond within this fifteen (15) day period shall constitute an approval) and may be relied upon as such by

Developer, tenants, transferees, investors, partners, bond counsel, underwriters, bond holders and mortgagees.

## ARTICLE 12 Provisions Relating to Lenders

### A. [Sec. 1200] 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 Developer or Developer's successors-in-interest, but such Lender shall otherwise be entitled to develop the Project and 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 Developer hereunder or to limit any remedy City has hereunder in the event of a breach by Developer, 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 Developer 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 Developer hereunder; provided, further, that no Lender, or successor thereof, shall be entitled to the rights and benefits of the Developer 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 Developer's Breach Hereunder. If City receives notice from a Lender requesting a copy of any notice of breach given to Developer hereunder and specifying the address for notice thereof, then City shall deliver to such Lender, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer has 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 Developer.

4. Lender's Right to Cure. Each Lender shall have the right, but not the obligation, for the same period of time given to Developer to cure or remedy, on behalf of Developer, 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 Developer hereunder.

5. Other Notices by City. A copy of all other notices given by City to Developer 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 900 above.

B. [Sec. 1201] 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 \_\_\_\_\_ (\_\_) pages and \_\_\_\_\_ (\_\_) 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: Legal Description of the Property
- Exhibit B: Project Approvals
- Exhibit C: Development Impact Fees, Connection Fees and Community Enhancement Funds
- Exhibit D: Affordable Housing Requirements Plan
- Exhibit E: Local Hiring Program
- Exhibit F: Environmental Sustainability Implementation Plan
- Exhibit G: Residential Occupancy Management Plan
- Exhibit H: Parking Management Plan
- Exhibit I: Construction of or Fair Share Contributions to Off-Site Road, Bike and Pedestrian Improvements
- Exhibit J: Landscaping and Water Conservation Measures

*[Signatures on following page]*



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

“CITY”

CITY OF DAVIS

By: \_\_\_\_\_  
Gloria Partida  
Mayor

Attest: \_\_\_\_\_  
Zoe S. Mirabile, CMC,  
City Clerk

“DEVELOPER”

California Property Owner I, LLC, a Delaware  
limited liability company

By: \_\_\_\_\_  
Matthew Berger  
Title: Executive Vice President – West Region

By: \_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:  
\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Inder Khalsa  
City Attorney

EXHIBIT A

**Legal Description**

APN 034-253-007

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

Lot 273, University Farms Unit No. 7, according to the official Plat thereof, filed for record in the Office of the Recorder of Yolo County, California on April 22, 1963 in Book 6 of Official Maps, at Pages 4 and 5.

Excepting therefrom all oil, gas, petroleum and other hydrocarbon substances and all other minerals within and underlying and which may be produced from said property together with certain subsurface rights incidental thereto but not the right to drill and/or tunnel into, under or through said property above a depth of 500 feet measured from the surface as reserved on the map hereinabove referred to.

EXHIBIT B

**Project Approvals**

- (1) Certification to the EIR for the Project
- (2) General Plan Amendment #2-18;
- (3) Rezone and Preliminary Planned Development PD 3-18 (University Commons);
- (4) Development Agreement #2-19.

## EXHIBIT C

### **Development Impact Fees, Connection Fees and Community Enhancement Funds**

#### **I. General Provisions**

Notwithstanding any other provisions of this Agreement and the Municipal Code, the development impact fees (“Development Impact Fees”) and connection fees (“Connection Fees”) set forth in this Exhibit C shall be paid by the Project as modified in this Exhibit C. All other fees, connection fees, and payments shall be subject to the general provisions of Article 2, Section H of this Agreement and the Municipal Code. All other fees, connection fees, and payments shall be subject to the general provisions of the Municipal Code. All development impact fees, connection fees and community enhancement funds paid by Developer shall be calculated consistent with the terms of this Development Agreement and this Exhibit C using the final square footage and unit count contained in the approved Final Planned Development.

The Developer and the City hereby agree to apply for and fully support funding under the Statewide Community Infrastructure Program (“SCIP”) or similar mutually agreeable program, provided that the Project meets the requirements for the financing. The application shall be at Developer’s option, and following Developer’s written notification to City of its intention to apply.

#### **II. Development Impact Fees**

Development Impact Fees shall be paid by the Developer in accordance with AB 1600 and are based on the impacts of the Project and must be reasonably related to the cost of the service provided by the local agency as set forth in the tables below. To the extent that Developer or its predecessor(s) in interest paid Development Impact Fees for commercial square footage that is being demolished to accommodate the Project, such previous fee payments shall be credited against the Development Impact Fees owed to City by Developer for the Project, meaning Developer or its predecessor(s) in interest shall pay Development Impact Fees on net new square footage.

Unless provided otherwise in this Development Agreement or this Exhibit C, payment of Development Impact Fees for the Project shall be payable prior to the Certificate of Occupancy being issued for the Project.

The Developer shall have the option to defer Development Impact Fees for the applicable phase of the Project being constructed which shall be payable 24-months from the first residential unit Certificate of Occupancy being issued for the applicable phase of the Project, provided the Developer provides security for the payment agreement acceptable to the City Manager and City Attorney. Security for the payment shall be in the form of a performance bond or letter of credit, in a form and from a surety acceptable to City, issued to the City securing the outstanding amount of the Development Impact Fees. If the amount due to the City is not paid in full upon the day of the expiration of the 24-month period, a 10% penalty will be assessed. The surety amount shall include the 10% penalty on the outstanding amount of the Development Impact Fees deferred. If the Developer does not pay the entire amount due by 45 days after the date of

the expiration of the 24-month period, the City may call on the surety or letter of credit to pay the entire amount then due, including the 10% penalty. The City Manager and City Attorney have the sole discretion to consider entering into an agreement in lieu of a performance bond or letter of credit regarding the payment of Development Impact Fees provided that the agreement provides adequate leverage in favor of the City relative to collection of the deferred Development Impact Fees.

Developer has the right to pay any Development Impact Fees associated with the Project at any given time to avoid upcoming increases.

If Development Impact Fees are not paid by the fifth (5<sup>th</sup>) year following the Effective Date of this Agreement, the Development Impact Fees shall be recalculated in accordance with rates applicable at the time.

#### **Development Impact Fees Tables**

<b>Commercial Development Impact fees</b>	<b>Commercial Rate per 1,000 sf</b>
Roadways	\$20,239.00
Parks	\$730.00
Open Space	\$126.00
Public Safety	\$1,078.00
Drainage	\$118.00
General Facilities	\$928.00
<b>Total</b>	<b>\$23,219.00</b>

<b>Residential Development Impact Fee's</b>	<b>Multi-Family Rate 1-Bedroom</b>	<b>Multi-Family Rate 2 Plus Bedrooms</b>
Roadways	\$3,047.00	\$4,942.00
Parks	\$3,277.00	\$3,827.00
Open Space	\$564.00	\$659.00
Public Safety	\$700.00	\$757.00
Drainage	\$85.00	\$85.00
General Facilities	\$1,249.00	\$1,823.00
<b>Total</b>	<b>\$8,922.00</b>	<b>\$12,093.00</b>

### III. Connection Fees

Connection fees are due at building permit and the Public Works Director, can, in his or her sole discretion agree to a postponement to Certificate of Occupancy. To the extent that Developer or its predecessor(s) in interest paid Connection Fees, such previous fee payments shall be credited against the Connection Fees owed to City by Developer for the Project.

Water Connection Fees. Water connection fees paid by the Developer shall not exceed the existing City water connection fee for the first five (5) years from the Effective Date of this Agreement. If the water connection fees decrease during the five-year period, then the Project shall be subject to the lower fee. Thereafter, if the water connection fee has increased, the Developer shall pay the then current water connection fee. Water connection fees will be determined at the time of Utility plan check.

#### Water Meter Connection Fees

<b>Meter Size</b>	<b>Charge</b>
3/4"	\$ 10,362.00
1"	17,271.00
1-1/2"	34,541.00
2"	55,254.00
3"	103,612.00
4"	172,682.00
6"	345,376.00
8"	552,311.00

Sewer Connection Fees. Sewer connection fees paid by the Developer shall not exceed the existing City sewer connection fee for the first five (5) years from the Effective Date of this Agreement. If the sewer connection fees decrease during the five-year period, then the Project shall be subject to the lower fee. Thereafter, if the sewer connection fee has increased, the developer shall pay the then current sewer connection fee. Sewer connection fees will be determined at the time of Utility plan check.

Sewer Connection Fees

<b>Residential (per dwelling unit)</b>	<b>Connection charges</b>
<i>Multi-family 5 or more units</i>	<i>\$3,320.00</i>
<b>Commercial (based on flow and quality of discharge to the wastewater facility)</b>	<b>Connection Charge</b>
Flow (ccf/day) winter water usage from November – February	<i>\$14,346 ccf/day</i>
Biological oxygen demand impact to wastewater facility (lbs/day)	<i>1,556 lbs/day</i>
Total suspended solids impact to wastewater facility (lbs/day)	<i>853 lbs/day</i>

#### IV. Community Enhancement Funds

##### Community Enhancement Fund Multiplier for Units in Excess of Three Bedrooms

For any units in the Project that contain more than three bedrooms, additional Community Enhancement Funds shall be paid as follows: A multiplier shall be determined by dividing the total number of bedrooms by the total number of units to determine the average number of persons per unit. The average number of persons per unit shall be divided by the Development Impact Fee occupants per multi-family unit assumption in place at the time of building permit for each building which will result in the Bedroom Count Basis Multiplier that would be applied to the following Development Impact Fee categories: Roadways, Drainage, Parks, Open Space, Public Safety, and General Facilities. Rates are subject to change if any of the multipliers change such as total bed or unit counts.

**Applicable to units in excess of 3 bedrooms. The final Community Enhancement Funds Rate will be determined based upon final unit mix.**

##### Community Enhancement Table

<b>Community Enhancement Funds Rate</b>	
<b>Roadways</b>	<b>\$2,805.87</b>
<b>Drainage</b>	<b>\$ 48.25</b>
<b>Parks</b>	<b>\$ 2,172.82</b>
<b>Open Space</b>	<b>\$ 374.15</b>
<b>Public Safety</b>	<b>\$ 429.79</b>
<b>General Facilities</b>	<b>\$ 1035.02</b>
<b>Total Per Unit in excess of 3 bdrms</b>	<b>\$6,865.93</b>

The Developer shall have the option to defer Community Enhancement Funds for the applicable phase of the Project being constructed which shall be payable 24-months from the first residential unit Certificate of Occupancy being issued for the applicable phase of the Project, provided the Developer provides security for the payment agreement acceptable to the City Manager and City Attorney. Security for the payment shall be in the form of a performance bond or letter of credit, in a form and from a surety acceptable to City, issued to the City securing the outstanding amount of the Community Enhancement Funds. If the amount due to the City is not paid in full upon the day of the expiration of the 24-month period, a 10% penalty will be assessed. The surety amount shall include the 10% penalty on the outstanding amount of the Community Enhancement Fund deferred. If the Developer does not pay the entire amount due by 45 days after the date of the expiration of the 24-month period, the City may call on the surety or letter of credit to pay the entire amount then due, including the 10% penalty. The City Manager and City Attorney have the sole discretion to consider entering into an agreement in lieu of a performance bond or letter of credit regarding the payment of Community Enhancement Funds provided that the agreement provides adequate leverage in favor of the City relative to collection of the deferred Community Enhancement Funds.



## Exhibit D

### Affordable Housing Plan

Developer will satisfy the City's affordable housing requirements through the development and operation of a privately run fully integrated affordable housing program that will be managed by an ownership entity of the University Commons project consistent with all applicable laws. The program is designed to provide privately subsidized rental housing to qualified residents as defined herein.

#### Structure of Program

Developer shall include Five percent (5%), not to exceed Thirteen (13) Studio Units and Five percent (5%), not to exceed Thirteen (13) Two Bedroom Units (the "Affordable Units") in the final design of the project subject to the affordable restrictions set forth in this Affordable Housing Plan. There will be no distinction made between the Affordable Units and Units rented as market rate rents. Participants in the program will enjoy the same amenities and living experience as all other residents in the project. University Commons staff will administer both eligibility and suitability of residents consistent with all applicable laws and subject to oversight by the City.

#### Qualification for Affordable Units

The program will be made available to residents, subject to the requirements included in this Plan. To qualify to lease an Affordable Unit, the resident must demonstrate that he or she is a member of a household whose annual income does not exceed the qualifying median income household income for Yolo County, adjusted for household size, as determined by the California Department of Housing and Community Development ("HCD") on an annual basis pursuant to California Code of Regulations Title 25, Section 6932 ("Median Income").

Developer shall be responsible for developing selection criteria for the Affordable Units that are consistent with all state and federal fair housing laws, including but not limited to the Federal Fair Housing Act, the California Fair Employment and Housing Act, and the California Unruh Act (collectively, "Fair Housing Laws").

Subject to all applicable laws, residents may be eligible for the program if either of the following criteria are met:

#### 1. Financially Dependent Residents

Residents claimed as an income tax dependent by any individual for the tax year preceding application to the program may qualify by demonstrating that the household income of the parent(s) or other legally supporting person(s) when combined with the resident's income, does not exceed the qualifying median income, as applicable to the Affordable Unit for Yolo County.

i). Verifying Dependent Resident's Income Status: The resident must verify his or her parent's or other supporting person's income by means of documentation such as tax returns, W-2s, pay stubs, bank statements, and other similar information as deemed appropriate. "Income" shall be defined as set forth in 25 Cal. Code Regs. §6914. Developer shall be responsible for developing written procedures for verification of income status consistent with Fair Housing Laws, this Affordable Housing Plan and the Regulatory Agreement to be recorded against the project. The written criteria shall be subject to review and approval by the City.

## 2. Financially Independent Residents

Residents who have not been claimed as an income tax dependent by any individual for the tax year immediately preceding application to the program may qualify by verifying financial independence and by demonstrating that the resident's income does not exceed the qualifying median income, as applicable to the Affordable Unit for Yolo County.

i). Verifying Financially Independent Status: Financially independent residents must be able to demonstrate that they are not claimed as a dependent on anyone else's tax return and show financial self-sufficient status by means of verifying documentation such as tax returns and W-2s and additional information to demonstrate financial independence.

ii). Verifying Independent Resident's Income Status: The resident must document his or her income by means of verifying documentation such as tax returns, W-2s, FAFSA documentation, bank statements, etc. "Income" shall be defined as set forth in 25 Cal. Code Regs. §6914. Developer shall be responsible for developing written procedures for verification of income status consistent with Fair Housing Laws, this Affordable Housing Plan and the Regulatory Agreement is to be recorded against the project. The written criteria shall be subject to review and approval by the City.

## 3. Affordable Rate Determination

**Studio Unit:** The monthly rent for each Studio Affordable Unit will not exceed 1/12 of 30% of 80% of Yolo County area median income based on the applicant's household size as determined by HCD for the applicable year. In no event will the monthly rent be based on less than a two-person household income. Maximum occupancy is set at two (2) persons.

**Two Bedroom Unit:** The monthly rent for each Two Bedroom Affordable Unit will not exceed 1/12 of 30% of 100% of Yolo County area median income based on the applicant's household size as determined by HCD for the applicable year. In no event will the monthly rent be based on less than a three-person household income. Maximum occupancy is set at four (4) persons.

Continuing residents are given priority over new residents for the program provided those residents provide documentation of qualifying, continuing need. Applications for existing residents in the subsequent year will be due by February 28. Applications for new residents in the subsequent year will be due by March 31.

Priority of tenant applications will be based on demonstrated need. However, where qualifying tenant applicants outnumber available units, a waitlist will be implemented that takes the order in which applications are received into account in addition to demonstrated need.

#### 4. Marketing

Developer shall develop and implement a marketing plan for the program that shall be subject a timely review and reasonable approval by the City to the extent that such marketing plan is in conformance with state requirements. University Commons will market using programs on the UC Davis campus that represent traditionally underserved groups, including students, faculty and staff and will also market the Program through Yolo County Housing and the City of Davis.

If, notwithstanding Developer's efforts consistent with the approved marketing plan, fewer applications than units in the program are received by May 31 of the subsequent year for the program they may be filled by those on the waitlist at market rates for that year. In subsequent years, the Developer will again seek eligible applicants for the program with the goal of filling all units in the program each year.

#### 5. Reporting

University Commons management will provide an annual report to the City of Davis that shows the number of units participating in the program as well as compliance with qualification criteria of the program.

#### 6. Regulatory Agreement

Subject to the modifications that may be made pursuant to this Section, the required number of Affordable Units shall be maintained and rented as part of the project in perpetuity. The program shall be implemented through a Regulatory Agreement and Restrictive Covenants (the "Regulatory Agreement") which shall be recorded against the Property prior to the issuance of any occupancy permits for the Project. The Regulatory Agreement shall be consistent with the Plan as outlined herein and shall be in a form as approved by the City Manager and City Attorney. The Regulatory Agreement shall remain in effect in perpetuity (except as it may be amended pursuant to this Section and shall be in a senior position to any deeds of trust or other security instruments recorded against the Property for any purpose.

### Affordable Housing Requirements

~~—The application for the Project was submitted to the City on March 13, 2018, at which time the City's affordable housing ordinance provided for an exemption from the affordable housing requirements for vertical mixed use projects. Reasons for the exemptions included the City's interest in encouraging vertical mixed use in infill locations, recognizing the unusually high costs of such development, and the loss of previously available funding for affordable housing. The Project is a vertical mixed use project.~~

~~—The City's affordable housing ordinance was subsequently amended by the City Council on January 8, 2019. The amended ordinance eliminated the exemption in the previous ordinance for vertical mixed use projects and established the requirement of providing units' equivalent to five percent of the total units being developed. The staff report accompanying the affordable housing ordinance to the City Council on December 18, 2018, included the following statement "Third, the proposed amendment will not impact applications currently under review. Rather the amendments will only apply to applications submitted after the ordinance takes effect, which will be 30 days following the ordinance's second reading". As such, the Project is exempt from the requirements of the City's Affordable Housing Ordinance.~~

~~Even though the vertical mixed use exemption is still applicable to the Project, the Developer shall nonetheless meet the Vertical Mixed Use Development requirement as defined in Municipal Code 18.05.060(a)(4), which specifies that a number equivalent to five percent of the total units, bedrooms, or beds being developed including the affordable units, bedrooms, or beds, shall be developed and made affordable to low income households, households with gross incomes at or below eighty percent of area median income for Yolo County. Accordingly, the Project affordable housing program shall provide five percent (5%) of the onsite beds allocated to residents with incomes at eighty percent (80%) of area median income (AMI).~~

~~Prior to issuance of building permits issued for the Project, the Developer shall record a covenant on the Property, making the affordable requirements described in this exhibit binding upon all successors and assigns during the life of the project, surviving the termination or expiration of this Agreement. The details of the management of the affordable housing program shall be provided to the City prior to approval of the Final Planned Development, and said program shall be subject to review and approval by the City Attorney and City Manager.~~

## EXHIBIT E

### **Local Hiring Program**

Local Hiring Policy for Construction. Developer shall implement a local hiring policy (the “Local Hiring Policy”) for construction of the Project, consistent with the following guidelines:

1. Purpose. The purpose of the Local Hiring Policy is to facilitate the employment by Developer and its contractors at the Project of residents of the City of Davis (the Targeted Job Applicants”), and in particular, those residents who are “Low-Income Individuals” (defined below), to the extent practical given the type of construction required to build the Project.

2. Definitions.

a. “Contract” means a contract or other agreement for the providing of any combination of labor, materials, supplies, and equipment to the construction of the Project that will result in On-Site Jobs, directly or indirectly, either pursuant to the terms of such contract or other agreement or through one or more subcontracts.

b. “Contractor” means a prime contractor, a sub-contractor, or any other entity that enters into a Contract with Developer for any portion or component of the work necessary to construct the Project (excluding architectural, design and other “soft” components of the construction of the Project).

c. “Low Income Individual” means a resident of the City of Davis whose household income is no greater than 80% of the Median Income.

d. “Median Income” means the median income for the Yolo County median income, which is published annually by HUD.

e. “On-Site Jobs” means all jobs by a Contractor under a Contract for which at least fifty percent (50%) of the work hours for such job requires the employee to be at the project site, regardless of whether such job is in the nature of an employee or an independent contractor.

3. Priority for Targeted Job Applicants. Subject to Section 6 below in this Exhibit E, the Local Hiring Policy provides that the Targeted Job Applicants shall be considered for each On-Site Job in the following order of priority:

a. First Priority: Low Income Individuals living within one mile of the Project;

b. Second Priority: Low Income Individuals living in census tracts throughout the City for which household income is no greater than 80% of the Median Income.

c. Third Priority: Low Income Individuals living in the City, other than the first priority and second priority Low Income Individuals; and

d. Fourth Priority: City residents other than the first priority, second priority, and third

priority City residents.

4. Coverage. The Local Hiring Policy shall apply to all hiring for On-Site Jobs related to the construction of the Project by Developer or its Contractors.

5. Outreach. As part of Developer's larger outreach and hiring program to hire the skilled workers required to construct the Project, and so that Targeted Job Applicants are made aware of the availability of On-Site Jobs, Developer or its Contractors shall advertise available On-Site Jobs in the Davis Enterprise or similar local newspaper.

6. Hiring. Developer and its prime contractor shall consider in good faith all applications submitted by Targeted Job Applicants for On-Site Jobs, in accordance with their respective normal hiring practices. The City acknowledges that the Developer and Prime contractor shall determine in their respective subjective business judgement whether any particular Targeted Job Applicant is qualified to perform the On-Site Job and whether or not to hire the Targeted Job Applicant for which such Targeted Job Applicant has applied.

7. Term. The Local Hiring Policy shall extend throughout the construction of the Project until the final certificate of occupancy for the Project has been issued by the City.

## EXHIBIT F

### **Environmental Sustainability Implementation Plan**

The City and the Developer have agreed that environmental concerns and energy efficiency are critical issues for new developments. The sustainability and primary energy efficiency standards of the State of California, through CALGreen (California Green Building Standards Code Part 11 of Title 24, California Code of Regulations) and the California Energy Code (Part 6 of Title 24) shall be the basis for compliance of the Project. The base CALGreen requirements meet all of the LEED prerequisites and also earn points towards certification, if desired. The City is currently requiring CALGreen Tier 1 compliance. The Project will be required to meet CALGreen and Energy Code compliance that will be essentially equivalent to LEEDv4 Gold. Project compliance with this commitment shall be satisfactorily demonstrated to the Director of Community Development and Sustainability. As such, formal LEED certification of the Project by the U.S. Green Building Council is not required.

1. The project shall comply with the City of Davis Reach Code. The current Reach Code requires a minimum 10% compliance margin above the 2019 California Building Energy Efficiency Standards (Title 24, Part 6 of the California Code of Regulations) and the buildings and landscaping will be designed to achieve Tier 1 domestic water usage and comply with the Model Water Efficient Landscape Ordinance (MWELO). The analysis necessary for compliance shall be submitted prior to the issuance of Building Permits. The measures could include, but not be limited to, a combination of the following:

- LED lighting with lighting power densities in common spaces, offices, and corridors at least 10% lower than Title 24 prescriptive requirements.
- High-efficacy LED lighting with lighting controls and natural day lighting/ventilation throughout the project.
- Roof-top photo-voltaic electrical panels sized to offset a portion of the total building energy use. Size is the lesser of 80% offset of the building's annual electric load or 15 DC watts per sq. ft. of solar zone. Solar zone is available roof space after required setbacks from parapets and equipment. High efficiency glazing for both manufactured and site-built storefront products that includes low-E coating and either non-metal framing or thermally broken metal framing with U-factors  $\leq 0.35$  and solar heat gain coefficients  $\leq 0.25$ .
- Envelope insulation that meets or exceed Title 24 prescriptive requirements, which for metal framed buildings is equivalent to walls with R-21 cavity insulation and R-10 continuous insulation, and roofs with R-28 cavity insulation and R-12 continual insulation.
- High efficiency cooling equipment with SEER values  $\geq 16$ ; high efficiency heating equipment with AFUE values  $\geq 90$  for gas equipment and HSPF values  $\geq 9$  for electric equipment; high efficiency ventilation systems with fan efficacy  $\leq 0.35$  Watts/cfm<sup>2</sup>.

2. Electric Vehicle (EV) charging: As per Davis Electric Vehicle Charging Plan requirements, approved by City Council by resolution on February 23, 2017, this Project is required to provide Nine (9) EV Chargers for its commercial square footage and,



Sixteen (16) for its residential units, an additional:

- Level 1 charging at 5% of all spaces (min 2 spaces): 5% of Two Hundred and Sixty Four (264) total required parking spaces = Thirteen Spaces (13) spaces at Level 1 (multiple spaces can be served by a single charger).
- Level 2 charging at 1% of all spaces (min 1 parking space): minimum = 1% of Two Hundred and Sixty Four (264) total required parking spaces = Three (3) spaces at Level 2
- Conduit adequate for 25% Level 2 spaces: 25% of Two Hundred and Sixty-Four (264) spaces = Sixty Six (66) total spaces minus three above = minimum Level 2 conduit to Sixty Three (63) additional spaces.
- Room in panels and capacity to serve 20% of all spaces with Level 1 (Two Hundred and Sixty-Four (264) spaces total) = Fifty Three (53) spaces total in panels.
- Room in panels and capacity to serve 5% of all spaces with Level 2 (Two Hundred and Sixty-Four (264) spaces total) = Thirteen (13) spaces total in panels.

### 3. Parking

- Cost to Park Management Programs will be implemented to discourage vehicle use.
- All parking for the residential units shall be charged separately from base rent charges.

- Dedicated surface level parking stalls for ride/car share program will be provided.

#### 4. Bicycle Parking

- A minimum of six hundred and eighty three (683) long-term and three hundred thirty five (335) short-term bicycle parking spaces shall be provided on-site, subject to recalculation based on the approved Final Planned Development.
- The long-term secured bicycle parking shall be designed to allow adequate maneuvering and access to the satisfaction of the City's bike/ped coordinator.
- Five (5) spaces shall be provided within the long-term secured bicycle parking area to accommodate, longer, non-traditional bicycles.

#### 5. Water

- Efficient irrigation through the use of drip irrigation and moisture sensors;
- Drought tolerant plantings;
- Low-water use compliant;
- Solar hot-water preheat and central boiler system.

#### 6. Electric Cooking Appliances for Residential Units

All residential units shall have electrical cooking appliances. No natural gas cooktops shall be allowed for residential units.

7. Utility Metering

- a. Each residential and retail suite will contain a water sub-meter to measure actual use.
- b. Each residential and retail suite will contain an electrical meter to measure actual use.

8. Water Usage Fee for Residential Units

Developer shall charge a water usage fee on units with “excessive” monthly usage above a baseline amount, which shall be established as an appropriate average amount for units of similar size and occupancy. The baseline water amount and fee shall be reviewed annually in consultation with the City to determine whether any adjustments are needed.

Adjustments are subject to review and approval by the Director of Community Development and Sustainability.

Notices. Each unit will receive a monthly summary of that unit’s water usage (with comparison information).

9. During construction developer will divert solid waste from landfill to a minimum of 65%

10. Common Area Lighting a. Parking and common area lighting will equipped with solar powered LED lights.

11. Commitment to collaborate with tenants to jointly reduce environmental footprint through provision of newsletter and/or other equivalent educational materials focused on sustainability.

12. Prior to issuance of building permits, the Developer shall record a covenant on the property, making the parking requirements described in this exhibit binding upon all successors and assigns during the life of the project, even after the expiration of this Agreement.

## EXHIBIT G

### **Residential Occupancy Management Plan**

University Commons will implement and maintain the residential occupancy management plan set forth in this Exhibit G.

1. The maximum number of residents permitted within the Project is 894.
2. As part of determining the maximum project residential occupancy, Developer/Operating Manager shall determine the number of residents allowed within each floor plan within the Project (Allowed Occupancy).
3. The Allowed Occupancy will be strictly limited to one resident per bedroom unless otherwise designated to accommodate double occupancy for specific unit types. An additional minor child being twelve (12) months of age or less who occupies the same bedroom with the child's parent or legal guardian, will be permitted in addition to the Allowed Occupancy.
4. Developer/Operating Manager will use leasing software to monitor the Allowed Occupancy and compliance through leasing agreements with residents.
5. Developer/Operating Manager shall perform quarterly unit inspections for purposes of monitoring compliance with lease terms and the applicable Allowed Occupancy for each unit.
6. Developer/Operating Manager shall limit the issuance of unit keys to residents legally occupying units within the Project under the then current lease.
7. Entrances to residential buildings within the Project will be secure, with an electronic "key" required for entry.

8. A fee will be charged for replacement of lost keys to prevent duplication.

Developer/Operating Manager will inventory the controlled access system, to ensure that missing or lost keys are deleted from the access system.

9. Developer/Operating Manager shall enforce lease terms regarding maximum unit occupancy, including initiating eviction proceedings for residents sharing their units with non-permitted occupants following receipt of a notice to comply by Developer.

10. Developer/Operating Manager shall issue temporary parking passes for guest parking spaces in the Project, which will be clearly marked with the time period for which the guest pass is valid. Cars with missing or expired guest passes will be towed.

11. Developer/Operating Manager shall regularly monitor guest parking within the Project to ensure that guest parking spaces are not regularly used by non-residents.

12. Prior to issuance of building permits, the Developer shall record a covenant on the property, making the requirements described in this exhibit binding upon all successors and assigns during the life of the project and surviving the termination or expiration of this Agreement.

## EXHIBIT H

### **Parking Management Plan**

**Parking Requirements.** The Project will include 693 parking spaces, 429 spaces for retail customers and 264 for residents, subject to recalculation based upon the approved Final Planned Development.

**Parking Management.** Parking for the structured and surface level parking will be actively supervised by on-site property management and regulated by access control technology. The 429 retail parking spaces will include 249 parking spaces on the first and second floors of the parking structure and 200 surface level parking spaces, subject to recalculation based upon the approved Final Planned Development.

**Parking Enforcement.** On-site property management will enforce all retail and residential parking rules and regulations. For the retail spaces, non-customer cars parked on-site for over one hour will be towed. Signs informing the public of this policy will be posted throughout the retail parking areas and a guard will be on duty from 8 am to 4 pm seven (7) days a week to tag vehicles and cause them to be towed when the policy is violated.

**Employee Parking.** Developer will include language in all retail leases designating locations for employee parking, ~~The leases will also provide for enforcement of employee parking requirements, including legal enforcement of such requirements,~~ and the obligation of tenants to encourage carpooling and ride-sharing among its employees.

**Controlled Access – Structured Parking.** The entrance to the structured parking will be controlled to restrict retail parking to floors one (1) and two (2), and residential parking to floor

three (3). There will be no cost to retail customers for parking either surface or structure parking. Residential parking spaces will be billed to residential tenants on a monthly basis in addition to their monthly rent. A time-limited visitors parking area will be provided for guests visiting residents. Limited overnight resident guest parking will be allowed by permit only. Parking permits for guest parking will be monitored and enforced by on-site management.

**Neighborhood Permit Parking.** Residential neighborhoods surrounding the Project are located in preferential parking permit required areas H, P, Q, S & U. These required parking permit areas restrict on-street parking to residents holding a valid city permit. Vehicles parked without a permit are subject to being fined by the City of Davis Parking Patrol. The Project will inform tenants of these permit enforcement programs through tenant education materials and on-site signage detailing the adjacent neighborhood parking restrictions.

**Residential Structured Parking Fee.** Vehicle parking fees for residents choosing to have vehicles will be an additional charge to base rental rates. The additional cost is intended to discourage vehicle possession by project residents.

**Bicycle Parking.** Bicycle parking areas are provided on the first level of the residential building and each floor of the structured parking. 894 residential bicycle parking spaces are planned (one per residential bed), with an additional 124 bicycle parking spaces planned to serve the retail uses, subject to recalculation based upon the approved Final Planned Development.

**Ride Share/Shared Parking.** Final project plans will include designated areas for ride share pick-up and drop-off for users such as Uber, Lyft and GrubHub. The Developer will provide at least one parking space to be used by shared vehicles such as ZipCar as an additional public amenity to further assist in the reduced need for individual vehicle use.



Parking Monitoring. Developer shall monitor on-site parking conditions and shall include in its response to the City's annual review of the Development Agreement a report on the performance of the Parking Management Plan. In the event a problem arises with on-site parking conditions, City and Developer shall meet and confer to discuss, identify and agree upon feasible measures to address the parking problem identified.

Prior to issuance of building permits, the Developer shall record a covenant on the property, making the parking requirements described in this exhibit binding upon all successors and assigns during the life of the project, surviving the termination or expiration of this Agreement.

## EXHIBIT I

### **Construction of or Fair Share Contributions to Off-Site Road, Bike and Pedestrian Improvements**

#### Transportation and Circulation Improvements

The following transportation and circulation improvements for the Project shall be built by the developer and completed prior to issuance of temporary or final certificate of occupancy for the retail or residential portions of the project, whichever comes first.

- 1) Bicycle impact
  - a. Mitigation measure 4.6-2(a): Russell Boulevard/Sycamore Lane intersection: Highlight existing mixing zone with green pavement markings and warning signage.
  - b. 4.6-2(b) Russell Boulevard/Anderson Road intersection: Highlight existing mixing zone with green pavement markings and warning signage.
  - c. 4.6-(c.) Russell Boulevard between Sycamore Lane and Anderson Road: Construct shared use path on north side of Russell Boulevard between Sycamore Lane and Anderson Road.
- 2) Transit Impact
  - a. 4.6-4 Southbound Anderson Road bus stop on project site frontage: Enhance bus stop amenities and waiting area capacity.
- 3) Vehicle queue storage
  - a. 4.6-8(a) Russell Boulevard/Sycamore Lane intersection: Extend eastbound left-turn pocket storage.
- 4) Vehicle LOS impact
  - a. 4.6-9 Russell Boulevard/Sycamore Lane intersection: Construct pedestrian “bulbouts” to reduce crossing distance and reallocate green time to major street vehicular movements. - NORTH SIDE ONLY.

The following future transportation and circulation improvements for the Project shall be contributed to as a proportionate share of total project cost by the developer in the amount of Two Hundred and Seventy Thousand Four Hundred Dollars (\$270,400). The amount is to be paid in full prior to issuance of temporary or final certificate of occupancy for the retail or residential portions of the project, whichever comes first.

- 1) Bicycle impact, pedestrian impact
  - a. Mitigation measure 4.6-2(d): Russell Boulevard/Anderson Road intersection: Reconfigure intersection to protected intersection for bike and ped movements; Proportionate share \$173,900.
  - b. Mitigation measure 4.6-2(f): South of Russell Blvd between Anderson Road & Segundo bike roundabout: Increase shared use path capacity and reduce the potential for bicycle-pedestrian conflicts: Proportionate share \$14,800.
- 2) Vehicle LOS impact
  - a. Mitigation measure 4.6-9: Russell Boulevard/Orchard Park Drive intersection: Reduce worst-case movement delay to LOS E or better: Prohibit northbound left-turn movements OR Prohibit northbound and westbound left-turn movements (right-in/right-out only). Proportionate share \$10,450.
  - b. Mitigation measure 4.6-9: Russell Boulevard/Anderson Road intersection: Reduce overall intersection delay by 15 seconds or more during the PM peak hour. Install a five-section traffic signal for northbound right-turn lane or reconfigure intersection to protected intersection for bike and ped movements. Proportionate share \$57,750.
  - c. Mitigation measure 4.6-9: Russell Boulevard/College Park/Howard Way: Convert northbound and southbound approaches to split phase. Proportionate share \$13,500.

## EXHIBIT J

### Landscaping and Water Conservation Measures

To reduce Project demand on groundwater and potable water the Developer commits to the following measures:

1. Native and drought tolerant plants shall predominate the plant palette. A diversity of native habitats shall be disbursed and managed throughout the site
2. Turf / Grass will not be used.

### Tree Commitments:

1. Developer will submit formal landscape plans for City review and approval as part of its application for the project's Final PD.
2. Landscaping shall provide shading of parking areas.
3. Developer will utilize best practices for tree planting and root establishment. Specifically, Developer commits to the use of structured soils or suspended substrate to allow successful tree root development, to the satisfaction of the City's Urban Forest Manager.
4. When planting in parking areas or along paved walkways, Developer will size pavement treatment area to adequately accommodate the tree varietal's intended size.
5. Planting practice and ongoing tree health shall be subject to 3rd party verification by the City's Urban Forest Manager or a mutually agreed upon arborist. The maintenance and growth of all onsite trees will be biennially monitored by a third-party arborist who will provide recommendations to improve tree health such as pruning, mulch and irrigation practices. Inspection, maintenance and replacement costs shall be borne by the Developer or services district. Compliance with arborist recommendations is mandatory and failure to comply shall be considered a violation of project entitlements and subject to penalty. If, five years from the original date of planting, a tree is not growing at its anticipated rate or is otherwise showing signs of failure, that tree will be identified by the Urban Forest Manger or arborist who, at his or her discretion, may require tree replacement at Developer's expense.
6. Attainment of shading requirements shall be demonstrated within 15 years of planting. Failure to meet shading requirements shall be considered a code violation and subject to penalty until remedied through additional plantings.
7. Any removal of an established tree will be authorized in accordance with the then current Tree Planting, Preservation and Protection Ordinance. Any proposed tree removal wherein the desired removal is to accommodate the installation of photovoltaic solar array or other comparable renewable energy technology shall not be subject to a tree mitigation fee or other payment to the tree preservation fund.

## **ATTACHMENT 7**

### **Supplemental Comments and Information from Applicant University Commons Project**



August 10, 2020

Mayor and City Council  
City of Davis  
23 Russell Boulevard  
Davis, California 95616

RE: University Commons Supplemental Comments

Dear Mayor Partida and City Council:

We would like to thank City Council for the opportunity to address your comments and requests for clarification put forth at the July 21, 2020 hearing. We offer the following modifications and clarifications as further detailed below. It is our sincere desire that these final commitments will warrant your support for the project.

#### **AFFORDABLE HOUSING**

We have re-evaluated our previously proposed program and worked hard at a new meaningful affordable housing program. This program will meet and exceed the municipal code affordable housing requirement of providing a number equivalent to Five (5) percent of the total units, bedrooms or beds being developed as affordable. We are pleased to present the following which is further fully detailed in Exhibit D of the Development Agreement.

**Studio Unit:** Developer shall include Five percent (5%), not to exceed Thirteen (13) Studio Units at 1/12 of 30% of **80%** of Yolo County area median income based on a two-person household. There will be no distinction made between the Affordable Units and Units rented as market rate rents. Below is an example of a market rate comparison to University Commons Affordable Housing Program.

	NUMBER OF	FAMILY	MARKET RENT	UNIVERSITY COMMONS	ESTIMATED SAVINGS	ESTIMATED YEARLY
UNIT SIZE	UNITS (5%)	SIZE	PER UNIT	RENT @ 80% AMI	PER MONTH	SAVINGS
<b>STUDIO</b>	<b>13</b>	<b>2</b>	<b>\$2,229</b>	<b>\$1,480</b>	<b>(\$749)</b>	<b>(\$8,988)</b>

**Two Bedroom Unit:** Developer shall include Five percent (5%), not to exceed Thirteen (13) Two Bedroom Units at 1/12 of 30% of **100%** of Yolo County area median income based on a three-person household. Below is an example of a market rate comparison to University Commons Affordable Housing Program.

	NUMBER OF	FAMILY	MARKET RENT	UNIVERSITY COMMONS	ESTIMATED SAVINGS	ESTIMATED YEARLY
UNIT SIZE	UNITS (5%)	SIZE	PER UNIT	RENT @ 100% AMI	PER UNIT	SAVINGS
<b>2 BEDROOM</b>	<b>13</b>	<b>3</b>	<b>\$2,898</b>	<b>\$2,081</b>	<b>(\$817)</b>	<b>(\$9,804)</b>

We believe the program described above is a meaningful and significant offering. We feel strongly that a beneficial way to assist in creating even more affordable housing is to expand the housing supply. University Commons will draw residents from all over the City that will benefit from living next to the University which we believe will reduce pressure on the single-family neighborhoods and in turn, increase the availability for young families.

#### **RENTAL PROGRAM**

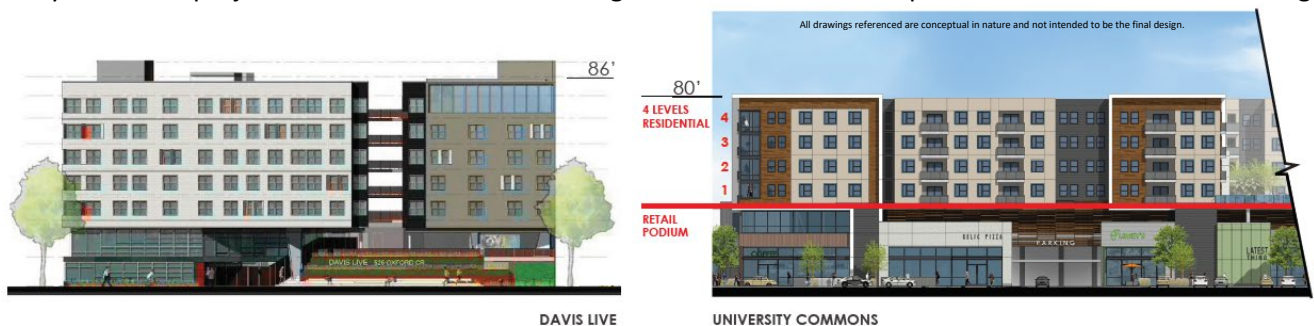
The rental program will include units available for rent by the bed as well as options to rent by the unit.

## HEIGHT

We believe the image below clearly shows that the building is four stories of residential over retail podium.



Additionally, we have created exhibits that reference the University Commons in comparison to the taller seven story Davis Live project. Please note that all drawings in this letter are conceptual in nature and not final design.



## Building Perspective Comparison



## Site Key Plan





Front site line view from Russel Boulevard.



All drawings referenced are conceptual in nature and not intended to be the final design.

Front site line view from Russel Boulevard.





All drawings referenced are conceptual in nature and not intended to be the final design.

Site line view from the intersection Sycamore and Hawthorne Lane.



Rear site line view from Davis Medical Center





### **BUILDING DESIGN**

The Planned Development document has been updated to state that the “building design shall have four-sided architecture and shall incorporate design elements to create visual interest, reduce the building massing, and to avoid long unbroken wall planes, through measures including, but not limited to, building recesses and offsets, articulation, fenestration, overhangs, and material changes. The building’s horizontal wall plane shall provide a building break or offset a minimum of every 100 feet, including on the north elevation.

### **South View Building Articulation**



All drawings referenced are conceptual in nature and not intended to be the final design.

## South View Building Fenestration



### **PARKING**

Due to the proximity to campus and as demonstrated in the Environmental Impact Report and through numerous UCD Transportation Demand Survey years 2018 – 2019, adjacency to the University influences commuting behavior by significantly reducing vehicular trips and reduces the necessity of vehicle ownership. As a result, we feel strongly that the parking required by the Code and the amount of provided onsite parking is adequate. To further alleviate future parking concerns, we have modified the development agreement to state that we “shall monitor on-site parking conditions and shall include in its response to the City’s annual review of the Development Agreement a report on the performance of the Parking Management Plan. In the event a problem arises with on-site parking conditions, City and Developer shall meet and confer to discuss, identify and agree upon feasible measures to address the parking problem identified.”

We believe by adding this language into to our Parking Management Plan, (Exhibit H of the Development Agreement) provides assurance that parking will not detrimentally impact the project or surrounding uses. Please note that no one is more motivated than Brixmor is to ensure that there is adequate parking for the success of our retailers and the overall project.

### **TREE HEALTH**

We have added Exhibit J - Landscaping and Water Conservation Measures to the Development Agreement to address long term health of the project trees to include the use of structured soils to allow successful tree root development and monitoring by a third party verification process by the City’s Urban Forest Manager or a mutually agreed upon arborist. This commitment ensures the tree’s associated with the project will be maintained throughout the life of the project.

### **AMENITIES**

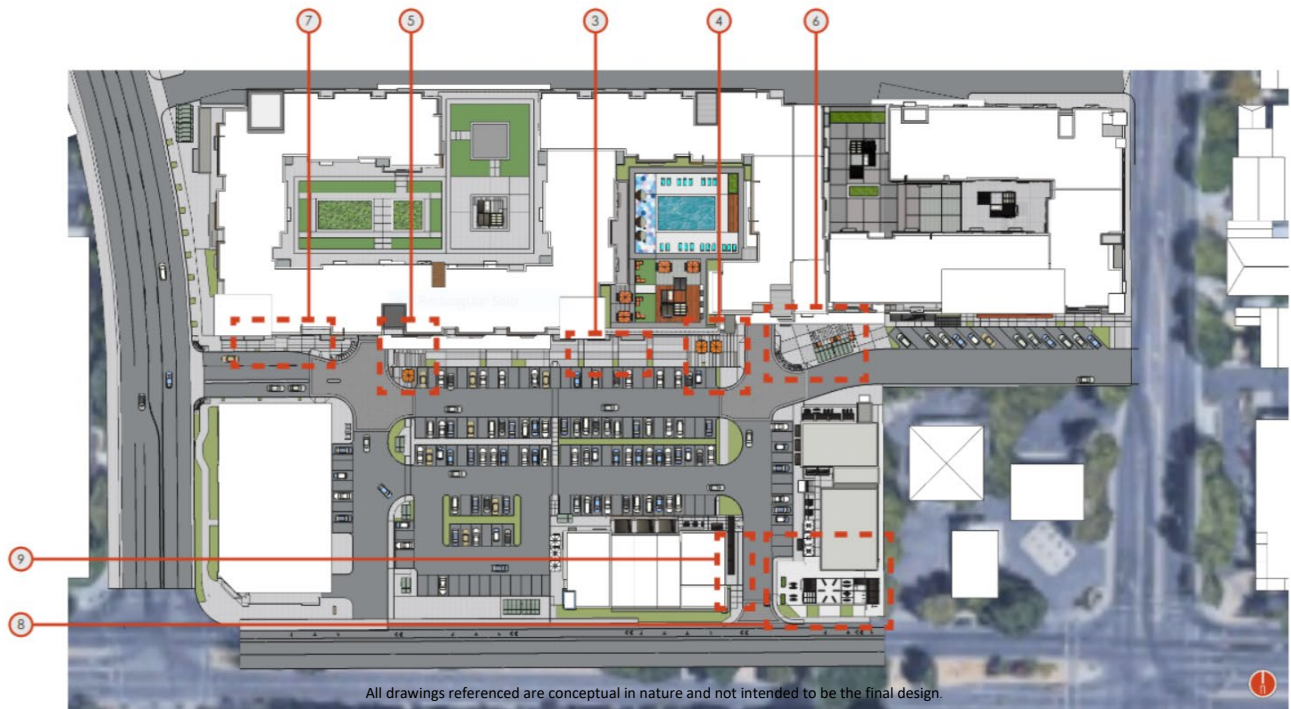
The project will contain a range of amenities that may include but is not limited to a fitness center, dedicated indoor areas for meetings, socializing, gaming and studying, outdoor barbecue, eating, seating and recreation areas, swimming pool, high speed Wi-Fi, parcel lockers, bike storage and repairs, in-unit laundry and dedicated ride share areas.

### **COMMON AREAS/GATHERING SPACES**

We are proposing to include common areas that create a vibrant pedestrian and bike friendly experience. Below are various possible vignette options that are planned to be incorporated into the final design program.

Amenity Site Key Plan





All drawings referenced are conceptual in nature and not intended to be the final design.



ENLARGED PLAN



PERSPECTIVE VIEW



ENLARGED PLAN



PERSPECTIVE VIEW

All drawings referenced are conceptual in nature and not intended to be the final design.





ENLARGED PLAN



PERSPECTIVE VIEW



ENLARGED PLAN



PERSPECTIVE VIEW

All drawings referenced are conceptual in nature and not intended to be the final design.



ENLARGED PLAN



PERSPECTIVE VIEW



ENLARGED PLAN



PERSPECTIVE VIEW

All drawings referenced are conceptual in nature and not intended to be the final design.

Our proposal is to redevelop the University Mall with an exciting mix of retail and residential uses that create a pedestrian and bike friendly vibrant mixed-use development with functional retail spaces and gathering areas that enhance the shopping experience. This is a unique opportunity to revitalize a property that does not meet the needs of today's rapidly evolving retail environment into a positive model of urban re-investment. We trust that these modifications are a positive response to the primary issues identified at the July 21, 2020 Council Hearing and are seen as constructive additions to the University Commons project.

Sincerely,

*Andrew M. Gracey*

Andrew M. Gracey  
Vice President of Development

## **ATTACHMENT 8**

### **Additional Public Comments University Commons Project**



From: webmaster@cityofdavis.org <webmaster@cityofdavis.org>  
Sent: Monday, July 27, 2020 10:52 AM  
To: Eric Lee <ELee@cityofdavis.org>  
Subject: Uni Mall, BrightNight, etc.

Message submitted from the <City of Davis, CA> website.

Site Visitor Name: Phyllis Graham  
Site Visitor Email: [phyllisagraham@gmail.com](mailto:phyllisagraham@gmail.com)

Strongly opposed to proposed University Mall monstrosity, enabling developers to profit from more off-campus student dorms. It is disingenuous to claim that it creates housing for 'families and young professionals' when these projects are clearly aimed at max, rent-by-the-bed occupancy of UCD students.

The university has the land. Let them build for the students.

Also, the former City mayors were absolutely correct in calling out the BrightNight contract -- it should be negated.

From: Rene Garcia <RGarcia@sacog.org> On Behalf Of James Corless  
Sent: Tuesday, August 11, 2020 11:08 AM  
To: Eric Lee <ELee@cityofdavis.org>; City Council Members <CityCouncilMembers@cityofdavis.org>  
Subject: University Commons Project - SACOG's Comments

Good Morning:

I am submitting comments on behalf of the Sacramento Area of Council of Governments (SACOG) regarding the University Commons project.

Infill development and redevelopment is essential to the success of the SACOG Blueprint and our long range plan, the Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS). These plans achieve transportation, air quality, and other quality of life benefits by relying, in part, on infill and redevelopment projects like University Commons. The Sacramento region has many aging and underutilized commercial corridors where local governments are looking to make more efficient use of existing public infrastructure. Redeveloping large, underutilized parking lots with housing is critical to the economic revitalization of these corridors and can provide the proximate customer base needed to sustain commercial uses in our changing retail climate.

The University Commons project would be one of the first such projects in the region and could act as a proof a concept for future commercial corridor revitalization in the region. The Blueprint study also revealed the need to create a better jobs/housing balance in the UC Davis and City of Davis area, which is currently jobs rich, meaning it has a high proportion of jobs relative to the amount of housing it has. Adding more housing in Davis, like in University Commons, will allow for more people to live near their work or school, which reduces the demand on the regional transportation system by allowing for shorter trips and encouraging alternative-mode trips such as walking, biking, and transit.

Thank you for inviting our comments on this project.

Sincerely,  
James Corless  
Executive Director  
Sacramento Area Council of Governments