

**ATTACHMENT #5**

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS  
APPROVING A DEVELOPMENT AGREEMENT WITH 525 OXFORD, LLC  
RELATING TO THE DAVIS LIVE 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; and

**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; and

**WHEREAS**, on March 2, 2018 and June 21, 2018, the Sacramento Area Council of Governments issued consistency letters confirming that the Davis Live project is consistent with the Metropolitan Transportation Plan/Sustainable Communities Strategy for 2036;

**WHEREAS**, City Council determined based on the findings set forth in Resolution No. [REDACTED] that the Davis Live Project satisfies all of the infill project criteria set forth in Public Resources Code section 21094.5, CEQA Guidelines section 15183.3 and CEQA Guidelines Appendix M, and therefore is exempt from further environmental review pursuant to Public Resources Code section 21094.5 and CEQA Guidelines section 15183.5, and further that the Davis Live Project satisfies all of the criteria of a Transit Priority Project and is exempt from further environmental review pursuant to Public Resources Code Section 21155.1;

**WHEREAS**, the City Council of Davis adopted Resolution No. [REDACTED], which approved a General Plan Amendment for the Project; and

**WHEREAS**, the City Council of Davis adopted project entitlements for the Davis Live Project, including the General Plan Amendment, Zoning Amendment/Final Planned Development Permit, and Site Plan and Architectural Review;

**WHEREAS**, Developer desires to carry out the development of the Property consistent with the General Plan, as amended, and the Development Agreement and the vested entitlements referenced therein;

**WHEREAS**, the Development Agreement will assure both the City and the Developer that the Development will proceed as proposed; and 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 July 25, 2018 on the Davis Live Project entitlements, during which public hearing the Planning Commission received comments from the Developer, City staff, and members of the general public and made a recommendation to the City Council on the Davis Live Project entitlements.

**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 Davis Live 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

**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. [REDACTED], adopted by the City Council on [REDACTED], 2018 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. [REDACTED] 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 Amendment to the Development Agreement and other actions relating to the Property, including all attachments thereto;
- (f) All documentary and oral evidence received at public hearings or submitted to the City during the comment period relating 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 to execution thereof, 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 6.** The approval contained in Section 5 hereof is subject to and conditioned upon Resolution No. [REDACTED], adopted by the City Council approving the General Plan amendment, becoming effective.

**SECTION 7.** 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 become effective on and after the thirtieth (30<sup>th</sup>) day following its adoption; provided, however, that if the actions referred to in Section 6 hereof are not effective on such date, then the effective date of this Ordinance shall be the date on which all of said actions become effective, as certified by the City Clerk.

INTRODUCED on the \_\_\_ day of \_\_\_\_\_, 2018 and PASSED on the \_\_\_ day of \_\_\_\_\_, 2018 by the following vote:

AYES:  
 NOES:  
 ABSENT:

**EXHIBIT A (Davis Live Development Agreement)**

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 525 OXFORD, LLC

Relating to the Development

of the Property Commonly Known as Davis Live

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the CITY OF DAVIS, a municipal corporation (herein the “City”) and 525 OXFORD, LLC, a Delaware limited liability company (herein 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(ies) described in Exhibit A attached hereto and incorporated herein by this reference and located in the incorporated area the City of Davis (herein the “Property”) which the Developer seeks to develop as the Davis Live project (the “Project”). The Project would develop an approximately one acre of site with a seven-story building comprised of six-stories of student-oriented housing over one level of parking that will contain approximately 71 units with 440 beds.

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 Property. This Agreement is voluntarily entered into by the City in the exercise of its legislative discretion in order to implement the General Plan and in consideration of the agreements and undertakings of the Developer hereunder.

D. City has granted the Developer the following land use entitlement approvals (Planning Application #17-21) for the Project (hereinafter “Project Approvals”) which are incorporated and made a part of this Agreement:

- (1) Exemption from further environmental review pursuant to Public Resources Code section 21094.5 and CEQA Guidelines section 15183.5, and pursuant to Public Resources Code Section 21155.1
- (2) General Plan Amendment #01-18
- (3) Rezone #01-18/Final Planned Development #02-18
- (4) Development Agreement #01-18
- (5) Site Plan and Architectural Review #02-18

E. This Agreement will eliminate uncertainty in planning for and securing orderly development of the Project, provide the certainty necessary for the Developer to make significant investments in public infrastructure and other improvements, assure the timely and progressive installation of necessary improvements and public services, establish the orderly and measured build-out of the Project consistent with the desires of the City to maintain the City’s small city atmosphere and to have development occur at a pace that will assure integration of the new development into the existing community, and provide significant public benefits to the City that the City would not be entitled to receive without this Agreement.

F. In exchange for the benefits to the City, the Developer desires to receive the assurance 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* §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 107 hereof. Following the expiration of said Term, this Agreement shall be deemed terminated and of no further force and effect, subject, however, to the provisions of Section 407 hereof.

If this Agreement is terminated by the City Council pursuant to Section 400(A) prior to the end of the Term, the City shall cause a written notice of termination to be recorded with the County Recorder within ten (10) days of final action by the City Council.

This Agreement shall be deemed terminated and of no further effect upon entry, after all appeals have been exhausted, of a final judgment or issuance of a final order directing the City to

set aside, withdraw or abrogate the City Council's approval of this Agreement or any material part of the Project Approvals;

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* §§ 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 tenant of an individual completed residential unit within Project shall have any rights under this Agreement.

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

1. The Developer shall have the right to sell, encumber, convey, assign or otherwise transfer (collectively "assign") its rights, interests and obligations under this Agreement to a third party during the term of this Agreement.

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

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

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

Any request for City approval of an assignment shall be in writing and accompanied by certified financial statements of the proposed assignee and any additional information concerning the identify, financial condition and experience of the assignee as the City may reasonably

request; provided that, any such request for additional information shall be made, if at all, not more than fifteen (15) business days after the City's receipt of the request for approval of the proposed assignment. All detailed financial information submitted to the City shall constitute confidential trade secret information if the information is maintained as a trade secret by the assignee and if such information is not available through other sources. The assignee shall mark any material claimed as trade secret at the time it is submitted to the City. If City receives a public records request for any information designated a "trade secret" City shall notify the assignee of such request prior to releasing the material in question to the requesting party. If the assignee directs the City not to release the material in question, the assignee shall indemnify the City for any costs incurred by City, including but not limited to staff time and attorney's fees, as a result of any action brought by the requesting party to obtain release of the information and/or to defend any lawsuit brought to obtain such information. If the City wishes to disapprove any proposed assignment, the City shall set forth in writing and in reasonable detail the grounds for such disapproval. If the City fails to disapprove any proposed assignment within forty-five (45) calendar days after receipt of written request for such approval, such assignment shall be deemed to be approved.

3. The 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, which attempts to sever such conditions shall constitute a default under this Agreement and, subject to the procedure set forth in Section 400(A), 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 without consent, 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 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 8 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 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] [Intentionally Reserved]

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

1. Major Amendments. Any amendment to this Development Agreement which affects or relates to (a) the term of this Development Agreement; (b) permitted uses of the Property; (c) provisions for the reservation or dedication of land; (d) changes to conditions, terms, restrictions or requirements applicable to subsequent discretionary actions; (e) an increase in the density or intensity of use of the Property or the maximum height or maximum gross square footage; or (f) monetary contributions by Developer, shall be deemed a “Major Amendment” and shall require giving of notice and a public hearing before the Planning Commission and City Council. Any amendment which is not a Major Amendment shall be deemed a Minor Amendment subject to Section 107(2) below. The City Manager or his or her delegate shall have the authority in its reasonable discretion to determine if an amendment is a Major Amendment subject to this Section 107(1) or a Minor Amendment subject to Section 107(2) below. The City Manager’s determination may be appealed to the City Council.

2. Minor Amendments. The Parties acknowledge that refinement and further implementation of the Project may demonstrate that certain minor changes may be appropriate with respect to the details and performance of the Parties under this Agreement. The Parties desire to retain a certain degree of flexibility with respect to the details of the Project and with respect to those items covered in the general terms of this Agreement. If and when the Parties find that clarifications, minor changes, or minor adjustments are necessary or appropriate and do not constitute a Major Amendment under Section 107(1), they shall effectuate such clarifications, minor changes or minor adjustments through a written Minor Amendment approved in writing by the Developer and City Manager. 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.

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 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 the conditions of approval and the mitigation measures for the Project as adopted by the City, and any amendments to the Project Approvals or Agreement as may, from time to time, be approved pursuant to this Agreement. Nothing in this Section shall be construed to restrict the ability to make minor changes and adjustments in accordance with Section 107, *supra*. 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 C through G 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. Impact Fees and Community Enhancement Funds. The Developer shall comply with the terms and conditions of Exhibit C.

2. Water and Energy Conservation Information and Incentive Plan. The Developer shall comply with and implement the measures identified in Exhibit D to provide information and incentives to residents on their water and energy use to encourage conservation.

3. Affordable Housing. The Developer shall comply with the affordable housing requirements as set forth in Exhibit E.

4. Local Hiring Program. The Developer shall implement a Local Hiring Program as set forth in Exhibit F.

5. Environmental Sustainability. The City and the Developer have agreed that environmental concerns and energy efficiency are critical issues for new developments. Developer shall comply with the Implementation Plan set forth in Exhibit G.

6. 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.

C. [Sec. 202] [Intentionally Reserved]

D. [Sec. 203] Development Timing. The 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. The 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 which are not all within the control of the Developer, such as market orientation and demand, interest rates, competition and other factors. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development controlling the parties' agreement, it is the intent of City and the 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 their business judgment and taking into consideration market conditions and other economic factors influencing the Developer’s business decision, to commence or to continue development, and to develop the Project in a regular, progressive and timely manner in accordance with the provisions and conditions of this Development Agreement and with the Project Approvals.

Subject to applicable law relating to the vesting provisions of development agreements, 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.

- E. [Sec. 204] [Intentionally Reserved]
- F. [Sec. 205] [Intentionally Reserved]
- G. [Sec. 206] Rules, Regulations and Official Policies.

1. For the term of this Agreement, the rules, regulations, ordinances and official policies governing the permitted uses of land, the density and intensity of use, design, improvement and construction standards and specifications applicable to the development of the

Property, including the maximum height and size of proposed buildings, shall be those rules, regulations and official policies in force on the effective date of the ordinance enacted by the City Council approving this Agreement. Except as otherwise provided in this Agreement, to the extent any future changes in the General Plan, zoning codes or any future rules, ordinances, regulations or policies adopted by the City purport to be applicable to the Property but are inconsistent with the terms and conditions of this Agreement, the terms of this Agreement shall prevail, unless the Parties mutually agree to amend or modify this Agreement pursuant to Sections 105 through 107 hereof. To the extent that any future changes in the General Plan, zoning codes or any future rules, ordinances, regulations or policies adopted by the City are applicable to the Property and are not inconsistent with the terms and conditions of this Agreement or are otherwise made applicable by other provisions of this Article 2, such future changes in the General Plan, zoning codes or such future rules, ordinances, regulations or policies shall be applicable to the Property.

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

To the extent that any actions of federal or state agencies (or actions of regional and local agencies, including the City, required by federal or state agencies) have the effect of preventing, delaying or modifying development of the Property, the City shall not in any manner be liable for any such prevention, delay or modification of said development. The 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).

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

2. All project construction, improvement plans and final maps for the Project shall comply with the rules, regulations and design guidelines in effect at the time the construction, improvements plan or final map is approved. Unless otherwise expressly provided in this Agreement, all city ordinances, resolutions, rules regulations and official policies governing the design and improvement and all construction standards and specifications applicable to the Project shall be those in force and effect at the time the applicable permit is granted. Ordinances, resolutions, rules, regulations and official policies governing the design, improvement and construction standards and specifications applicable to public improvements to be constructed by 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 prohibitions of the Uniform Building, Mechanical, Plumbing, Electrical, and Fire Codes, city standard construction specifications and details and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the time of 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; 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.

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

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

1. Except as provided herein, the Developer shall be obligated to pay only those fees, in the amounts and/or with increases as set forth below, and make those dedications and improvements prescribed in the Project Approvals and this Agreement and any Subsequent Approvals. Unless otherwise specified herein, City-imposed development impact fees and sewer and water connection fees shall be due and payable by the 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 Property.



2. Except as otherwise provided by this Agreement (including Exhibit C of this Agreement), the Developer shall pay the amount in effect at the time the payment is made. The City retains discretion to revise such fees as the City deems appropriate, in accordance with applicable law. If the City revises such fees on a city-wide basis (as opposed to revising such fees on an *ad hoc* basis that applies solely to the Project) 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 citywide basis at the time the application is submitted for those permits, as permitted pursuant to California Government Code sec. 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; and

(b) The City may apply subsequently adopted development exactions to the Project if the exaction is applied uniformly to development either throughout the city or with a defined area of benefit that includes the Property if the subsequently adopted development exaction does not physically prevent development of the Property for the uses and to the density and intensity of development set forth in this Agreement. In the event that the subsequently adopted development exaction fulfills the same purpose as an exaction or development impact fee required by this Agreement or by the Project Approvals, the Developer shall receive a credit

against the subsequently adopted development exaction for fees already paid that fulfill the same purpose.

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

6. Water and Wastewater Connection and Capacity Charges. The Developer shall pay the applicable water and wastewater connection and capacity charges in effect pursuant to City-wide ordinance(s) at the time of building permit issuance as set forth on Exhibit C..

7. Development Impact (Major Projects) Fees and Community Benefit Funds. Developer shall pay all fees and charges set forth on Exhibit C whether enumerated in this section or elsewhere in this Agreement, including Exhibit C..

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

ARTICLE 3. Obligations of the Developer.

A. [Sec. 300] Improvements. The Developer shall develop the Property in accordance with and subject to the terms and conditions of this Agreement, the Project Approvals and the subsequent discretionary approvals, if any, and any amendments to the Project Approvals or this Agreement as, from time to time, may be approved pursuant to this Agreement. The failure of the Developer to comply with any term or condition of or fulfill any obligation of the Developer under this Agreement, the Project Approvals or the subsequent discretionary approvals or any amendments to the Project Approvals or this Agreement as may have been approved pursuant to this Agreement, shall constitute a default by the 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. Subject to the reserved discretionary approvals set forth in Section 200 and the provisions of Section 207(H)(3) hereof, the City agrees that it will accept, in good faith, for processing, review and action, all complete applications for zoning, special permits, development permits, tentative maps, subdivision maps or other entitlements for use of the Property in accordance with the General Plan and this Agreement.

The City shall inform the 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 term or provision of this Agreement shall constitute a default. In the event of default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30) day

period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

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

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

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

B. [Sec. 401] 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 through 107, and 400. The costs

of notice and related costs incurred by the City for the annual review conducted by the City pursuant to this Section shall be borne by the 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, the City Manager may refer the matter along with his or her recommendations to the City Council.

Failure of the City to conduct an annual review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement nor shall the 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 war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental entities, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, moratoria or similar bases for excused performance. If written notice of such delay is given to the City within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

In the event litigation is initiated by any party other than 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 a final order is issued upholding the challenged approvals or said litigation is dismissed with prejudice by all plaintiffs. In the event a court enjoins either the City or the Developer from taking actions with regard to the Project as a result of such litigation that would preclude any of them from enjoying the benefits bestowed by this Agreement, then the term of

this Agreement shall be automatically tolled during the period of time such injunction or restraining order is in effect.

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, nor shall it affect any other covenants of the Developer specified in this Agreement to continue after the termination of this Agreement.

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 attorney 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 in the defense thereof.

B. [Sec. 501] Prevailing Wages. Without limiting the foregoing, Developer acknowledges the requirements of California Labor Code §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- or 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, and if the total compensation under the contract in question is \$1,000 or more, Developer agrees to fully comply

with such Prevailing Wage Laws. Developer understands and agrees that it is Developer's obligation to determine if Prevailing Wages apply to work done on the Project or any portion of the Project. Upon Developer's request, the City shall provide a copy of the then current prevailing rates of per diem wages. Developer shall make available to interested parties upon request, copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the work subject to Prevailing Wage Laws, and shall post copies at the Developer's principal place of business and at the Project site. Developer shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless pursuant to the indemnification provisions of this Agreement from any claim or liability arising out of any failure or alleged failure by Developer to comply with the Prevailing Wage Laws associated with any "public works" or "maintenance" projects associated with Project development.

ARTICLE 6. Project as a Private Undertaking.

A. [Sec. 600] Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties hereto that the development of the Property is a separately undertaken private development. No partnership, joint venture or other association of any kind between the 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 7. Consistency With General Plan.

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

ARTICLE 8. Notices.

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

525 Oxford LLC  
12424 Wilshire Boulevard  
Los Angeles, Ca. 90265  
Att: Scott Whitakker  
E-mail: scott@latigo-group.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 9. Recordation.

A. [Sec. 900] 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 10. Estoppel Certificates.

A. [Sec. 1000] Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such party to certify in writing that, to the knowledge of the certifying Party, (a) this Development Agreement is in full force and effect and a binding obligation of the Parties, (b) this Development Agreement has not been amended or modified or, if so amended or modified, identifying the amendments or modifications, and (c) the requesting Party is not in default in the performance of its obligations under this Development Agreement, or if in default, to describe therein the nature and extent of any such defaults. The requesting Party may designate a reasonable form of certificate (including a lender's form) and the Party receiving a request hereunder shall execute and return such certificate or give a written, detailed response explaining why it will not do so within fifteen (15) 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 fifteen (15)

day period will lead to a second and final request and failure to respond to the second and final request within five (5) 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 fifteen (15) day period, City may send a second and final request to Developer and failure of Developer to respond within five (5) days from receipt thereof (but only if City's request contains a clear statement that failure of Developer to respond within this five (5) day period shall constitute an approval) shall be deemed approval by Developer of the estoppel certificate and may be relied upon as such by City, tenants, transferees, investors, bond counsel, underwriters and bond holders. Failure of City to execute an estoppel certificate shall not be deemed a default. In the event City fails to respond within the required fifteen (15) 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 five (5) days from receipt thereof (but only if Developer's request contains a clear statement that failure of City to respond within this five (5) day period shall constitute an approval) shall be deemed approval by City of the estoppel certificate and may be relied upon as such by Developer, tenants, transferees, investors, partners, bond counsel, underwriters, bond holders and mortgagees.

ARTICLE 11. Provisions Relating to Lenders

A. [Sec. 1101] 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 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 1201(A)(4) above.

B. [Sec. 1102] 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 12. Entire Agreement.

A. [Sec. 1200] Entire Agreement. This Agreement is executed in duplicate originals, each of which is deemed to be an original. This Agreement consists of 25 pages and 7 Exhibits which constitute the entire understanding and agreement of the Parties. Unless specifically stated to the contrary, the reference to an exhibit by designated letter or number shall mean that the exhibit is made a part of this Agreement. Said exhibits are identified as follows:

- Exhibit A: Description of the Property
- Exhibit B: Project Approvals
- Exhibit C: Impact Fees and Community Enhancement Funds
- Exhibit D: Water and Energy Conservation Information and Incentive Plan
- Exhibit E: Affordable Housing Plan
- Exhibit F: Local Hiring Program
- Exhibit G: Environmental Sustainability Implementation Plan

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

“CITY”

CITY OF DAVIS

By: \_\_\_\_\_  
Brett Lee  
Mayor

Attest: \_\_\_\_\_  
Zoe Mirabile  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Harriet Steiner  
City Attorney

“DEVELOPER”

525 Oxford, LLC, a California limited liability company

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

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

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

EXHIBIT A

Description of Property

The land referred to in this Commitment is situated in the City of Davis, County of Yolo, State of California, and is described as follows:

PARCEL ONE:

LOT 294, PLAT OF SUBDIVISION NO. 1008 UNIVERSITY FARMS UNIT NO. 7-A, FILED JANUARY 21, 1964 IN BOOK 6 OF MAPS, AT PAGES 14 AND 15 YOLO COUNTY RECORDS.

PARCEL TWO:

AN UNDIVIDED 1/10TH INTEREST IN LOT A, UNIVERSITY FARMS UNIT NO. 7A, FILED JANUARY 21, 1964 IN BOOK 6 OF MAPS, AT PAGES 14 AND 15, YOLO COUNTY RECORDS.

EXCEPTING THEREFROM FROM PARCELS 1 AND 2 ABOVE, ALL OIL, GAS, PETROLEUM AND OTHER HYDROCARBON SUBSTANCES AND ALL OTHER MINERALS WITHIN AND UNDERLYING AND WHICH MAY BE PRODUCED FROM THE REAL PROPERTY HEREIN DESCRIBED, TOGETHER WITH A PERPETUAL SUBSURFACE RIGHT TO INGRESS AND EGRESS FOR THE PURPOSES OF PROSPECTING AND EXPLORING FOR AND OF MINING, EXTRACTING AND REMOVING OIL, GAS, PETROLEUM AND OTHER HYDROCARBON SUBSTANCES AND ALL OTHER MINERALS WITHIN OR UNDERLYING THE ABOVE DESCRIBED PROPERTY, INCLUDING SUBSURFACE RIGHT OF WAY, EASEMENTS AND SERVITUDES, IN, UNDER AND THROUGH THE ABOVE DESCRIBED PROPERTY FOR SUCH PURPOSES, BUT EXCLUDING AND EXCEPTING THEREFROM, ALL RIGHTS IN AND TO THE SURFACE OF SAID LAND AND THE SUBSURFACE THEREOF, DOWN TO A DEPTH OF 500 FEET MEASURED VERTICALLY FROM SAID SURFACE, AS CONVEYED TO J.M. WALKER AND LLOYD F. DONANT, BY DEED DATED DECEMBER 16, 1963 AND RECORDED JANUARY 8, 1964 IN BOOK 742 OF OFFICIAL RECORDS, PAGE 142. SAID DEED PROVIDES THAT "GRANTEES COVENANT AND AGREE THAT THE SUBSURFACE RIGHTS HEREBY RECEIVED SHALL BE EXERCISED IN SUCH A WAY THAT NEITHER THE SURFACE OF SAID LANDS NOR IMPROVEMENTS LOCATED THEREON, SHALL IN ANY WAY BE DISTURBED OR DAMAGED."

PARCEL THREE:

ALL THAT REAL PROPERTY SITUATED IN THE CITY OF DAVIS, COUNTY OF YOLO, STATE OF CALIFORNIA, AS DESCRIBED IN RESOLUTION NO. 17-106, RECORDED FEBRUARY 9, 2018 AS INSTRUMENT NO. 2018-0003148-00 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

A PORTION OF OXFORD CIRCLE AS SHOWN ON THAT CERTAIN PLAT OF UNIVERSITY FARMS UNIT NO. 7A, FILED JANUARY 21, 1964, IN BOOK 6 OF MAPS, PAGES 14 AND 15, YOLO COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 294 AS SHOWN ON SAID PLAT; THENCE NORTH 00°17'00" WEST 37.13 FEET TO A POINT ON THE SOUTHERLY LINE OF LOT A AS SHOWN ON SAID PLAT; THENCE ALONG SAID SOUTHERLY LINE 2.01 FEET ALONG A CURVE TO THE LEFT CONCAVE NORTHERLY HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 07°41'23" AND A CHORD BEARING SOUTH 86°26'29" EAST 2.01 FEET; THENCE NORTH 31°40'46" EAST 20.04 FEET; THENCE NORTH 89°42'50" EAST 84.88 FEET; THENCE SOUTH 58°19'14" EAST 9.00 FEET; THENCE SOUTH 31°40'46" WEST 14.42 FEET; THENCE NORTH 89°42'50" EAST 49.59 FEET; THENCE LEAVING SAID SOUTHERLY LINE SOUTH 00°17'10" EAST 37.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT

294; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 294 SOUTH 89°42'50" WEST 147.08 FEET TO THE POINT OF BEGINNING.

APN: 034-252-012-000 (as to Parcels One and Two)

EXHIBIT B

Project Approvals

- (1) Exemption from further environmental review pursuant to Public Resources Code section 21094.5 and CEQA Guidelines section 15183.5, and pursuant to Public Resources Code Section 21155.1
- (2) General Plan Amendment #01-18
- (3) Rezone #01-18/Final Planned Development #02-18
- (4) Development Agreement #01-18
- (5) Site Plan and Architectural Review #02-18



EXHIBIT C

Development Impact Fees, Connection Fees, and Community Enhancement Funds

Notwithstanding the general provision of Article 2, Section H of this Agreement and the Municipal Code, the development impact fees, connection fees, and community enhancement funds 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.

**DEVELOPMENT IMPACT FEES**

1. The following development impact fees shall be paid by the developer in accordance with AB 1600, based on the impacts of the project, as set forth in the table below.

Payment of Development Impact for the Project shall be payable prior to the Certificate of Occupancy being issued for the Project.

The Developer has the right to pay any development impact fees associated with the project at any given time after the first Building Permit has been issued to avoid upcoming increases.

If fees are not paid by the fifth year, following issuance of building permit they shall be recalculated in accordance with rates applicable at the time.

**DEVELOPMENT IMPACT FEES**

<i>Development Impact Fees</i>	<i>Multi-Family Rate</i>	<i>Multi-Family Fees 71 new units</i>	<i>Multi-Family Credit of 20 units demolished</i>	<i>Total Development Impact Fees</i>
<i>Roadways</i>	\$ 4,942.00	\$350,882.00	\$(98,840.00)	\$252,042.00
<i>Drainage</i>	\$85.00	\$ 6,035.00	\$(1,700.00)	\$4,335.00
<i>Parks</i>	\$3,827.00	\$271,717.00	\$(76,540.00)	\$195,177.00
<i>Open Space</i>	\$ 659.00	\$46,789.00	\$(13,180.00)	\$33,609.00
<i>Public Safety</i>	\$757.00	\$53,747.00	\$(15,140.00)	\$38,607.00
<i>General Facilities</i>	\$1,823.00	\$129,433.00	\$(36,460.00)	\$92,973.00
<b>TOTAL</b>	<b>\$12,093.00</b>	<b>\$858,603.00</b>	<b>\$(241,860.00)</b>	<b>\$616,743.00</b>

**CONNECTION FEES**

Connection fees are due at the time of first building permit.

Water Connection Fees – Water connection fees paid by the Developer shall not exceed the existing City fee for the first five years from the Effective Date of this Agreement. Thereafter, if the water connection fee has increased, the residential units shall pay the then current connection fee. If the water connection fees decrease during the five-year period, then the Project shall be subject to the lower fee. Developer shall receive credit reflecting the existing 1½-inch water meter on the Property. This connection fee will be recalculated when civil plans are received by Public Works. Total water connection fees is \$ 31,813 assuming a 2” meter is installed.

Sewer Connection Fees – Sewer connection fees paid by the Developer shall not exceed the existing City fee for the first five years from the Effective Date of this Agreement. Thereafter, if the sewer connection fee has increased, the residential units shall pay the then current connection fee. If the sewer connection fees decrease during the five-year period, then the Project shall be subject to the lower fee. Developer shall receive credit reflecting the 20 units demolished on the Property. Total sewer connection fees are \$ 169,320.

### **COMMUNITY ENHANCEMENT FUNDS**

Developer shall provide Community Enhancement Funds, which are beyond the Project’s requirements to mitigate for project-related impacts. These are separate and distinct from development impact fees and connection fees calculated above. Total community enhancement is \$1,556,544.00. These funds shall be used as follows:

1. Developer shall pay Five Hundred Thousand Dollars (\$500,000) to the City to use for Bicycle, Pedestrian and Traffic Enhancements between Anderson Road, Highway 113, Russell Blvd. and 8<sup>th</sup> Street.
2. Developer shall pay Three Hundred and Eighty Eight Thousand Dollars (\$388,000) to the City to be used for Park Enhancements, improvements, renovations and or shade structures to any or all the following parks, Oxford Circle, Sycamore Park and Arroyo Park.
3. Developer shall pay Six Hundred, Sixty Eight Thousand, Five Hundred and Forty Four Dollars (\$668,544) for community-wide enhancements, improvements or renovations.

The Developer shall have the right to defer payment of the Community Enhancement Funds for up to 18-months after being issued a final Certificate of Occupancy, provided a surety, such as a performance bond or letter of credit, in a form acceptable to City, and is issued securing the outstanding amount of the Community Enhancement Funds. If the amount due to the City is not paid in full upon the expiration of the 18-month period, a 10% penalty will be assessed. The surety amount shall include the 10% penalty or the outstanding amount of the Community Enhancement Fund deferred.

## EXHIBIT D

### Water and Energy Conservation Information and Incentive Plan

**Incentive Plan Goal.** To reduce water and electric usage by incentivizing the residents to think conservatively.

**Incentive Plan.** Starting once the Project reaches 90% occupancy, and occurring every month thereafter, the residents in each specific unit type, i.e. 3-bedroom, 4-bedroom, and 5-bedroom, with the lowest usage for both water and electric usage will each receive a \$50 gift card. No unit can receive a gift card for more than two (2) consecutive months.

**Water Usage Fee.** 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 and electric usage (with comparison information).

## EXHIBIT E

### Affordable Housing Plan

#### ***Davis Live Dream Program***

#### ***Affordable Housing Plan***

#### **Program Summary**

The Davis Live Dream (DLD) Program is committed to attracting a diverse and respectful community of residents from all socioeconomic backgrounds. We subscribe to the Principles of One Community as prescribed by ASUCD and the City of Davis and intend to promote such daily principles and values at Davis Live. The DLD Program represents our commitment to equal opportunities for all, including education, consistent with what our company values and is committed to as a whole.

The Davis Live Dream Program (the “DLD Program”) is designed to provide a more affordable for housing option for residents who could not otherwise afford to live in Davis. The DLD Program, which is to oversee 15% of the Davis Live project, or 66 beds, will be run by the management team for Davis Live and Greystar Student Living, Davis Live’s property manager, with the intention to fully integrate pre-qualified residents of the program into the entire community at Davis Live. Presently, Greystar manages two housing properties in Davis and is very familiar with affordable housing management.

The DLD Program provides beds at Extremely Very-Low, Very-Low, and Low rates (defined further below), split evenly among each rate band (i.e. 22 beds in each rate band). Because the DLD Program provides affordable housing on a bed basis rather than unit basis, the affordable beds will be integrated throughout the project among market-rate beds. The financial criteria and other qualifications outlined below will determine which residents are eligible to participate in the program.

As noted, all affordable beds will be integrated throughout the project among market-rate double-occupancy beds to ensure no difference in the accommodations or experience offered to residents under the DLD Program aside from out-of-pocket cost.

#### **Marketing**

The DLD Program seeks to reach residents who qualify for the DLD Program through a variety of methods including, but not limited to distribution of fliers, Davis Live’s website, as well as social media channels including Nextdoor, Facebook, and Instagram. The program will also be marketed directly to programs on the UC Davis campus that represent a myriad of traditionally underserved groups on campus, including but not limited to the Associated Students of the University of California, Davis (ASUCD), the ASUCD Food Pantry, Guardian Scholars, the AB 540 Center, and more. Davis Live will also actively market the DLD Program to residents through Yolo County Housing, the City of Davis, Sacramento City College, Woodland Community College, and UC Davis Student Housing.

#### **Demonstration of Need**

As a privately-managed subsidized rental housing alternative, the DLD Program seeks to mitigate the disadvantages faced by financially-constrained low-income residents.

In Davis the average rent for a one-bedroom apartment is \$1,361. Such rents are not affordable to many Davis residents. For example, during the 2015-16 school year, over forty percent (40%) of full-time UC Davis undergraduate students were designated low income by the federal government and were awarded Federal Pell grants. Many of these students are not eligible for rental assistance through Yolo County Housing as they do not have dependent children. With the vacancy rate in Davis at zero percent, prices continue to exponentially escalate year over year, further challenging economically strained residents of Davis including students.

### **Qualifying Criteria**

The DLD Program will be made available to both financially dependent residents and financially independent residents. To qualify for the DLD Program, residents must demonstrate low-income status, defined as having an income not exceeding eighty percent (80%) of area median income (AMI). Other specific criteria for financially dependent residents and financially independent residents are as follows:

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 for the DLD Program by demonstrating that the household income of the parent or other legally supporting person, when combined with the resident's income does not exceed eighty percent (80%) of AMI for Yolo County; 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, etc. Income includes all sources of income including wages, investment income, etc., as well as financial aid, scholarships, grants to the extent such are allocated to housing costs. In the event that a resident receives financial aid, scholarships, or grants specifically allocated to housing costs, and such allocation is more than the highest rate DLD Program per bed amount, the resident will not be eligible for the DLD Program.

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 eighty percent (80%) of AMI.

- 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 as well as a budget showing how he or she is able to be supported by the funds claimed; *and*
- The resident must document his or her income by means of verifying documentation such as tax returns, W-2s, FAFSA documentation, bank statements, etc. For student residents, income includes wages from employment, commercial loans, as well as financial aid, scholarships, grants to the extent such are allocated to housing costs, and savings, or other loans obtained with the student's own credit.

The Developer may implement additional selection criteria subject to all applicable 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").

### **Affordable Rate Determination**

The annual per bed rent of the DLD Program's operation will equal: thirty percent (30%) of thirty percent (30%) of Yolo County AMI for a single person household (Extremely Very Low Income), thirty percent (30%) of fifty percent (50%) of Yolo County AMI for a single person household (Very Low Income), and thirty percent (30%) of eighty percent (80%) of Yolo County AMI for a single person household (Low Income).

Utilities will be included in the rental rate, however costs for excessive utility use will be passed through to DLD Program tenants as they are to market rate tenants in order to discourage waste, enforce the project's strong water conservation efforts, and encourage the sustainable environment and reduced carbon-footprint promoted by Davis Live.

### **Administration of Program**

The DLD Program and its affordability requirements will be included in the Developer's Development Agreement with the City and will be included in a mutually agreed-upon regulatory agreement or covenant in a form approved by the City Attorney for Davis Live, which will be recorded against and run in perpetuity with the property. Subject to the terms and conditions of the Development Agreement, a fixed number of double-occupancy bedrooms will be allocated to the DLD Program. DLD Program residents will have access to the same overall Davis Live amenities and living experience as other residents.

Davis Live's management team, working closely with Greystar Student Living will administer the program and placement of applicants. Current program participant residents will be given priority to new residents so long as they provide adequate documentation to demonstrate their ongoing qualifications and need.

Applications for existing residents in the subsequent year will be due by March 1<sup>st</sup>. Applications for new residents in the subsequent year will be due by March 31<sup>st</sup>. Where qualifying tenant applicants outnumber available beds, a waitlist will be established that will rank the priority of placement based upon a combination of need and timeliness of the application. If fewer applications than beds in the DLD Program are received by May 31<sup>st</sup> of the year for the program, the unplaced DLD-allocated beds may be filled by applicants for Davis Live at market rates. For 90 days prior to assigning the DLD-allocated beds to non-DLD residents, the Davis Live management will make a good faith effort to outreach to potentially eligible DLD Program Participants using the marketing efforts identified above in order to maximize participation in the program.

However, for any undersubscribed year, Davis Live agrees to pay the City of Davis' Housing Fund an amount equivalent to the sum of the annual discount for each bed that is not occupied by a qualified resident. If Davis Live is unable to fully rent the DLD Program beds to qualified residents for three (3) consecutive years, the Davis Live ownership will modify the DLD Program to more effectively address the affordable housing needs and community purpose.

At the start of each new lease year, Davis Live will again start to actively seek eligible applicants for the DLD Program with the goal of filling all beds in the program each year.

**Reporting**

Davis Lives' management will provide an annual report no later than November 1<sup>st</sup> of each year to the City of Davis showing the number of beds participating in the DLD Program for the lease year that commenced that fall, as well as compliance with qualification criteria of the DLD Program.

EXHIBIT F

Local Hiring Program for Construction

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 it’s 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).
  
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 of 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 L, 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. 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 Contractors shall determine in the respective subjective business judgment whether any particular targeted Job Applicant is qualified to perform the On-Site Job for which such Targeted Job Applicant has applied.
- 7. Term. The Local Hiring Policy extend throughout the construction of the Project until the final certificate of occupancy for the Project has been issued by the City.

## EXHIBIT G

### 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) 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. Staff is studying LEED and CALGreen voluntary measures (Tiers) in order to determine LEED Gold equivalency using CALGreen as the metric for 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 meet a minimum of 15% above the 2016 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 25% less water usage than the average household use in the region. 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:
  - Solar water heating with a minimum solar fraction of 50%.
  - LED lighting with lighting power densities in common spaces, offices, and corridors at least 10% lower than Title 24 prescriptive requirements.
  - 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. Additionally, the Developer and City have agreed to this Sustainability Implementation Plan (SIP), in consideration of and in addition to the commitments in the Davis Live Project Description, Conditions of Approval and Development Agreement, and similar in scope to previous recent student-oriented housing projects (such as the Sterling 5<sup>th</sup> Street Apartments).

#### *Transportation and Land Use*

- Provide EV Charging conduit to all 71 parking garage spaces at time of construction to minimize cost of adding EV chargers in the future.
- See minimum Project EV Charging requirements for parking spaces below.

#### *Energy*

- Any purchase of electricity required to achieve the desired net-zero energy profile for the site and common area spaces (not provided by on-site rooftop photo-voltaic electrical generation) shall be purchased at the highest renewable rate available (100% if applicable) from the project's utility.
- To the fullest extent possible, provide an all-electric development to eliminate natural gas, thereby reducing GHG emissions and carbon-based energy.
- To the fullest extent possible, provide a microgrid-ready and battery storage-ready project, including Smart Building design and load management technology.

#### *Solid Waste*

- Increase solid waste diversion from landfill to a minimum of 75% (current standards require 65%).

#### *Energy/Water Efficiency Incentives and Outreach*

- The buildings and landscaping shall be designed to achieve 25% less water usage than the average household use in the region. Provide incentives for resident energy/water efficiency.
- Provide education and outreach to residents to encourage environmentally sustainable practices.
- Provide a 'Sustainability Manager' position as a resource for residents.

3. Electric Vehicle (EV) charging: As per Davis Electric Vehicle Charging Plan requirements, approved by City Council by resolution on February 23, 2017 (<R:\City Clerk\Resolutions\Approved Resolutions\2017\17-023 - EV Charging Plan.pdf>), this project is required to provide:

- Level 1 charging at 5% of all spaces (min 2 spaces): 5% of 71 total spaces = 3.55 spaces or 4 spaces 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 space.
- Conduit adequate for 25% Level 2 spaces: 25% of 71 spaces = 17.75 total spaces minus one above = minimum Level 2 conduit to 17 additional spaces.
- Room in panels and capacity to serve 20% of all spaces with Level 1 (14 spaces total) and 5% of Level 2 (4 spaces total).

4. Bicycle Parking

- A minimum of 440 long-term and 92 short-term bicycle parking spaces shall be provided on-site.
- The long-term secured bicycle parking shall be designed to allow adequate maneuvering and access within the facility to the satisfaction of the City's bike/ped coordinator.
- 8-10 spaces shall be provided within the long-term secured bicycle parking area to accommodate, longer, non-traditional bicycles.