

## **MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) entered into by NISHI GATEWAY, LLC (“Nishi”), the UNIVERSITY OF CALIFORNIA (“UC Davis”) and THE CITY OF DAVIS (“City”).

### **RECITALS**

- A. Nishi wishes to pursue a student oriented apartment project (“Project”) on the real property described in Exhibit A attached hereto (“Nishi Property”).
- B. The Project is subject to the entitlement approval processes of the City, including, without limitation, Measure J, and nothing herein shall in any way affect those processes.
- C. UC Davis and City are interested in expanding the availability of student housing which is fairly priced and proximate to the UC Davis campus, and downtown.
- D. This MOU is a statement of broad policy objectives and interests of the parties and is not intended to create any contractual commitments of any party. The parties acknowledge that there are no express or implied agreements herein and no party has any obligation to pursue any of the matters described below.

### **MUTUAL INTERESTS OF THE PARTIES**

Nishi has reached out to the City and UC Davis to seek input on the Project. The following is a list of mutual objectives relating to the Project:

1. To develop a reasonably priced student oriented apartment housing development;
2. To cater primarily to the needs of students;
3. To provide student housing proximate to campus and to downtown;
4. The Project will include primary vehicular, bicycle and pedestrian access to and from the UC Davis campus and City transportation grids via a newly constructed undercrossing under the Union Pacific Railroad line. The undercrossing shall be designed to be integrated into the general circulation system of the campus and to accommodate campus transportation services, including double decker buses. Nishi will be responsible for the construction, maintenance and operation of the undercrossing improvements, necessary connectivity improvements and to mitigate traffic impacts on campus;
5. UC Davis to retain approval authority over proposed improvements to connect the Project to the campus;
6. Nishi to fund construction, maintenance (including long term maintenance costs) and operations, of the new Nishi connection improvements. Any agreement should include adequate funding to mitigate impacts to campus roadway safety and capacity, including bikeway and pedestrian infrastructure caused by development at the Nishi site;

7. University to be appropriately compensated for use of its land;
8. To include an appropriate escalation provision for any ongoing financial items related to the provision of road access and student housing;
9. To obligate the developer to propose adequate mechanisms guaranteeing items 6 through 8 above;
10. To minimize future automobile trips from the Project, UC Davis expects to not allow Nishi residents to purchase commuter parking permits;
11. To allow emergency vehicles, Unitrans and Yolobus, but no other motorized vehicles access to and from Olive Drive;
12. UC Davis to provide legal access to the campus transportation system to accommodate the Project;
13. To enhance circulation within the City and to encourage pedestrian, bicycle and transit access from housing projects to downtown, to reduce vehicle trips, vehicle miles travelled and parking demand;
14. To consider the appropriate timing of new housing at the Project with relation to other student housing projects;
15. For the Project to comply with all applicable affordable housing requirements of the City;
16. For the Project to be designed and constructed to meet sustainable development criteria;
17. To optimize underutilized infill locations within and adjacent to the City;
18. To enhance the visibility and aesthetic appeal of the City from Richards Blvd., Union Pacific Railroad and I-80; and
19. To minimize adverse impacts on environmental resources on and adjacent to the Nishi Property.
20. The parties will coordinate their efforts and issue a joint press release announcing that the parties have executed this MOU.
21. This MOU does not, and is not intended to, constitute a commitment, contract or any other binding agreement or promise of any kind or nature whatsoever (or any evidence thereof) on the part of the parties with respect to any matter, whether discussed herein or otherwise, or impose any duty, liability or obligation whatsoever on other writings, communications or discussions between the parties to the contrary. Any party may terminate its involvement in this MOU at any time with notice to remaining parties.

22. This MOU represents only the present intentions of the persons signing this MOU and is not intended to constitute a binding agreement between the parties or otherwise create any rights or obligations on the part of either party. It is the parties' intention that legal rights and obligations will come into existence only upon the execution of an appropriate agreement on terms acceptable to each party in their sole and absolute discretion. If such agreement is not executed, neither party shall have any rights or obligations under this MOU. No special relationship has been created between the parties by virtue of this MOU and the parties have no obligation to each other hereunder in the event a formal written agreement is not executed as provided above.

23. Without limiting the foregoing, a transaction regarding the Nishi Property involves many essential terms and conditions that have not yet been agreed upon and it is expressly contemplated that this proposal is not intended to commit the parties to a particular course of action. In order to effectuate a transaction regarding the Nishi Property, final agreements will have to be negotiated and agreed to by the parties based upon information provided by an environmental review process pursuant to the California Environmental Quality Act (CEQA) and other applicable public review and regulatory processes and subject to all applicable governmental approvals. In this regard, the University of California retains the absolute and sole discretion to grant or withhold any discretionary approvals required to proceed with the transaction and to modify the transaction structure or determine not to proceed with the transaction, in order to fully comply with CEQA.

**NISHI:** Nishi Gateway, LLC

By: \_\_\_\_\_  
John W. Whitcombe

**UC Davis:** University of California

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

**CITY:** City of Davis

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

Exhibit A

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