

PLANNING COMMISSION

Peggy White, Chair  
Robert Griffith, Vice Chair  
Shirley Benningfield, Commissioner  
Candis Woods, Commissioner  
vacant, Commissioner

CITY PLANNER  
Karen Mantele

MINUTE CLERK  
Maria Ehorn



201 North Lassen Street  
Willows, CA 95988  
(530) 934-7041

**PLANNING COMMISSION MEETING AGENDA**  
**Wednesday February 17, 2016**  
**7:00 p.m.**

1. **Call to Order - 7:00 p.m.**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Agenda Review:** (Requested Changes by Commissioners or Staff?)
5. **Public Comment:** Persons wishing to speak on a matter *not on the agenda* may be heard at this time; however, no action will be taken unless placed on a future agenda. (***Public Comments are generally restricted to three minutes.***)
6. **Approval of Minutes:** Minutes of Planning Commission meeting held January 20, 2016
7. **Public Hearing(s)/New Business**
  - a. **CONTINUED FROM January 20, 2016 MEETING/Design Review (File# DR-16-01) Applicant/Owner: St. Monica's Catholic Church**  
Assessors' Parcel Number-005-370-101/1129 W. Wood Street/R-1 Zone/Low Density Residential Land Use Designation/Request to approve installation of two ground mounted photovoltaic solar structures and an enclosed fence
  - b. **Use Permit (File #UP-16-01) and Design Review (File #DR-16-02) Applicant/Owner: Edgar & Julia Mercado/Robert Carter**  
Assessors' Parcel Number 005-364-001/560 N. Tehama Street/General Commercial Zone/General Commercial Land Use Designation/Request to establish a wholesale meat distribution business within an existing commercial building and approve exterior building and site improvements
  - c. **Use Permit (file #UP-16-02) Applicant/Owner: Michael & Monica Schwenne**  
Assessors' Parcel Number-005-403-012/459 N. Tehama Street/General Commercial Zone/General Commercial Land Use Designation/Request to allow establishment of a residential use of an existing structure

- d. **Review and recommend to the City Council an application by California Land Investors, LLC to enter into a development agreement with the City of Willows pertaining to the development of a parcel of land in the southern part of the City of Willows for 453 single family residential units and approximately 65 acres of commercial/industrial uses for property located at the SW corner of Tehama Street and CR 53, east of Interstate 5, and identified by Assessor Parcel Number(s) 017-170-011; 001-091-012; 001-102-014; 001-101-003 and 017-170-017**

**8. Commission Commentary**

**9. Adjournment**

**CERTIFICATION:** Pursuant to Government Code § 54954.2 (a), the agenda for this meeting was properly posted on or before February 12, 2016.

A complete agenda packet, including staff reports and back-up information, is available for public inspection during normal work hours at City Hall or the Willows Public Library at 201 North Lassen Street in Willows or on the City's website at [www.cityofwillows.org](http://www.cityofwillows.org). In compliance with the Americans with Disabilities Act, the City of Willows will make available to members of the public any special assistance necessary to participate in this meeting. The public should contact the City Clerk's office 934-7041 to make such a request. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

The City of Willows is an Equal Opportunity Provider

**MINUTES OF THE WILLOWS PLANNING COMMISSION MEETING**

**WEDNESDAY, JANUARY 20, 2016**

The meeting was called to order at 7:00 pm by Chairperson Woods.

**PLEDGE OF ALLEGIANCE:** Chair Woods led the Pledge of Allegiance.

**ROLL CALL:** Karen Mantele, Planner, Maria Ehorn, Minute Clerk

Present: White, Benningfield, Woods, Griffith,

Absent: NONE

**AGENDA REVIEW:** Chairperson Woods asked if there were any changes to the agenda by staff or Commissioners. Staff and Commission had no changes to the agenda.

**PUBLIC COMMENT:** Chair Woods introduced the item. Mathew Amaro came forward and spoke regarding the sign code. He stated that the staff has been helpful and patient when he was working on projects. Mr. Amaro commented on how some businesses are not abiding by the code and how it makes it hard for the people who are abiding by the code to see others not complying. Chair Woods stated that the Commission was aware and that this may be something they could discuss with Counsel as the Commission is there to make sure people are complying with the codes.

**APPROVAL OF MINUTES:** It was moved by Commissioner Benningfield and seconded by Commissioner Griffith to approve the Minutes of the Planning Commission Meeting held December 16, 2015.

AYES: GRIFFITH, WHITE, WOODS, BENNINGFIELD

NOES: NONE

ABSTENTION: NONE

**NEW BUSINESS:**

**a. Election of Planning Commission Chair and Vice Chair.**

Chair Woods introduced the item. Chair Woods nominated Commissioner White as chair and Commissioner Griffith as vice chair. Commissioner Benningfield made a motion to nominate Commissioner White as chair and Commissioner Griffith as vice chair. The motion was seconded by Chair Woods. The motion carried.

AYES: GRIFFITH, WHITE, WOODS, BENNINGFIELD

NOES: NONE

ABSTENTION: NONE

**b. Two year review of the 2013 Use Permit for the Long Way Home Saloon**

Assessors' Parcel Number 002-162-006/222 W. Walnut Street/CC Zone

Chair White introduced the agenda item. Ms. Mantele presented the agenda report to the Commission.

Chair White then opened the public hearing. The owner, Ms. Beath stated that they have worked hard to keep the business up. Commissioner Woods stated that she appreciated that the owners made commitments and followed through with them.

Chair White then closed the public hearing. Commissioner Woods made a motion to continue the process and the use permit for two (2) more years. The motion was seconded by Commissioner Benningfield. The motion carried.

Staff will send a confirmation letter of the decision to the owner.

AYES: GRIFFITH, WHITE, WOODS, BENNINGFIELD

NOES: NONE

ABSTENTION: NONE

**c. Design Review (File #DR-16-01) Applicant/Owner: St. Monica's Catholic Church**

Assessors' Parcel Number 005-370-101/1149 W. Wood Street/R-1 Zone/Low Density Residential Land Use Designation/Request to approve installation of two ground mounted photovoltaic solar structures and an enclosed fence.

Chair White introduced the agenda item. Staff stated the address was incorrect in the agenda item and should be 1149 W. Wood instead of 1129. Ms. Mantele then presented the agenda report to the Commission. Commissioner Benningfield asked with the solar structure being 6' tall and the fence being 6' tall and even though it will be locked was there any danger for the children from the school? Commissioner Griffith stated he had solar and all of the electrical is encased. The Building Official Clay Dawley stated that they were generally safe. Commissioner Griffith noted that Murdock School has a similar structure in place and they have not had any issues.

Chair White opened the item up for public comment. Babette Gibbs, neighbor to the north of the project site, spoke. Ms. Gibbs stated that they have had more flooding issues on their property than in the past since construction started on the site and was there going to be any base to the structure that would direct water to their property. Mr. Dawley stated that per the plans for the solar structure, there would not be any fill coming in and that they would just drill down to insert their footings for the structure. Ms. Gibbs also wanted to know if there was a botanical barrier in the plans so they don't have to look at the solar structure from their backyard and requested that there be some kind of botanical barrier.

Commissioner Woods asked Ms. Gibbs if she had spoken with the Church regarding the flooding. Ms. Gibbs responded that they had spoken with the Church and the Church does not seem to care. Ms. Gibbs requested that the decision on the project be continued in order for a barrier plan to be put in place. Chair White asked if there were any other input on the item. Hearing none, Chair White asked for further discussion by the Commissioners. Commissioner Griffith stated he thought it would be best to table the item until the Commission had a chance to look into it further. Staff stated the next meeting would be February 17, 2016 and the item could be put on that agenda. The consensus from the commission was to continue the item until the next regular meeting in order to address the barrier issue of the project. Staff will inform applicant that the item will be held over until the next Planning Commission meeting on February 17, 2016, and work with the property owner regarding screening the structures.

**d. Use Permit (File #UP-15-07) and Design Review (File #DR-15-07) Applicant/Owner: Shahab Tehrani**

Assessors' Parcel Number 005-370-022/1237 W. Wood Street/Highway Commercial Zone/General Commercial Land Use Designation/Establish a Planned Sign Program for Commercial Complex and approve new façade improvements to an existing commercial building.

Chair White introduced the item. Ms. Mantele presented the agenda report to the Commission. Mr. Amaro had provided staff a rendition of the building complex showing how it would look after the improvements which was provided to the Commissioners. Ms. Mantele stated that Mr. Amaro, Mr. Tehrani's representative, was in the audience if the Commission had any questions regarding the improvements. Discussion was held among the Commissioners, staff and Mr. Amaro regarding the aspects of the project. Mr. Amaro stated that the owner would like the whole complex, which includes O'Reilly's, to match as closely as possible.

Commissioner Griffith made a motion to approve the next resolution in line with the amendments to the conditions to include sealing the parking lot and provide a landscape plan with irrigation. The landscape plan can be approved administratively by staff and Commission Chair. The motion was seconded by Commissioner Woods. The motion carried.

AYES: GRIFFITH, WHITE, WOODS, BENNINGFIELD

NOES: NONE

ABSTENTION: NONE

Staff stated that all use permits have a 10 day appeal period. Staff will send out an approval letter which will include the new conditions per the motion.

**COMMISSION COMMENTARY:**

1. Ms. Mantele reported that staff took in an application today for reuse of the existing Budweiser building. A new wholesale meat distribution business with a small retail store is relocating from Hayward. Due to the noticing timeline, the project should be on the February 17, 2016 meeting. The applicant will be doing some upgrades to the existing building/facilities. Commissioner Woods asked if staff was told how many, if any new jobs would be available. The application states there are 7 employees, but does not mention new jobs and is a family owned business.

2. A short discussion between staff, Larry Mello, who was in the audience, and the Commission ensued regarding the agenda items for the next meeting.
3. Chair White reported she saw a legal notice in the paper for the County for their zone changes for their Housing Element for multi-family residential. She did not have the full details. Chair White also stated she had seen where the people in Durham were upset about the Dollar General going in.
4. Ms. Mantele stated that there is a Planning Commission Academy coming up, March 2<sup>nd</sup>, in San Ramone. If any of the Commissioners are interested in going, there is funding, and they will need to contact either Ms. Mantele or the finance director. February 2<sup>nd</sup> is the deadline to register for academy.
5. Commissioner Griffith stated there will be a two day Sustainability conference in March in Chico if anyone was interested.

**ADJOURNMENT:** Meeting adjourned at approximately 8:07 pm.

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CANDIS WOODS – Chair

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Maria Ehorn – Minute Clerk

**Planning Commission Agenda Report:****February 17, 2016**

Project: Design Review (File# DR-16-01) Solar Ground Mount System  
 Applicant(s)/Owner: Alternative Energy Systems, Inc/St. Monica's Catholic Church  
 Project Location: 1149 W. Wood Street  
 Parcel No: 005-370-010  
 Zoning: R-1 (Single Family Residential)  
 General Plan: Low Density Residential

**This item was continued from the January 20, 2016 Planning Commission meeting****Project Description/Background**

The applicants, Alternative Energy Systems, Inc. on behalf of St. Monica's Catholic Church, had submitted a Design Review application for Commission's consideration for the installation and construction of two (2) six-foot high ground mounted photovoltaic solar systems, to encompass 3,321.88 square foot of area and to be located north of the existing Walden Academy School buildings. Solar modules will be placed upon two structures, which at the highest point are approximately six feet in height and two feet at the lowest point. The ground mount system will be placed in footings for support. A six foot high chain link fence is being proposed to be placed around the solar system.

At the January 20<sup>th</sup> meeting, staff presented the report to the Commission for their review and consideration. The Commission discussed the project and questions were asked of the Building Official and Staff. Neither the applicants nor property owners were present to address questions from the Commission or the concerns presented by a member of the public who had concerns about having to view the structure from their property. The public member asked whether some sort of botanical screening could be placed on the north side of the fenced area so as to block their view of the solar structure. Upon further discussion the Commission determined the item should be continued until the next regular Planning Commission meeting and directed Staff to work with the property owner regarding solutions for screening the solar structure.

**Wall, Fences or Screening:** A six foot chain link fence is proposed to be placed around the west and south sides of the two solar system structures. An existing six foot chain link fence is located on the north and east property lines. Staff contacted the applicant regarding the Planning Commission decision and requested a solution to the screening issue. Alternative Energy Systems, Inc. discussed the public's concern with the property owner and has proposed the following solution; lower the structure from the 2 foot high (at lowest end) height to a height of only one (1) foot and lowering the structure from the 6 foot (the highest point) to 5'7" which will result in the six foot chain link fence being a bit higher than the solar structures. Additionally the proposal includes slatting the entire six-foot chain link fence on all four sides in order to screen the solar structures. Staff discussed the suggestion the planting of botanicals along the fence, as suggested by the public member who spoke at the Planning Commission meeting on January 20<sup>th</sup>; however there is no irrigation system in that area of the property and the cost to install one and provide maintenance and upkeep to the system would be cost prohibitive for the property owner.

**STAFF RECOMMENDATION:**

Staff recommends the Commission discuss the proposed screening solution presented by the applicant on behalf of St. Monica's Church and if approve, adopt the attached resolution recommending Design Review approval for installation and construction of two ground mounted photovoltaic solar system structures encompassing 3,331.88 square foot area to be used by the St. Monica's Catholic Church for electrical feed backing and approve the proposed screening solution, subject to the conditions of approval as shown in Attachment #2.

**PLANNING COMMISSION OPTIONS:**

- 1) Recommend approval of the Design Review proposal and subject to Conditions of Approval as described in Attachment 2
- 2) Deny the Design Review application with appropriate findings for denial

**Attachments:**

1. Draft Planning Commission Resolution
2. Proposed Conditions of Approval
3. Slatted Fence Plan

Submitted by:



Karen Mantele  
Principal Planner

PC RESOLUTION NO. \_\_\_\_\_-2016

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILLOWS GRANTING DESIGN REVIEW APPROVAL (FILE # DR-16-01) TO ST MONICA’S CATHOLIC CHURCH FOR INSTALLATION AND CONSTRUCTION OF TWO STRUCTURES FOR A GROUND MOUNTED PHOTOVOLTAIC SOLAR SYSTEM TO ENCOMPASS 3331.88 SQUARE FEET AND FENCING TO ENCOMPASS THE AREA FOR PROPERTY LOCATED AT 1149 W. WOOD STREET, ASSESSORS PARCEL NUMBER 005-370-010**

**WHEREAS**, the applicant, Alternative Energy Systems, Inc. on behalf of St. Monica’s Catholic Church, have filed a Design Review planning application to install and construct two ground mounted photovoltaic solar system structures on said property, and,

**WHEREAS**, City of Willows Municipal Code Section 2.45.030 requires new physical improvements and fences to have Design Review approval; and

**WHEREAS**, the Planning Commission did, on January 20, 2016 , hold a public hearing to consider all public oral and written comments, letters and documents, staff reports, and all other documents and evidence which are a part of the Record; and,

**WHEREAS**, the Planning Commission did, on January 20, 2016 continue the item until February 17, 2016 for further review and consideration; and

**WHEREAS**, the Planning Commission has reviewed all evidence submitted in connection with the application, including public testimony, staff report, supporting documentation, City codes and regulations, and all other relevant documents and evidence which are part of the record of proceedings; and,

**WHEREAS**, the Planning Commission finds that the proposal is considered exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3, New Construction or Conversion of Small Structures.

**NOW THEREFORE, BE IT RESOLVED**, that the Planning Commission of the City of Willows does hereby find that the Design Review proposal to install and construct two ground mounted photovoltaic solar system structures is consistent with the City of Willows General Plan, the City of Willows Municipal Code, and hereby approves Design Review File #DR-16-01, subject to the attached conditions of approval set forth in Attachment #2; and plan set forth in Attachment #3.

**IT IS HEREBY CERTIFIED** that the foregoing Resolution was duly adopted at a regular meeting of the Planning Commission of the City of Willows on Wednesday, the 17<sup>th</sup> day of February, 2016, by the following vote, to wit:

AYES \_\_\_\_\_  
NOES \_\_\_\_\_  
ABSTAIN \_\_\_\_\_  
ABSENT \_\_\_\_\_

APPROVED: \_\_\_\_\_  
\_\_\_\_\_, Chairperson

ATTEST: \_\_\_\_\_  
Recording Secretary

**Design Review File #DR-16-01**  
**CONDITIONS OF APPROVAL FOR**  
**ST. MONICA'S CATHOLIC CHURCH**  
**For property located at**  
**1149 W. Wood Street/APN; 005-370-010**

**PC approval date: \_\_\_\_\_,2016**

**General**

1. That the applicant/developer shall enter into a Pass Through Agreement with the City of Willows to pay the cost of all planning review, plan checking and field inspection of this development.
2. The approval of this project shall be subject to the latest adopted Ordinances, Resolutions, Policies and fees of the City of Willows.
3. The developer shall adhere to the design and specification of the Architectural Design Review approval which allows the property owner to install two ground mounted photovoltaic solar system structures and a six foot high chain-link fence along on the west and south sides, with slats to be installed in all four sides of the fenced area.
4. The Architectural Design Review approval shall expire in one year unless otherwise stipulated by the Planning Commission. The applicant may apply to the Building Official for an extension of not more than one year from the original date of expiration, if he finds that there has been no substantial change in the factual circumstances surrounding the originally approved design. Substantial changes and any further extension beyond one year shall require Planning Commission approval.

**Building Department**

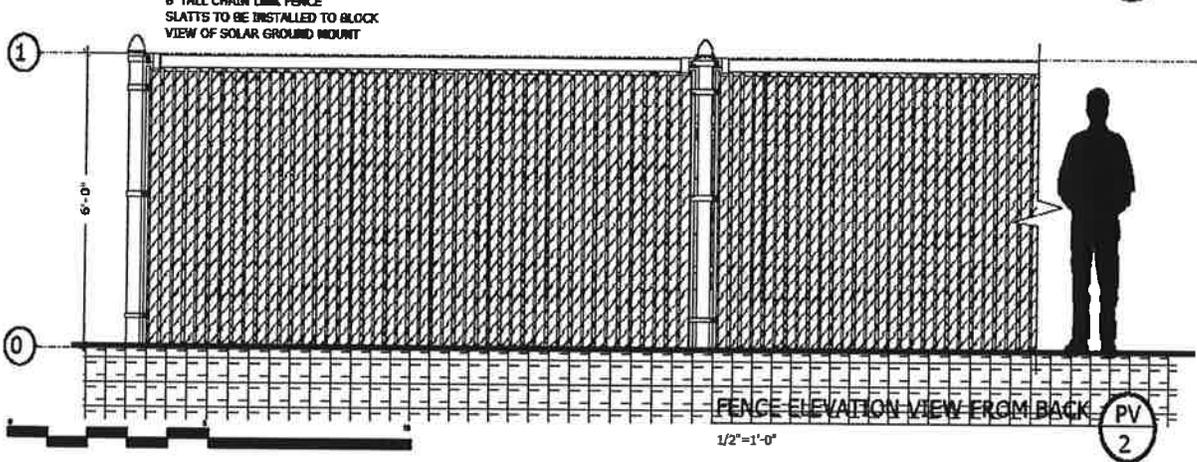
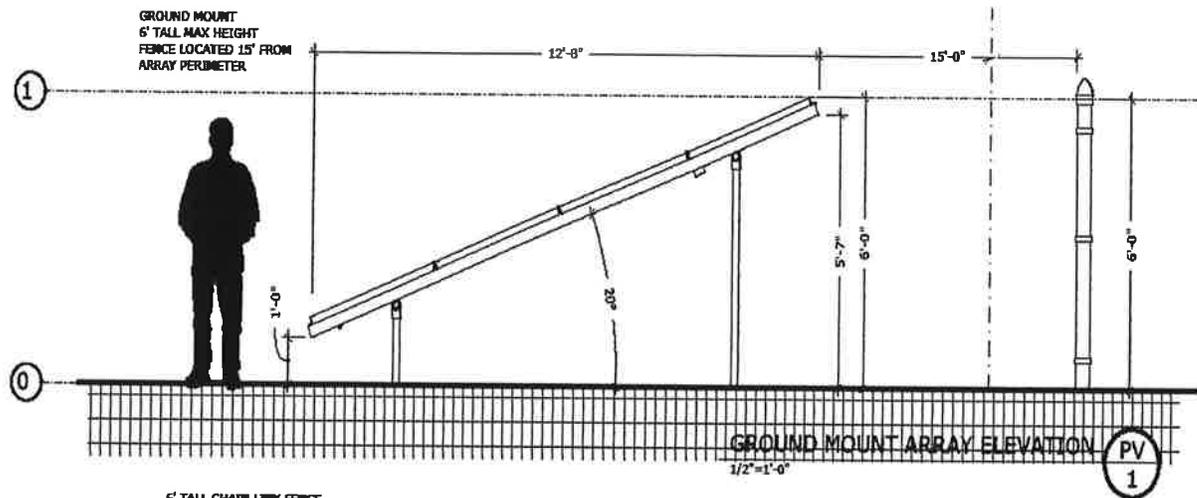
5. All of the conditions of approval shall be shown on the set of plans prepared for review.
6. The applicant shall submit 3 complete sets of plans and wet signed and sealed engineering calculations, electrical drawings and calculations and cut sheets for all products to the Willows Building Department for review and approval.
7. The applicant shall pay plan check deposit fees at the time of building permit/plan submittal.
8. The plans shall be designed based upon the currently adopted, applicable federal, state and local codes and ordinances.
9. Applicant shall allow 30 day review time for the initial plan submittal.
10. The physical location of the proposed project is 1149 West Wood Street. Change all references.
11. The working hours are from 7am to 6pm Monday through Friday. Alternate days shall be approved by special request of the City Manager.

12. A soils report or letter from a licensed engineer to substantiate a soils report shall be used in the footing design and submitted with the plan sets.

**Fire Department**

13. Re-compact the fire road where the underground conduit will be trenched.
14. Shall provide a knox lock on gate/entrance to solar area. Location to be approved by the Fire Chief.

Slatted Fence Plan



13420 HWY 99  
CHICO, CA 95923  
PHONE (530) 346-0880  
FAX (530) 342-2800  
info@energystorify.com

energystorify.com  
Alternative Energy Systems Inc.

SAINT MONICA CATHOLIC CHURCH  
1129 W. WOOD ST.  
WILLOWS CA, 95588  
APN: 005-370-0100 PH: 530-834-9280

SCALE  
APPROVED  
DESIGNED  
CHECKED  
C. BERTON  
CIVIL ENGINEER  
SEALED  
DATE

PV-3.2

**Planning Commission Agenda Report:****February 17, 2016**

Project: Conditional Use Permit (File# UP-16-01) and Design Review (File# DR-16-02) Wholesale distribution/warehouse use, remodel an existing building and do site improvements

Applicant(s)/Owner: Edgar & Julia Mercado/Robert Carter

Project Location: 560 N. Tehama Street

Parcel No: 005-364-001

Zoning: General Commercial (CG) zoning

General Plan: General Commercial

**Project Description**

The applicants Edgar and Julia Mercado have submitted a Planning Application requesting Use Permit & Design Review approvals from the Commission to establish a wholesale meat distribution and warehouse business within an existing 8,180 SF commercial building, and to remodel the existing building and provide site improvements/upgrades to the landscaping and parking lot. The building previously was used as a beer distributorship warehouse; however has not been in use for approximately 15 years.

The proposed Mercado Wholesale Meat Distributorship business will house both a freezer and cold storage areas along with a processing room, offices, restroom, warehouse space and a small retail area for the public to purchase meat products to include beef, pork, poultry and goat. Limiting processing for the on-site retail sales will occur. There will be seven employees, two of which will be drivers and work off site. The two delivery vans/trucks (20' and 32' long) will pick up products in the early morning hours to start the daily deliveries. Large tractor/trailer (50' long) will deliver product to the warehouse approximately three times a week. Operation hours will be seven days a week from 7 am to 5:30 pm. A truck circulation plan is attached to show how all these vehicles will circulate in and out of the site.

**Review Process:**

This matter is before the Planning Commission pursuant to Chapter 2.45, and Section 18.60.030(7) of the City of Willows Municipal Code.

**Zoning/ General Plan Consistency:**

The project site is zoned General Commercial (CG), which allows for various permitted uses, including retail sales (Section 18.60.020(1)). Wholesale distribution uses and warehouses are permitted with conditional use permit approval (Section 18.60.030(7)). Zoning to the north, south, and west is the same as the project site, General Commercial. The RR is east of the project site, with Light Industrial zoning beyond that.

The General Plan Land Use designation for this site is General Commercial pursuant to the City's General Plan Land Use Map. The proposed use is consistent with this designation, which designation provides for a variety of general retail businesses and service related businesses.

**Use Permit:**

The proposal is a request to allow the establishment of a distribution warehouse within an existing commercial building. This use is allowable as stated earlier, under Section 18.060.030(7) *Uses permitted with a Conditional Use Permit*. The retail use portion of the proposal is allowable and permitted under

Section 18.060.020(1) and not subject to a use permit. Per code Section 18.135.050 findings of fact must be made to allow for a conditional use permit.

**Findings of Fact**

Based upon the facts and conclusions contained within this staff report the following findings must be made in order to approve the applicant's Use Permit request:

1. That the use is consistent with the purposes of the district in which the site is located.
2. That the proposed location of the use and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
3. That the proposed use is in conformance with the General Plan.

These findings are addressed within the attached Draft Resolution.



**View looking south at building**



**Office and retail store area**

**Design Review Analysis (pursuant to Section 2.45.060):**

**Competent Design:** The building is an existing structure and no additions are proposed with this request.

**Relationship between Structures within the Development and between Structures and Site:** As stated the building is an existing structure, and surrounding structures to the south (*storage units*), to the west (*vacant market*), to the north (*vacant commercial*) and to the east (*Rail Road tracks*) have all been located there for some time. In the rear of the building are pads for the condenser units for the building. New condenser units will be placed there for the building use.



**Rear of Building**



**Looking east towards RR tracks**

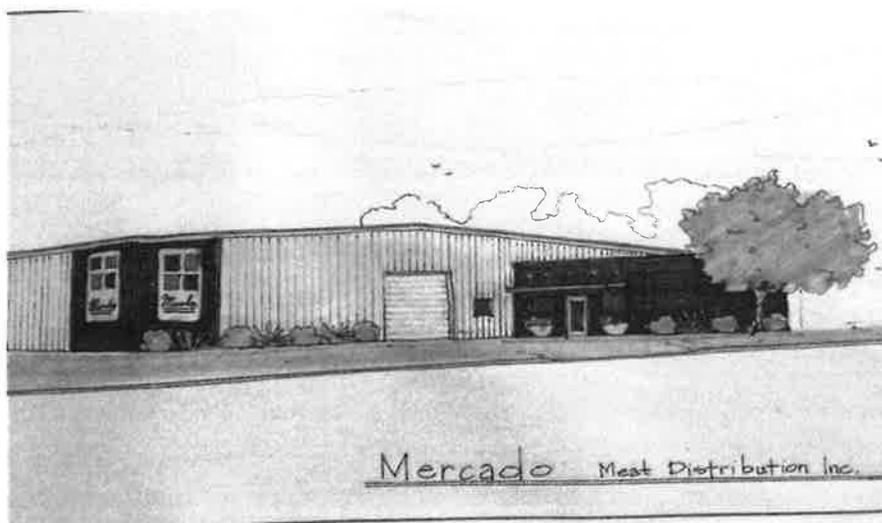
**Relationship between Development and Neighborhood:** The proposed project is a reuse of an existing building that has been vacant for over 15 years. The reuse of the building and remodeling proposed will enhance the neighborhood with its new use and upgrades.

**Materials and Colors Used:** The applicants propose to paint the main portion of the building an Almond Wisp (cream color) with an accent color of Stewart House Brown to be used on the office/retail pop out section of the building, and on the northwest corners of the building the Brown color will be used to provide an accent color. Signage for the business will be placed on these corners.

**Wall, Fences or Screening:** A new six foot high chain link fence is proposed on the west, north, and east sides of the property, along with two gates at both of the driveway entrances (west side). One gate will swing in and the other gate will be a slider. The county of Glenn Public Works Department requested that any fencing be kept away from the Storm Control Station gate on the east side.

**Surface Water Drainage:** The applicant is proposing to repave the site as it is in poor condition. Storm water currently drains to an adjacent offsite drain inlet located off the eastern property line. This drain is connected to the storm water system operated by the Glenn County Public Works Department. Much of the newly paved area will be used for delivery truck maneuvering. These trucks will use an existing loading dock located behind the building on the eastern property line adjacent to the Rail Road.

**Drives, Parking and Circulation:** The adjoining features to the project site include existing pavement with curbs, and gutters. There will be two driveways to enter the property along the west side of the property. Trucks of all kinds will use the most northern driveway. A second driveway located at the southern property line is accessible for either employee or visitor parking or handicap parking. The anticipated route that the larger delivery trucks will take to deliver to the property is from the north (Rd 39) or from the south (along Tehama Street). The site plan indicated 11 parking spaces on the property with one handicap parking space. This number satisfies the proposed uses per the parking regulations. Warehouse use requires 1 parking space per 2000 SF plus one space for each 2 employees on the largest shift. (*4 + 4 employee spaces*) Office space use requires 1 parking space per 300 SF. (*1 space*) Retail uses require 1 parking space per 300 SF of area (*2 spaces*). There will be one van accessible parking space which is in addition to the 11 spaces being provided. Two company vehicles will be parked onsite during non-operating hours.



**Rendering of proposed remodel of building**

**Environmental Review and Analysis**

The project has been reviewed pursuant to the California Environmental Quality Act (CEQA). Staff has determined that the proposal is exempt from further CEQA pursuant to CEQA Code Section 15301, Class 1, Existing Facilities.

In accordance with Section 18.135.030 notice of this public hearing was published in the local newspaper ten (10) days prior to the public hearing and all property owners as indicated on the latest secured Assessor’s records within 500 feet of the subject property were sent notice of the hearing. As of the date of preparation of this report no written public comments have been received.

**STAFF RECOMMENDATION:**

Staff recommends the Commission adopt the attached resolution recommending Use Permit and Design Review approval to establish a wholesale meat distribution and warehouse business within an existing 8,180 SF commercial building, and to remodel the existing building and provide site improvements/upgrades to the parking lot and landscaping, subject to the conditions of approval as shown in Attachment #2, site plan #3 and floor plan #4.

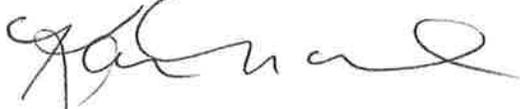
**PLANNING COMMISSION OPTIONS:**

- 1) Recommend approval of the Use Permit and Design Review proposals and subject to Conditions of Approval as described in Attachment 2
- 2) Deny the Use Permit and Design Review applications with appropriate findings for denial

**Attachments:**

- 1. Draft Planning Commission Resolution
- 2. Proposed Conditions of Approval
- 3. Site Plan
- 4. Floor Plan
- 5. Truck Circulation Plan

Submitted by:



Karen Mantele  
Principal Planner

**THE APPLICANT IS REMINDED THAT THERE IS A 10 (TEN) DAY APPEAL PERIOD FOLLOWING THE PLANNING COMMISSION DECISION ON THE USE PERMIT PURSUANT TO Chapter 18.135.060**

## PC RESOLUTION NO. \_\_\_\_\_-2016

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILLOWS GRANTING USE PERMIT AND DESIGN REVIEW APPROVAL (FILE # UP-16-01 AND #DR-16-02) TO EDGAR & JULIA MERCADO FOR ESTABLISHMENT OF A WHOLESALE MEAT DISTRIBUTION USE, TO REMODEL AN EXISTING BUILDING AND DO SITE IMPROVEMENTS FOR PROPERTY LOCATED AT 560 N TEHAMA STREET, ASSESSORS PARCEL NUMBER 005-364-001**

**WHEREAS**, the applicants, Edgar & Julia Mercado, have submitted a Planning Application for a Use Permit to establish a wholesale meat distribution warehouse use within an existing commercial building, and a Design Review request to remodel the existing commercial building and do site improvements including landscaping, parking lot and fencing on said property, and,

**WHEREAS**, the City of Willows Municipal Code Section 18.060.030(7) allows distribution warehouses in the General Commercial zoning district with Use Permit approval; and

**WHEREAS**, City of Willows Municipal Code Section 2.45.030 requires physical improvements and fences to have Design Review approval; and

**WHEREAS**, the Planning Commission did, on February 17, 2016 , hold a public hearing to consider all public oral and written comments, letters and documents, staff reports, and all other documents and evidence which are a part of the Record; and,

**WHEREAS**, notice of the Planning Commission meeting held on February 17, 2016, was published in a newspaper of general circulation in the City in accordance with law, and mailing to property owners within 400 feet were sent; and

**WHEREAS**, the Planning Commission has reviewed all evidence submitted in connection with the application, including public testimony, staff report, supporting documentation, City codes and regulations, and all other relevant documents and evidence which are part of the record of proceedings; and,

**WHEREAS**, the Planning Commission finds that the proposal is considered exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1, Existing Facilities; and

**WHEREAS**, the Planning Commission does find that the proposed use is consistent with the purposes of the district in which the site is located, as Section 18.160.030(7) allows for wholesale distribution uses and warehouses with an approved Use Permit; and

**WHEREAS**, the Planning Commission does find that the proposed location of the use and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity, as this site is an existing commercial structure and the conditions of approval to allow the use have been included in the conditions of this project to ensure the safety and welfare of the public are met; and

**WHEREAS**, the Planning Commission does find that the proposed use is in conformance with the General Plan, as the property is located within the General Commercial land use designation, which allows for a variety of general retail businesses and service related businesses.

**NOW THEREFORE, BE IT RESOLVED**, that the Planning Commission of the City of Willows does hereby find that the Use Permit proposal to establish a distribution warehouse and a Design Review proposal to remodel the existing commercial structure and install site improvements is consistent with the City of Willows General Plan, the City of Willows Municipal Code, and hereby approves Use Permit File# UP-16-01 and Design Review File #DR-16-02, subject to the attached conditions of approval set forth in Attachment #2; and plans set forth in Attachments #3 and #4.

**IT IS HEREBY CERTIFIED** that the foregoing Resolution was duly adopted at a regular meeting of the Planning Commission of the City of Willows on Wednesday, the 17<sup>th</sup> day of February, 2016, by the following vote, to wit:

AYES \_\_\_\_\_  
NOES \_\_\_\_\_  
ABSTAIN \_\_\_\_\_  
ABSENT \_\_\_\_\_

APPROVED: \_\_\_\_\_,  
\_\_\_\_\_, Chairperson

ATTEST: \_\_\_\_\_  
Maria Ehorn, Recording Secretary

Use Permit and Design Review (File #UP-16-01 and DR-16-02)  
**CONDITIONS OF APPROVAL FOR**  
**EDGAR & JULIA MERCADO MEAT DISTRIBUTION WAREHOUSE**

For property located at  
560 N Tehama Street/APN; 005-364-001

PC approval date: \_\_\_\_\_, 2016

**General**

1. That the applicant/developer shall enter into a Pass Through Agreement with the City of Willows to pay the cost of all planning review, plan checking and field inspection of this development.
2. The approval of this project shall be subject to the latest adopted Ordinances, Resolutions, Policies and fees of the City of Willows.
3. The developer shall adhere to the design and specification of the Architectural Design Review approval which allows for the remodeling of an existing commercial building, site improvements to include an overlay on the lot and six foot fencing on the north, east and west sides of said property.
4. If the use (establish a wholesale meat distribution warehouse use within an existing commercial building) is not made on the project subject to the permit within one (1) year after the date of granting the permit, then without further action, the permit shall be null and void and such use shall not be made of the property except upon the granting of a new permit.
5. This use permit is void one (1) year after the use permitted by such permit is discontinued.
6. The applicant shall first secure sign permit approval from the Planning Department prior to installation of any business signage.
7. All plans for additional uses, which are not covered by this review, shall be submitted to the City Manager/Planning Commission for review and approval prior to use.
8. On-site parking shall be provided in accordance with the City parking regulations, which require 11 parking spaces for the combined uses. If the parking is reconfigured, a revised parking plan shall be submitted to the City for review and approval.
9. The Architectural Design Review approval shall expire in one year unless otherwise stipulated by the Planning Commission. The applicant may apply to the Building Official for an extension of not more than one year from the original date of expiration, if he finds that there has been no substantial change in the factual circumstances surrounding the originally approved design. Substantial changes and any further extension beyond one year shall require Planning Commission approval.

**Building Department**

10. All of the conditions of approval shall be shown on the set of plans prepared for review.

11. The applicant shall submit 3 complete sets of plans, calculations, equipment spec sheets, submittals etc. to the Willows Building Department for review and approval.
12. The applicant shall submit a completed building permit application along with the plans.
13. The applicant shall pay plan check deposit fees at the time of building permit/plan submittal.
14. The plans and the project shall comply with all Federal, State and local codes and ordinances.
15. The proposed parcel is in a Flood Zone and shall comply with all Federal, State and local codes and ordinances regarding construction with a flood zone.
16. The proposed accessible parking location seems to be in an awkward location and if moved the area must comply with all of the current code requirements.
17. The working hours are from 7 am to 6 pm Monday through Friday. Alternate days shall be approved by special request of the City Manager.
18. Work shall not commence until all permits have been issued and fees paid.

#### **Fire Department**

19. Shall provide knox locks and possibly a knox box on the building. Location to be approved by the Fire Chief.
20. Addressing shall comply with WMC Section 15.15.100.

#### **Public Works Department**

21. Fencing shall not block gates to the County Pump Station, nor enclose pump station.
22. The City Public Works Department shall prune the street tree in front of the building.

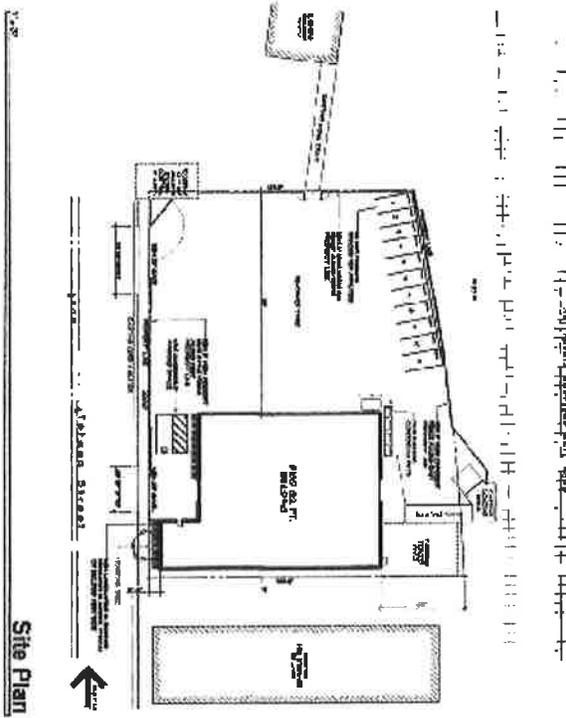
#### **County of Glenn Environmental Health Department**

23. The proposed meat processing and distribution facility will require a retail food facility permit and pre-construction plan check approval for the retail portion of the warehouse. The remaining operation may require California Department of Food and Agriculture permit and approval and United States Department of Agriculture approval. This facility will have access to public water and sewer and will not require Glenn County Environmental permits for these items.

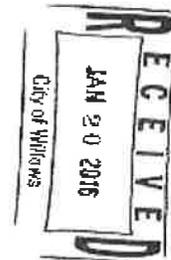
#### **County of Glenn Planning & Development Department**

24. Fencing shall be constructed near the County Storm Control Station so as not to prevent entrance to the station.

Site Plan



Site Plan



Project Information

PROJECT: MERCADO MEAT DISTRIBUTION  
 CLIENT: EDGAR & JULIA MERCADO  
 ADDRESS: 1111 N. 11TH ST., WILLIAMS, AZ 85546  
 DATE: 1/15/16  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]

A1	1-16	COMMERCIAL BUILDING IMPROVEMENT MERCADO MEAT DISTRIBUTION CLIENT: EDGAR & JULIA MERCADO 1111 N. 11TH ST., WILLIAMS, AZ 85546	Nathew Anan Design 1111 N. 11TH ST., WILLIAMS, AZ 85546
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Floor Plan

**Exterior Elevations**

**Floor Plan**

RECEIVED

JAN 20 2016

City of Willows

<b>A2</b>		<b>COMMERCIAL BUILDING IMPROVEMENT</b> MERCADO MEAT DISTRIBUTION OWNER: EDGAR & JULIA MERCADO 100 S. ...	<b>Mathew Aman Designs</b> <small>ARCHITECTURE &amp; INTERIOR DESIGN</small>
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**Planning Commission Agenda Report:****February 17, 2016**

Project: Conditional Use Permit (File #UP-16-02) /Request to allow establishment of a residential use  
 Applicant(s)/Owner: Michael & Monica Schwenne  
 Project Location: 459 N. Tehama Street  
 Parcel No: 005-403-012  
 Zoning: General Commercial (CG)  
 General Plan General Commercial

**Project Description**

The applicants, Michael & Monica Schwenne, have submitted a Planning application for a Use Permit, a request to establish a residential use (duplex) within an existing structure (approximately 920 SF per Assessors' Office) on a 7,500 SF lot at the corner of Vine and Tehama Street. The proposal is to make a studio in the front of the building (Tehama Street side) and a one-bedroom in the rear of the structure (Vine Street side). There is an unenclosed porch off the rear of the back unit. The property owner installed a fence around the front of the structure and around the north side for privacy and added some landscaping in the front to enhance the look.

**Review Process**

This matter is before the Planning Commission pursuant to Section 18.60.030(1) and 18.135 of the City of Willows Municipal Code.

**Zoning/ General Plan Consistency**

The project site is zoned General Commercial (CG), which allows various permitted uses. Section 18.60.030(1) allows for "*All uses permitted in any residential zones*" with a Conditional Use Permit. Zoning to the north, south and east is the same as the project site. Zoning to the west is R-1.

Parking requirements for a residential use per 18.120.020(1)(a) Parking Regulations, states two-family dwellings require a one car garage for each dwelling unit containing one bedroom. Therefore the requirement for parking for the duplex shall meet this code section resulting in either two (2) one-car garages or a two car garage for both units to share. Under Section 18.120.050 (General Requirements) it states that "*any new use established shall provide off-street parking facilities*". Parking or backing area within parking lot shall not extend into the public right-of-way. The site plan submitted with the application indicates a driveway and parking area; however does not show the exact location of the required garage(s). A revised site plan shall be submitted prior to construction of the parking structure(s).

The General Plan Land Use designation for this site is General Commercial pursuant to the City's General Plan Land Use Map. The designation provides for a variety of retail business and service related uses with no mention of residential uses.

The project was reviewed internally by city departments for comments/conditions which attached proposed conditions of approval reflect those comments.

**Environmental Review and Analysis**

The project has been reviewed pursuant to the California Environmental Quality Act (CEQA). Staff has determined that the proposal is exempt from further CEQA pursuant to CEQA Code Section 15301, Class 1 Existing Facilities.

### **Findings of Fact**

Based upon the facts and conclusions contained within this staff report the following findings must be made in order to approve the applicant's Use Permit request:

1. That the use is consistent with the purposes of the district in which the site is located.
2. That the proposed location of the use and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
3. That the proposed use is in conformance with the General Plan.



In accordance with Section 18.135.030 notice of this public hearing was published in the local newspaper ten (10) days prior to the public hearing and all property owners as indicated on the latest secured Assessor's records within 500 feet of the subject property were sent notice of the hearing

### **STAFF RECOMMENDATION:**

Staff recommends adoption of the attached resolution recommending Use Permit approval to establish a residential use (duplex) within an existing structure, subject to the conditions of approval as shown in Attachment #2., and site and floor plans Attachments #3 & #4.

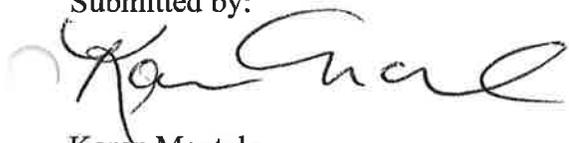
### **PLANNING COMMISSION OPTIONS:**

- 1) Recommend approval of the Use Permit proposal and subject to Conditions of Approval as described in Attachment 2
- 2) Deny the Use Permit application with appropriate findings for denial

### **Attachments:**

1. Draft Planning Commission Resolution
2. Proposed Conditions of Approval
3. Site Plan
4. Floor Plan
5. APN map

Submitted by:

A handwritten signature in black ink, appearing to read 'Karen Mantele', written over a horizontal line.

Karen Mantele  
Principal Planner

**THE APPLICANT IS REMINDED THAT THERE IS A 10 (TEN) DAY APPEAL PERIOD FOLLOWING  
THE PLANNING COMMISSION DECISION ON THE USE PERMIT**

PC RESOLUTION NO. \_\_\_\_\_-2016

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILLOWS GRANTING USE PERMIT APPROVAL (FILE # UP-16-02) TO MICHAEL & MONICA SCHWENNE TO ESTABLISH A RESIDENTIAL USE (DUPLEX) WITHIN AN EXISTING STRUCTURE FOR PROPERTY LOCATED AT 459 N. TEHAMA STREET, ASSESSORS PARCEL NUMBER 005-403-012**

**WHEREAS**, the applicant, Michael and Monica Schwenne have filed a Planning application for a Conditional Use Permit to establish a residential use within an existing structure, and,

**WHEREAS**, City of Willows Municipal Code Section 18.60.030(1) allows for a residential use in the General Commercial zone upon first securing Use Permit approval from the Planning Commission, and

**WHEREAS**, notice of the Planning Commission meeting held on February 17, 2016, was published in a newspaper of general circulation in the City in accordance with law, and mailing to property owners within 500 feet were sent; and,

**WHEREAS**, the Planning Commission did, on February 17, 2016, hold a public hearing to consider all public oral and written comments, letters and documents, staff reports, and all other documents and evidence which are a part of the Record; and,

**WHEREAS**, the Planning Commission has reviewed all evidence submitted in connection with the application, including public testimony, staff report, supporting documentation, City codes and regulations, and all other relevant documents and evidence which are part of the record of proceedings; and,

**WHEREAS**, the Planning Commission finds that the proposal is considered exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 Existing Facilities; and

**WHEREAS**, the Planning Commission does finds that the proposed use is consistent with the purposes of the district in which the site is located, as residential uses are allowed with a Conditional Use Permit within the General Commercial Zoning District per WMC section 18.60.030(1); and

**WHEREAS**, the Planning Commission does find that the proposed location of the use and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity, as conditions of approval incorporate provisions which project will not be detrimental to the public health, safety or welfare; and

**WHEREAS**, the Planning Commission does find that the proposed use is in conformance with the General Plan, as the property is located within the General Commercial designation.

**NOW THEREFORE, BE IT RESOLVED**, that the Planning Commission of the City of Willows does hereby find that the Use Permit proposal to establish a residential use within an existing structure is consistent with the City of Willows General Plan, the City of Willows Municipal Code, and

hereby approves Use Permit File# UP-16-02, subject to the attached conditions of approval set forth in Attachment #2; and site plan and floor plan, Attachments #3 & #4.

**IT IS HEREBY CERTIFIED** that the foregoing Resolution was duly adopted at a regular meeting of the Planning Commission of the City of Willows on Wednesday, the 17<sup>th</sup> day of February, 2016, by the following vote, to wit:

AYES \_\_\_\_\_  
NOES \_\_\_\_\_  
ABSTAIN \_\_\_\_\_  
ABSENT \_\_\_\_\_

APPROVED: \_\_\_\_\_  
-----, Chairperson

ATTEST: \_\_\_\_\_  
Recording Secretary

**USE PERMIT CONDITIONS OF APPROVAL  
FOR  
Michael & Monica Schwenne  
FOR PROPERTY LOCATED AT  
459 N. Tehama Street/APN; 005-403-012**

**PC approval date: \_\_\_\_\_, 2016**

**General**

1. That the applicant/developer shall enter into a Pass Through Agreement with the City of Willows to pay the cost of all planning review, plan checking and field inspection of this development.
2. If the use (establishing a residential use) is not made on the project subject to the permit within one (1) year after the date of granting the permit, then without further action, the permit shall be null and void and such use shall not be made of the property except upon the granting of a new permit.
3. This use permit is void one (1) year after the use permitted by such permit is discontinued.
4. All plans for additional uses, which are not covered by this review, shall be submitted to the City Manager/Planning Commission for review and approval prior to use.
5. The approval of this project shall be subject to the latest adopted Ordinances, Resolutions, Policies and fees of the City of Willows.
6. On-site parking shall be provided in accordance with the City parking regulations Section(s) 18.120.020(1)(a) and 18.120.050.
7. Any building mounted and site lighting shall be shielded lights, down lights, and or full cut off lights so that the bulb is not visible from off-site and light does not create glare or hazard onto adjoining properties/streets.

**Building Department.**

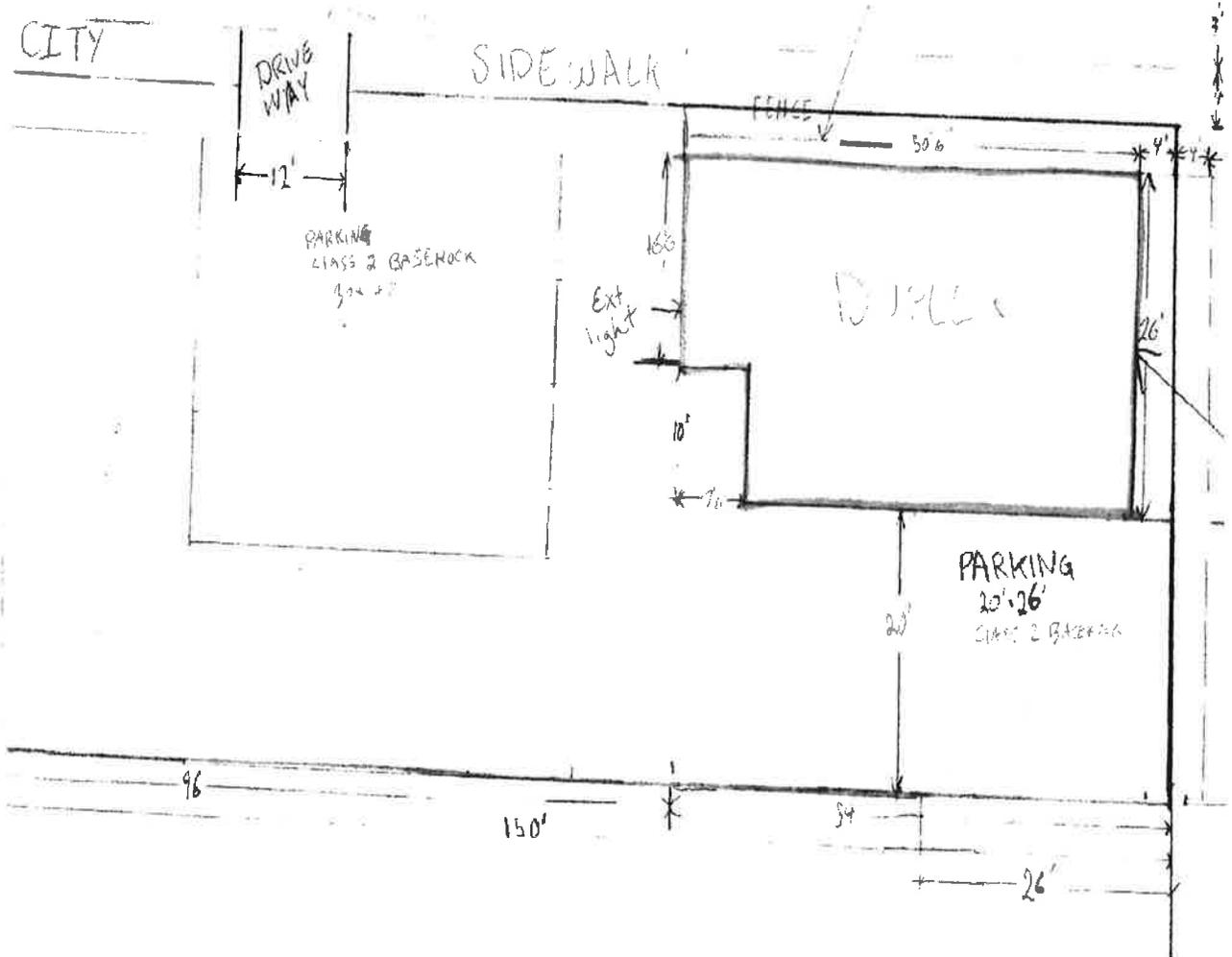
8. The submitted plans and scope of work are somewhat unclear. If any work is proposed to facilitate the proposed change of use, the applicant shall be required to obtain all required permits and approval.
9. The applicant will be responsible to pay the current sewer rates as they apply to multi-family.

**Fire Department**

10. Addressing shall comply with WMC Section 15.15.100.
11. Each unit shall comply with the California Fire Code regarding smoke detectors.

12. Any changes or modifications shall be under a building permit and shall meet California Fire Code.

Site Plan



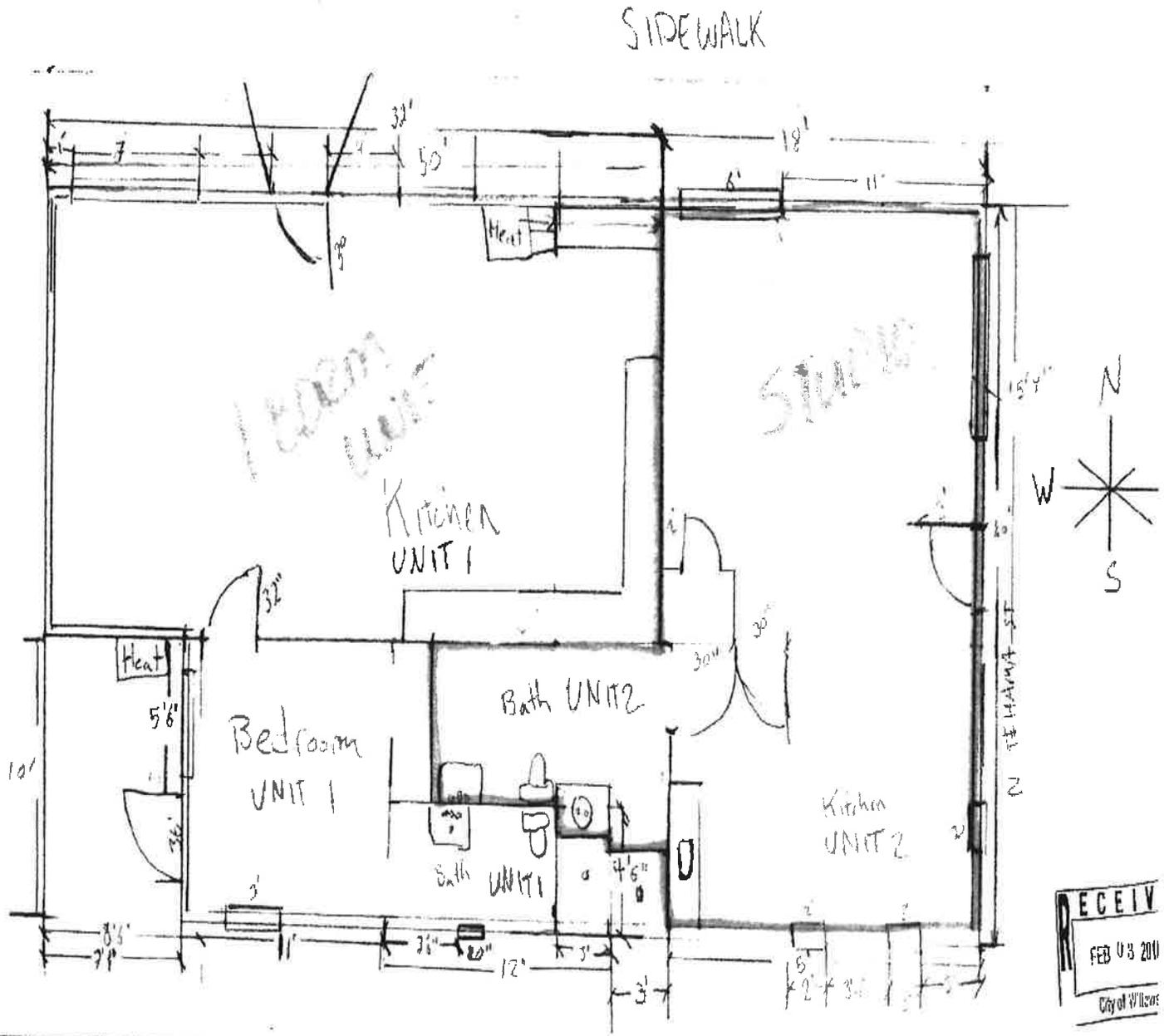
52 2801

SCALE 1/8" = 1 FOOT



RECEIVED  
FEB 03 2016  
CITY OF WICHITAS

Floor Plan

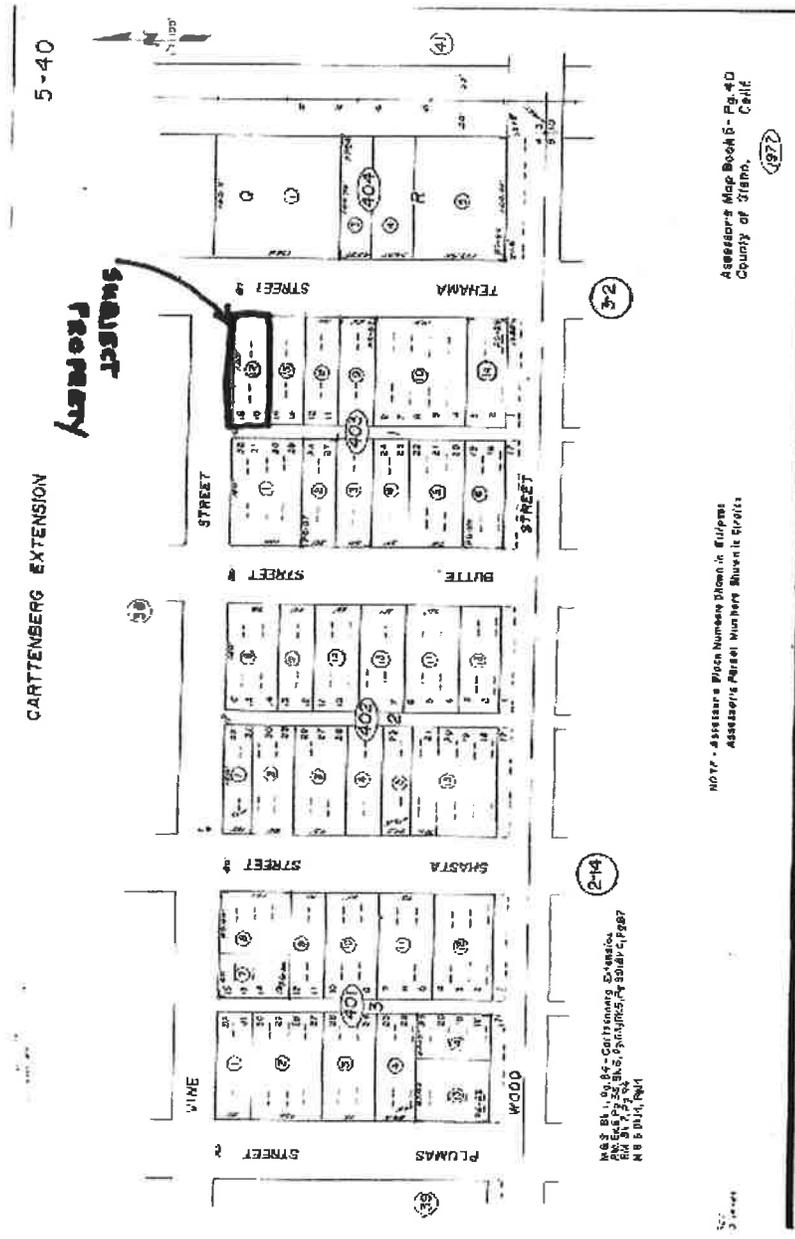


FLOOR PLAN 459 N. TEHAMA

Willows CA 95988

By Mike Schwenne 1-23-16

APN Map



Map 2, 2014, 2015 - Cartenberg Extension  
 SWAIGST PROPERTY  
 N 8 E 0114, 0114, 0114

NOT - Assessor's Parcel Numbers Shown in Ellipses  
 Assessor's Parcel Numbers Shown in Circles

Assessor's Map Book 5 - Pg. 40  
 County of Stanislaus  
 1877

**Planning Commission Agenda Report:**

**January 20, 2016**

Project: Development Agreement with California Land Investors, LLC on behalf of the City of Willows

**Summary**

On July 27, 2015, The City was awarded an EDA Grant to assist with infrastructure improvements associated with the development of certain commercial property owned by Basin Street, LLC located approximately at Highway 99 and County Road 57, known as the “*North Valley Commercial Center Project*.” Council approved the grant award on September 8, 2015 and directed staff to prepare a development agreement with Basin Street, LLC.

Staff has drafted an agreement with California Land Investors, LLC doing business as Basin Street Properties (hereinafter “Basin Street”) incorporating appropriate performances including contribution of Basin Street of approximately \$535,715 in matching monies associated with the conditions of the EDA Grant Award. The funding opportunities will be in support of the necessary infrastructure improvements; including Highway 99 traffic accommodations, bridge work necessary to access the Business Park, main street/entry-way, frontage improvements, including water and sewer and associated improvements to commence development of the North Valley Commercial Center Project.

Grants and cooperative agreements made under these programs are designed to leverage existing regional assets and support the implementation of economic development strategies that advance new ideas and creative approaches to advance economic prosperity in distressed communities.

As mentioned above, Basin Street has agreed to reimburse the City in the amount of approximately \$535,715 over the span of five years, payable in annual installments. The interest rate payable to the City is 5%. Thus, the City is net zero dollars in terms of repayment of the matching funds. These measures are included in the proposed/attached development agreement. Funding commitments from the City of Willows and Basin Street, in equal amounts of \$535,715 as conditions associated with the acceptance of the EDA Grant match in the amount of not less than \$1,071,429.00.

As a final condition of approval of the project and in concert with the development agreement, the assets created by the construction of streets, utilities and other public improvements, are always dedicated or transferred back to the ownership/control of the City of Willows. These improvements are essential elements in the economic enhancements of the project site. It is therefore common practice for municipal agencies to share in the development burden of this type of business park investment environment.

**STAFF RECOMMENDATION:**

Staff recommends adoption of the attached resolution recommending the City Council adopt an ordinance approving the Development Agreement between the City of Willows and California Land Investors, LLC.

Attachments:

1. Draft Resolution
2. Development Agreement

Submitted by:

A handwritten signature in black ink, appearing to read "Karen Mantele". The signature is fluid and cursive, with a large initial "K" and "M".

Karen Mantele  
Principal Planner

PC RESOLUTION NO. \_\_\_\_\_-2016

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILLOWS RECOMMENDING TO THE CITY COUNCIL TO ADOPT AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF WILLOWS AND CALIFORNIA LAND INVESTORS, LLC**

**WHEREAS** California Land Investors, LLC, doing business as Basin Street Properties (hereinafter "Basin Street") holds title to approximately 207 acres of real property presently located within the corporate limits of the City of Willows situated within a high-visibility area located adjacent to U.S. Hwy 99 and Interstate 5, development of which would be conducive to and consistent with the long-term planned economic development of the City; and,

**WHEREAS**, Basin Street has expressed to the Council the company's desire to develop, on approximately 39 acres of the property (the "Initial Development Site") industrial, commercial, and manufacturing improvements and further desires to make additional residential and potential retail improvements on the remaining portions of the property in the future; and

**WHEREAS**, Basin Street has determined that the present infrastructure on and adjacent to the property is not now adequate to support the development and use of the property and use of the Initial Development Site and that various infrastructure improvements will be required to support the construction and operation of the industrial and commercial development Basin Street, LLC, plans to make on the Initial Development Site and eventually on the balance of the aforesaid property; and

**WHEREAS**, Basin Street has agreed to contributions to public infrastructure improvements funded by an EDA Grant Award previously accepted by Council, including the Initial Development Site, on the condition that the City commit to assist Basin Street, LLC, with meeting the infrastructure needs thereof as described in a proposed development agreement between Basin Street, LLC, and the City that has been heretofore furnished to and reviewed by the Mayor and the members of the Council and is ordered attached to the minutes of the meeting at which this resolution is adopted; and

**WHEREAS**, the Planning Commission has conducted a public hearing at its regularly scheduled meeting of February 17, 2016 on the application for a development agreement; and,

**WHEREAS**, notice of the public hearing and the Planning Commission's consideration of the application for the subject development agreement was published in the Sacramento Valley Mirror commencing on February 6, 2016; and

**WHEREAS**, the Planning Commission has reviewed all evidence submitted in connection with the Development Agreement, including public testimony, staff report,

supporting documentation, City codes and regulations, and all other relevant documents and evidence which are part of the record of proceedings.

**NOW THEREFORE, BE IT RESOLVED**, that the Planning Commission of the City of Willows has reviewed the aforementioned Development Agreement and hereby recommends the City Council adopt an Ordinance approving the Development Agreement between the City of Willows and California Land Investors, LLC in consideration of the mutual benefits, covenants, and agreements described and set forth in the aforesaid agreement, a copy of which was presented at the meeting at which this resolution was adopted.

**IT IS HEREBY CERTIFIED** that the foregoing Resolution was duly adopted at a regular meeting of the Planning Commission of the City of Willows on Wednesday, the 17<sup>th</sup> day of February, 2016, by the following vote, to wit:

AYES \_\_\_\_\_  
NOES \_\_\_\_\_  
ABSTAIN \_\_\_\_\_  
ABSENT \_\_\_\_\_

APPROVED: \_\_\_\_\_  
\_\_\_\_\_, Chairperson

ATTEST: \_\_\_\_\_  
Recording Secretary

**Development Agreement**

RECORDING REQUESTED BY  
AND WHEN RECORDED, RETURN TO:

City of Willows  
201 North Lassen Street  
Willows, California 95988

Attention: City Clerk

**DEVELOPMENT AGREEMENT**

**BETWEEN**

**CITY OF WILLOWS**

**AND**

**CALIFORNIA LAND INVESTORS LLC**

**WILLOWS, CALIFORNIA**

**Dated: \_\_\_\_\_, 2016**

## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (hereafter "Agreement") is made and entered into on \_\_\_\_\_, 2016, by and between the CITY OF WILLOWS, a California municipal corporation (hereafter "City"), and CALIFORNA LAND INVESTORS LLC, a California limited liability company ("Developer"), pursuant to the authority of Sections 65864 et seq. of the California Government Code.

### RECITALS

- A. California Government Code Section 65864 et seq. authorizes the City to enter into an agreement 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
- B. Previously, Developer submitted an application to develop certain real property owned by Developer with 453 single family homes and a 65 acre commercial/industrial business park (the "Project").
- C. City has approved various land use approvals in connection with the development of the Project, including those listed on Exhibit A attached hereto (collectively, together with any approvals or permits now or hereafter issued with respect to the Project, the "Project Approvals"); and
- D. Pursuant to the California Environmental Quality Act ("CEQA") the City prepared an Initial Study and Mitigated Negative Declaration ("MND") for the Project. The Residential MND was adopted by the Planning Commission on July 29, 2009, and the Commercial MND was adopted by the City Council on October 12, 2010. Pursuant to CEQA, a mitigation/monitoring program for the Project was approved by the City Council; and
- E. The purpose of this Agreement is to facilitate the implementation of the Project Approvals through the development of the Project, thereby realizing the public benefits to City and private benefits to Developer, including those described in these Recitals. The development of the Project requires a major investment by the Developer in public facilities, substantial front-end investment in on-site and off-site improvements, dedications of land, participation in other programs for public benefit and purposes, and substantial commitments of resources to achieve both private benefits of the Project for the Developer and the public purposes and benefits of the Project for the City. The Developer will be unable to make and realize the benefits from such commitments of land and resources without the assurances of a realized Project provided by this Agreement.
- F. By entering into this Agreement, the City Council finds that, among other things, this Agreement is consistent with its General Plan; that this Agreement is compatible with the uses authorized in, and the regulations prescribed for, the Property; that this Agreement is in conformity with public convenience, general welfare and good land use practice; that this Agreement will not be detrimental to the health, safety, or general welfare; that this Agreement will not adversely affect the orderly development of property or the preservation of property values.

G. Developer is willing, pursuant to the terms of this Agreement, to make expenditures and provide benefits to the City including, without limitation, a contribution of \$535,715.00 toward the cost of certain off-site work the City intends to perform as further described on Exhibit B and Exhibit C, and the performance of various on-site and off-site improvements and dedications incorporated into the Project Approvals, thus conferring a public benefit upon the City. Prior to entering into this Agreement, the City and Developer anticipated that Grant (defined in Exhibit B) funds would pay for the remaining design and engineering costs associated with such off-site work, which are estimated to be \$186,000.00 ("Design Costs"). It now appears, however, that reimbursement for Design Costs from the Grant funds is in doubt. Developer is willing, pursuant to the terms of this Agreement, to be responsible for paying the Design Costs to the applicable consultants at the time such costs are incurred. In consideration for Developer agreeing to pay the Design Costs, the City has agreed to reduce the contribution to be made by Developer to the extent the City receives funds from the Grant for Design Costs as further provided in Section 9.E.

H. City desires the timely, efficient, orderly and proper development of said Project, and believes it is in the public interest to accept the benefits conferred by the additional expenditures and additional dedications by Developer referred to above. City further believes it is in the public interest to provide for the vesting of Developer's rights to develop the Project in conformance with the Project Approvals and the terms and conditions contained herein so that such vested rights shall not be disturbed by changes in laws, rules or regulations, including measures passed by initiative, that occur after the Effective Date (as defined below) hereof.

I. City and Developer have reached agreement and desire to express herein a development agreement that will facilitate development of the Project subject to conditions set forth herein and set forth in the Project Approvals, as defined herein.

J. On \_\_\_\_\_, 2016 the City adopted Ordinance No. [\_\_\_\_\_] approving this development agreement and authorizing the City Manager to execute this Agreement.

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, obligations and covenants herein contained, City and Developer agree as follows:

### **AGREEMENT**

1. Description of Property. The Property which is the subject of this Agreement is described in Exhibit D attached hereto ("Property").
2. Interest of Developer. The Developer is the owner of the Property.
3. Relationship of City and Developer. This Agreement is a contract that has been negotiated and voluntarily entered into by City and Developer and the Developer is not an agent of City. The City and Developer hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and Developer joint ventures' or partners.
4. Effective Date and Term.

A. Effective Date. The effective date of this Agreement ("Effective Date") shall be the date upon which the ordinance approving this Agreement is adopted by City.

B. Term. The term of this Agreement ("Term") shall commence on the Effective Date and extend twelve (12) years thereafter, unless said term is otherwise terminated or modified as set forth in this Agreement. The 12-year Term is not intended to extend the five-year (5) period of time Developer has to make the payments as set forth in Exhibit B.

C. Term of Project Approvals. Pursuant to California Government Code Section 66452.6(a), the term of any tentative map and the other Project Approvals described in Recital C above, including those applicable to the residential and commercial/industrial portions of the Project, shall automatically be extended for the Term of this Agreement.

## 5. Use of the Property.

A. Right to Develop. Developer shall have the vested right to develop the Project on the Property in accordance with the terms and conditions of this Agreement, the Project Approvals (as and when issued), and any amendments to any of them as shall, from time to time, be approved pursuant to this Agreement.

B. Permitted Uses. The permitted uses of the Property, the maximum density and intensity of use, the maximum height, bulk and size of proposed buildings, provisions for reservation or dedication of land for public purposes and location and maintenance of on-site and off-site improvements, location of public utilities, and other terms and conditions of development applicable to the Property, shall be those set forth in this Agreement, the Project Approvals and any amendments to this Agreement or the Project Approvals, and the "Applicable Rules" (as hereafter defined).

C. Additional Conditions. Provisions for additional conditions (the "Additional Conditions") are set forth in Exhibit B attached hereto and incorporated herein by reference. These include additional or modified conditions agreed upon by the parties relating to development of the Project, including certain conditions that otherwise would not be required.

## 6. Applicable Rules, Regulations and Official Policies.

A. Rules re Permitted Uses. For the term of this Agreement except as otherwise provided herein, the City's ordinances, resolutions, rules, regulations and official policies, including, without limitation, the Project Approvals, governing the permitted uses of the Property, governing density, design, improvement and construction standards and specifications applicable to the Property, including but not limited to, all public improvements, shall be those in force and effect on the Effective Date hereof (the "Applicable Rules"). Except to the limited extent otherwise provided in this Agreement, City expressly reserves all rights and powers governing land use, permitted uses, zoning, density, design, improvement, construction standards and specifications, and approvals and authorizations therefor.

B. California Codes Applicable. The Project shall be constructed in accordance with the provisions of the California Building, Mechanical, Plumbing, and Electrical Codes and Title 24

of the California Code of Regulations, relating to Building Standards, in effect in City at the time a completed application is submitted for the appropriate building, grading, or other construction permits for the Project.

7. Subsequently Enacted Rules and Regulations.

A. New Rules and Regulations. During the term of this Agreement, the City may, in subsequent actions applicable to the Property, apply new or modified ordinances, resolutions, rules, regulations and official policies of the City which were not in force and effect on the Effective Date of this Agreement and which are not in conflict with the Applicable Rules, provided that (i) such new or modified ordinances, resolutions, rules, regulations or official policies do not affect the permitted uses of the Property, the maximum density and intensity of use, the maximum height, bulk and size of proposed buildings, provisions for reservations or dedication of land for public purposes and location and maintenance of on site and offsite improvements, location of public utilities or any other terms and conditions set forth in this Agreement; and (ii) such laws are applied on a city-wide basis and in a manner which does not discriminate against Developer.

B. Denial or Conditional Approval. Nothing in this Agreement shall prevent the City from denying or conditionally approving any subsequent land use permit or authorization for any subsequent development project application on the basis of any new or modified ordinances, resolutions, rules, regulations or policies applicable to the Property pursuant to and subject to Section 7(A).

C. Moratorium Not Applicable. Notwithstanding anything to the contrary contained herein, in the event an ordinance, resolution or other measure is enacted, whether by action of City, by initiative, referendum, or otherwise, that imposes a building moratorium which would otherwise affect the Project or all or any part of the Property or which would require a vote of the people as a condition to the grant of any approvals for the Project, City agrees that such ordinance, resolution or other measure shall not apply to the Project, the Property, this Agreement or the Project Approvals. If, however, it is determined by a court of competent jurisdiction that a building moratorium or voter approval referenced above is effective as to any portion of the Project, this Agreement shall remain unchanged and in full force and effect as to the portion of the Project not affected by such moratorium or voter requirement, unless Developer elects to terminate this Agreement within ninety (90) days after Developer receives written notice of such court determination.

D. Timing of Development. It is the parties' specific intent that this Agreement shall prevail over any later-adopted initiative that might otherwise have the effect of restricting or limiting the timing or sequencing of development of the Project. Therefore, subject to the terms of this Agreement, the Project Approvals, and the Applicable Rules, Developer shall have the right (without obligation) to develop the Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment, and such order, rate and time selected by Developer shall in no way affect or impair Developer's vested rights under this Agreement.

8. Processing. Upon satisfactory completion by Developer of all required preliminary actions and payments of all required processing fees, if any, City shall, subject to all legal requirements,

promptly initiate, commence, diligently process, complete at the earliest reasonable time, all required steps, and expeditiously consider any approvals and permits necessary for the development by Developer of the Property in accordance with this Agreement, including, but not limited to, the following:

(i) The processing of applications for and issuing of all discretionary approvals requiring the exercise of judgment and deliberations by City ("Discretionary Approvals"); and

(ii) The processing of applications for and issuing of all ministerial approvals requiring the determination of conformance with the Applicable Rules, including, without limitation, site plans, development plans, land use plans, grading plans, improvement plans, building plans and specifications, and ministerial issuance of one or more final maps, zoning clearances, grading permits, improvement permits, wall permits, building permits, lot line adjustments, encroachment permits, certificates of use and occupancy and approvals and entitlements and related matters as necessary for the completion of the development of the Project ("Ministerial Approvals").

A. No Abridgement of Density or Height. City acknowledges that notwithstanding its ability to issue Discretionary Approvals in relation to site and architectural review and design review, City may not refuse such approvals, or require changes in the Project, that would have the effect of restricting or preventing the ability of Developer to construct buildings at the maximum density and maximum height allowed in the Project Approvals as of the Effective Date of this Agreement.

B. Processing During Third Party Litigation. The filing of any third party lawsuit(s) against City or Developer relating to this Agreement or to other development issues affecting the Property shall not delay or stop the development, processing or construction of the Project, or issuance of Discretionary Approvals or Ministerial Approvals, unless the third party obtains a court order preventing the activity. City shall not stipulate to the issuance of any such order. Developer shall reimburse within sixty (60) days of demand therefor all costs, expenses and awards incurred by City in participating in or defending any such third party lawsuit(s) including, without limitation, attorney's fees, litigation expenses, expert costs, and awards of any nature to any other party.

#### 9. Subsequently Enacted or Revised Fees, Assessments, Taxes and Rights-of-Ways and Easements.

A. New Fees. No fees, dedications or exactions imposed on new development adopted by the City subsequent to the Effective Date of this Agreement, and no fees, dedications or exactions which result from any modification after the Effective Date of any existing ordinances, resolutions, rules, regulations or official policies of the City (except as expressly provided in Section 9(B) below), shall be applicable to the Project.

B. Revised Application Fees. Any existing application, processing and inspection fees that are revised during the term of this Agreement shall apply to the Project provided that (1) such fees have general applicability on a City-wide basis and do not discriminate against Developer; (2) the

application of such fees to the Property is prospective; and (3) the application of such fees would not prevent development in accordance with this Agreement.

C. New Taxes/Assessments. Except for taxes or assessments solely imposed upon new development, any subsequently enacted City-wide taxes or assessments shall apply to the Project provided that (1) such taxes or assessments have general applicability on a City-wide basis and do not discriminate against Developer; (2) the application of such taxes or assessments to the Property is prospective; and (3) the application of such taxes or assessments would not prevent development in accordance with this Agreement.

D. Right to Contest. Nothing contained herein shall prevent Developer from paying any such fee, tax, or assessment under protest, or otherwise asserting its legal rights to protest or contest a given fee, tax, or assessment assessed against the Project or the Property.

E. Engineering Design Fees. Developer hereby understands and agrees that all fees for all engineering associated with the preparation of the improvement plans, specifications, estimates, preparation of grant and/or easement deeds and any other engineering expenses associated with the Project are the responsibility of the Developer. This includes all design costs, engineering costs and plan check fees associated with the design of all street, storm drain, sewer, water and necessary appurtenances associated with the Project for both onsite and offsite improvements, including the Off-Site Improvements referenced on Exhibit B and listed on Exhibit C; provided that if the City is successful in obtaining reimbursement from the Grant (defined in Exhibit B) funds for all or portion of the fees incurred by Developer for the design and/or engineering associated with the Off-Site Improvements, then the amount of the contribution required to be made by the Developer as set forth in Exhibit B shall be reduced by the amount obtained by City from the Grant for such design and/or engineering costs.

F. Rights-of-Way and Easements. Developer hereby understands and agrees to provide the City with all necessary deeds and exhibits associated with the dedication of the proposed public road and rights-of-way for the construction of the road and utilities within the Project. Developer agrees to dedicate said right-of-way in fee to the City at no cost to the City. Additionally, the Developer also agrees to dedicate any necessary onsite and offsite easements for the installation and ongoing use of roadways and utilities associated with the Project with language acceptable to the City. All costs associated with preparation of deed or easement documents, as well as the dedication of all rights-of-way and easements shall be solely borne by the Developer.

#### 10. Amendment or Cancellation.

A. Modification Because of Conflict with State or Federal Laws. In the event that State or Federal laws or regulations enacted after the Effective 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, the parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such State or Federal laws or regulations. Any such amendment or suspension of the Agreement shall be approved by the City Council. If such modification or suspension is infeasible in Developer's reasonable business judgment, then Developer may elect any one or more of the following in any sequence:

(i) To terminate this Agreement by written notice to City;

(ii) To challenge the new law preventing compliance with the terms of this Agreement, and extend the Term of this Agreement for the period of time required to make such challenge. If such challenge is successful, this Agreement shall remain unmodified, except for the extension of the Term and shall remain in full force and effect. To the extent any such challenge shall impose or require the expenditure of any funds for any purpose by the City, all such costs and expenses incurred shall be reimbursed by Developer to City within sixty (60) days of demand therefor.

B. Amendment by Mutual Consent. This Agreement may be amended in writing from time to time by mutual consent of the parties hereto and in accordance with the procedures of State law.

C. Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between City and Developer, and refinements and further development of the Project may demonstrate that clarifications with respect to the details of performance of City or Developer or minor revisions to the Project are appropriate. If and when, from time to time, during the term of this Agreement, City and Developer agree that such clarifications or minor modifications are necessary or appropriate, they shall effectuate such clarifications through operating memoranda approved by City and Developer, which, after execution, shall be attached hereto. The City Attorney shall be authorized to make the determination whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such a character to require City Council approval of an amendment hereof pursuant to Section 10(B) hereof. The parties agree that modifications which would be categorized as exempt under CEQA, or which, after an initial study, the City determines do not require any further environmental review, or do not increase the density or intensity of use or the maximum height, bulk, size or architectural style of proposed buildings may be effectuated through operating memoranda pursuant to this Section. The City Manager may execute any operating memoranda hereunder without further City Council action.

D. Cancellation by Mutual Consent. Except as otherwise permitted herein, this Agreement may be cancelled in whole or in part only by the mutual consent of the parties or their successors in interest, in accordance with the same procedure used when entering into this Agreement.

## 11. Annual Review.

A. Review Date. The annual review date for this Agreement (the "Review Date") shall be one year following the Effective Date and the annual anniversary of said date each year thereafter.

B. Annual Review Process. The Community Development Director, or other individual designated by City, shall initiate the annual review by giving to Developer no later than sixty (60) days following the Review Date written notice that the City intends to undertake such review for the annual period ending with the Review Date. Developer shall provide evidence of good faith compliance with the terms and conditions of this Agreement to the Community Development Director within thirty (30) days following receipt of the Community Development Director's notice. The Community Development Director shall review the evidence submitted by Developer and shall,

within thirty (30) days following receipt of Developer's evidence, make a recommendation to the City Council either (a) that the City Council find that Developer has demonstrated good faith compliance with the terms and conditions of this Agreement or (b) that the City Council find that Developer has not demonstrated good faith compliance with the terms and conditions of this Agreement, setting forth with specificity the basis on which the Community Development Director makes his recommendation of a finding of non-compliance. Developer shall provide additional evidence as and when reasonably determined necessary by the Community Development Director.

C. Public Hearing. Following the Council's receipt of the Community Development Director's review and recommendation, the Council shall convene and hold a public hearing on Developer's performance and good faith compliance with the terms and conditions of this Agreement. Such public hearing shall be held during a regular City Council meeting no more than thirty (30) days following the Council's receipt of the Community Development Director's review and recommendation. The burden of proof of good faith compliance with the terms of this Agreement shall be upon the Developer.

D. Determination. If the City Council finds and determines that the Developer has complied in good faith with the terms and conditions of this Agreement during the period under review, the review for that period shall be concluded. If the City Council finds and determines, on the basis of substantial evidence, that the Developer has not complied in good faith with the terms and conditions of this Agreement during the period under review, and Developer has been notified and given an opportunity to cure in accordance with the provisions of Section 12(B) below, the Council may modify or terminate this Agreement in accordance with State law.

E. Fee for Annual Review. The fee for City's annual review shall be paid by Developer, and shall not exceed the costs of reimbursement of City staff time and expenses at the customary rates then in effect.

F. Failure to Hold Review. In the event that City does not initiate an annual review or that the City Council does not make its determination within six months of the Review Date for a given year, then it shall be deemed conclusive that Developer has complied in good faith with the terms and conditions of this Agreement during the period under review

## 12. Default.

A. Notice and Cure. Upon the occurrence of an event of default by either party, the nondefaulting party shall serve written notice of such default upon the defaulting party. If the default is not cured by the defaulting party within thirty (30) days after service of such notice of default, the nondefaulting party may then commence an action to enforce its rights under this Agreement; provided, however, that if the default cannot be cured within such thirty (30) day period, the nondefaulting party shall refrain from any such legal or equitable action so long as the defaulting party begins to cure such default within such thirty (30) day period and diligently pursues such cure to completion. Failure to give notice shall not constitute a waiver of any default.

B. Exclusive Remedy. The parties hereto acknowledge that the material covenants, obligations and other provisions to be performed under this Agreement are of a special, unique and extraordinary character, and that irreparable injury will result from any violation or

continuing violation of the provisions of this Agreement for which money damages may not be an adequate remedy. Accordingly, except as may be expressly provided in this Agreement, the parties agree that in the event of any default or threatened default by any party hereto of any material covenant, obligation or other provision set forth in this Agreement, the other party's sole and exclusive remedy shall be to seek in accordance with applicable law, (i) a decree or order of specific performance or mandamus to enforce the observance and performance of such covenant, obligation or other provision, and (ii) an injunction restraining such default or threatened default.

C. Waiver of Damages. Notwithstanding anything to the contrary contained in this Agreement, no party to this Agreement shall be liable for any consequential, special, indirect, incidental, exemplary or punitive damages of any kind or nature whatsoever, or any lost income or profits, regardless of whether arising from breach of contract or tort, even if advised of the possibility of such loss or damage or if such loss or damage could have been reasonably foreseen.

D. Judicial Reference. Pursuant to Code of Civil Procedure Section 638, et seq., all actions shall be heard by a referee who shall be a retired judge from either the Glenn County Superior Court, the California Court of Appeal, the United States District Court or the United States Court of Appeals, provided that the selected referee shall have experience in resolving land use and real property disputes. Developer and City shall agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon and issue all legal and equitable relief appropriate under the circumstances of the controversy before such referee. If Developer and City are unable to agree on a referee within ten days of a written request to do so by either party thereto, either party may seek to have one appointed pursuant to Code of Civil Procedure Section 640. The cost of such proceeding shall initially be borne equally by the parties. Any referee selected pursuant to this Section 12(D) shall be considered a temporary judge appointed pursuant to Article 6, Section 21 of the California Constitution.

E. Estoppel Certificate. Either party may, at any time, and from time to time, request written notice from the other party requesting such party to certify in writing that, to the knowledge of the certifying party, (a) this Agreement is in full force and effect and a binding obligation of the parties, (b) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (c) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A party receiving a written request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof, or such longer period as may reasonably be agreed to by the parties. City Manager of City shall be authorized to execute any certificate requested by Developer. The failure to deliver such certificate within such time shall be conclusive evidence upon the party which fails to deliver such statement that this Agreement is in full force and effect without modification and that there are no uncured defaults in the performance of the requesting party. Failure to execute such an estoppel certificate shall not be deemed a default.

### 13. Mortgagee Protection; Certain Rights of Cure.

A. Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof after the date of recording this Agreement, including the lien for any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach

hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

B. Mortgagee Not Obligated. Notwithstanding the provisions of Section 13(A) above, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion of improvements; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by the Project Approvals and by this Agreement and only upon payment to City of any delinquent and current fees and other mandatory obligations due under this Agreement.

C. Notice of Default to Mortgagee. If City receives notice from a Mortgagee requesting a copy of any notice of default given Developer hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer has committed an event of default. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the event of claimed default set forth in the City's notice.

14. Severability. The unenforceability, invalidity or illegality of any provision, covenant, condition or term of this Agreement shall not render the other provisions unenforceable, invalid or illegal, except that if it is determined in a final judgment by a court of competent jurisdiction that Developer's rights are not vested in the manner and to the extent agreed to herein, then the Parties shall meet and confer in a good faith attempt to agree on a modification to this Agreement that shall fully achieve the purposes hereof. If such a modification cannot be agreed upon, then Developer or City may terminate this Agreement upon 90-days' written notice to the other Party.

15. Attorneys' Fees and Costs. If City or Developer initiates any action at law or in equity to enforce or interpret the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs in addition to any other relief to which it may otherwise be entitled. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit shall be entitled to its attorneys' fees incurred in any post-judgment proceedings to collect or enforce the judgment. If any person or entity not a party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement or the Project Approvals, the parties shall cooperate in defending such action. Developer shall bear its own costs of defense as a real party in interest in any such action, and shall reimburse City for all reasonable court costs and attorneys' fees expended by City in defense of any such action or other proceeding. City shall not reject any financial settlement acceptable to Developer, provided that Developer pays any and all consideration which is part of said settlement; if City does reject any financial settlement acceptable to Developer, City may continue to defend such action at its own expense.

## 16. Transfers and Assignments.

A. Right to Assign. Developer's rights hereunder may be transferred, sold or assigned in conjunction with the transfer, sale, or assignment of all or a portion of the Property subject hereto at any time during the term of this Agreement.

B. Release Upon Transfer. Upon the transfer, sale, or assignment of Developer's rights and interests hereunder pursuant to the preceding subparagraph of this Agreement, Developer shall be released from the obligations under this Agreement with respect to the Property transferred, sold, or assigned, arising after the transfer, sale, or assignment; provided, however, that in no event shall Developer be released of its obligation to make the payments to City totaling \$535,715.00 plus interest described in Exhibit B attached hereto regardless of any transfer, sale or assignment of the Property or any assumption of obligations under the Agreement by third parties.

C. Foreclosure. Nothing contained in this Section 16 shall prevent a transfer of the Property, or any portion thereof, to a lender as a result of a foreclosure or deed in lieu of foreclosure, and any lender acquiring the Property, or any portion thereof, as a result of foreclosure or a deed in lieu of foreclosure shall take such Property subject to the rights and obligations of Developer under this Agreement; provided, however, in no event shall such lender be liable for any defaults or monetary obligations of Developer arising prior to acquisition of title to the Property by such lender, and provided further, in no event shall any such lender or its successors or assigns be entitled to a building permit or occupancy certificate until all fees due under this Agreement (relating to the portion of the Property acquired by such lender) have been paid to City.

17. Agreement Runs with the Land. Except as otherwise provided herein, all of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon, and inure to the benefit of, the parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any owned property, (a) is for the benefit of such properties and is a burden upon such properties, (b) runs with such properties, and (c) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each party and its property hereunder and each other person succeeding to an interest in such properties.

18. Bankruptcy. The obligations of this Agreement shall not be dischargeable in bankruptcy.

19. Indemnification. Developer agrees to indemnify and hold harmless City, and its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives from any and all claims, costs and liability for any personal injury or property damage which may arise directly or indirectly as a result of the negligence or willful misconduct of Developer, or the negligence or willful misconduct of Developer's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Project.. City, its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives shall not be liable for any consequential, special, indirect,

incidental, exemplary or punitive damages of any kind or nature whatsoever, or any lost income or profits, regardless of whether arising from breach of contract or tort, and Developer hereby waives all such claims.

20. Insurance.

A. Public Liability and Property Damage Insurance. During the term of this Agreement, Developer shall maintain in effect a policy of comprehensive general liability insurance with a per-occurrence combined single limit of not less than Two Million Dollars (\$2,000,000) per claim. The policy so maintained by Developer shall name the City as an additional insured.

B. Workers Compensation Insurance. During the term of this Agreement Developer shall maintain Workers Compensation insurance for all persons employed by Developer for work at the Project site. Developer shall require each contractor and subcontractor similarly to provide Workers Compensation insurance for its respective employees. Developer agrees to indemnify the City for any damage resulting from Developer's failure to maintain any such insurance.

C. Evidence of Insurance. Prior to City Council approval of this Agreement, Developer shall furnish City satisfactory evidence of the insurance required in Sections 20(A) and 20(B) and evidence that the carrier is required to give the City at least thirty (30) days' prior written notice of the cancellation or reduction in coverage of a policy. The insurance shall extend to the City, its elective and appointive boards, commissions, officers, agents, employees and representatives and to Developer and each contractor and subcontractor performing work on the Project.

21. Force Majeure. In addition to any specific provisions of this Agreement, performance of obligations hereunder shall be excused and the term of this Agreement shall be similarly extended during any period of delay caused at any time by reason of: acts of God such as floods, earthquakes, fires, or similar catastrophes; wars, riots or similar hostilities; strikes and other labor difficulties beyond the party's control; shortage of materials; the enactment of new laws or restrictions imposed or mandated by other governmental or quasi-governmental entities preventing this Agreement from being implemented; litigation involving this Agreement or the Project Approvals, which delays any activity contemplated hereunder; or other causes beyond a party's control. City and Developer shall promptly notify the other party of any delay hereunder as soon as possible after the same has been ascertained.

22. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, by overnight delivery or by facsimile.

Notices required to be given to City shall be addressed as follows:

City of Willows  
201 North Lassen Street  
Willows, California 95988  
Attn: City Manager

Notices required to be given to Developer shall be addressed as follows:

California Land Investors, LLC  
C/o Basin Street Properties  
1383 N. McDowell Blvd., Suite 150  
Petaluma, CA 94954  
Attn: Director of Development and General Counsel

A party may change its address for notices by giving notice in writing to the other party, and thereafter all notices shall be addressed and transmitted to the new address. Notices shall be deemed given and received upon the earlier of personal delivery, or if mailed, upon the expiration of 48 hours after being deposited in the United States Mail or on the delivery date or attempted delivery date shown on the return receipt, air bill or facsimile.

23. Agreement is Entire Understanding. This Agreement is executed in four duplicate originals, each of which is deemed to be an original. This Agreement constitutes the entire understanding and agreement of the parties.

24. Exhibits. The following documents are referred to in this Agreement and are attached hereto and incorporated herein as though set forth in full:

- Exhibit A List of Project Approvals
- Exhibit B Additional Conditions
- Exhibit C Off-Site Improvements
- Exhibit D Legal Description of Property

25. Recordation of Development Agreement, Amendment or Cancellation. Within ten (10) days after the Effective Date hereof, the City Clerk shall submit a fully-executed original of this Agreement for recording with the County Recorder. If the parties to the Agreement or their successors-in-interest amend or cancel the Agreement or if the City terminates or modifies the Agreement for failure of the Developer to comply in good faith with the terms or conditions of the Agreement, the City Clerk shall submit for recording the notice of such action with the County Recorder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first above written.

CITY OF WILLOWS:

Developer:

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

CALIFORNIA LAND INVESTORS LLC,  
a California limited liability company

By: G & W Ventures, LLC,

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

a California limited liability company,  
its Manager

By: \_\_\_\_\_  
Matthew T. White, Manager

(NOTARIZATION ATTACHED)

EXHIBIT A

List of Project Approvals

[to be attached]

## EXHIBIT B

### Additional Conditions

City was recently approved for a \$2,500,000.00 grant (the "Grant") from the US Economic Development Administration for the construction of off-site improvements in and about Tehama Street as more fully described on Exhibit C ("the "Off-Site Improvements"). The Grant requires City to contribute \$1,071,429.00 toward the cost of the Off-Site Improvements over and above the amount of the Grant. City has requested that Developer contribute \$535,715.00 toward the required City contribution amount, and Developer is willing to do so subject to the terms and conditions of this Agreement. City shall diligently obtain all necessary permits and approvals and construct the Off-Site Improvements in a good and workman like manner, in compliance with all terms, conditions and requirements of the Grant (including terms and conditions relating to the commencement and completion dates of the Off-Site Improvements), and in any event with completion of construction of the Off-Site Improvements to occur no later than June 1, 2017, subject to Section 21 of the Agreement. In consideration of City's agreement to timely construct the Off-Site Improvements, Developer shall contribute \$535,715.00 to City to be used solely to pay for the cost to construct the Off-Site Improvements. Developer shall pay such amount plus interest at a FIVE PERCENT (5%) annual rate, in five (5) equal payments, with the first payment due on the first anniversary of the Effective Date of this Agreement, and the remaining four (4) payments to be made annually thereafter. City shall, without any additional contribution from Developer, contribute all other funds necessary to satisfy the terms, conditions and requirements of the Grant and to construct the Off-Site Improvements, including the cost of all permits associated with the Off-Site Improvements.

## EXHIBIT C

### Off-Site Improvements

Includes all improvements associated with frontage improvements to the Project including, but not limited to improvements to Tehama Street, extension of the water main from Road 53 to the proposed public street within the development, all sewer improvements from the Project to the City's Wastewater Treatment Plant and all necessary appurtenances as may be needed to install these improvements, including the following:

1. Widening of Tehama Street (old Hwy 99), alongside of the east boundary of the property, to improve approximately 2,665 feet of the roadway, including:
  - Turn pockets and acceleration and deceleration lanes for the access driveway to the new Harvest Drive for safe ingress and egress. The through travel lanes specified by the City are 14-foot wide lanes.
  - Transit provisions through construction of a bus pull-out at the entrance, serviced by Glenn Ride Bus Company.
  - Wider shoulders, 6'-wide bike lanes, guard railing, street lighting, tree planting and streetscaping.
  - Prefabricated culverts at the property entrance handling 100-year runoff in the existing drainage canal running parallel with Tehama Street.
  - Utilities to be extended along Tehama Street to the entrance and on Harvest Drive. These include 3,300 feet of 12-inch diameter potable water main, and 1,615 feet of new 15-inch diameter sanitary sewer main.
  - 1,770 lineal feet of storm drain.
  - The Tehama Street improvements will also serve the City of Willows Wastewater Treatment Plant located on the opposite side of the street from the Project. The City will obtain permits from Northern California Railroad to jack and bore for a sewer line connection east of the railroad.
2. Construction of Harvest Drive to its cul-de-sac for access to the commercial lots, approximately 700 lineal feet in length.
3. Construction of secondary emergency vehicle access road from onsite to Tehama Street (old Hwy 99).

EXHIBIT D

Description of the Property

[to be attached]

