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08-072-0005, 0024, 0021

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RICHARD T. NAUGHAN
DAVIS COUNTY, UTAH RECORDER
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DEF RTT REC'D FOR FARMINGTON CITY
CORP

DEVELOPMENT AGREEMENT
FOR
FARMINGTON STATION II

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of the 9th day of June 2020 by and between **FARMINGTON CITY**, a Utah municipal corporation, hereinafter referred to as the "City," and **E & H LAND LTD.**, a Utah limited partnership, hereinafter referred to, collectively with its assignees, as "Developer."

RECITALS:

A. Developer owns approximately 62 acres of land, and the City owns the remaining land, within the boundary set forth in **Exhibit "A"** attached hereto and by this reference made a part hereof (the "Property"), Developer desires to develop the Property under the RMU, GMU, and OS zones, to be known as "Farmington Station II".

B. On June 9, 2020, the City approved a project master plan (the "PMP") for the Property in accordance with Chapter 18 of the City's zoning ordinance. The approved PMP is attached hereto as **Exhibit "B"** and incorporated herein by reference. The purposes of the PMP includes, among other things, the use of the land for commercial and residential development as set forth in the PMP, although the PMP is not intended to enable future development of the Property without final subdivision and site plan approval with respect to each phase.

C. The Property is subject to the City's Laws, including without limitation Section 11-18-140 of the City's zoning ordinance, pursuant to which this Agreement shall supersede the City's Laws with respect to the matters set forth herein.

D. Persons and entities hereafter developing the Property or any portions of the Property shall accomplish such development in accordance with the City's Laws and the provisions set forth in this Agreement.

E. The City also recognizes that the development of Farmington Station II, and any future phase thereof, may result in tangible benefits to the City through the stimulation of development in the area, including a possible increase of the City's tax base and the development of amenities that may enhance further economic development efforts in the vicinity of the Property, and is therefore willing to enter into this Agreement, subject to the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer hereby agree as follows:

1. **Incorporation of Recitals.** The above Recitals are hereby incorporated into this Agreement.

2. **Definitions.** In addition to the other capitalized terms defined elsewhere in this Agreement, the following terms shall have the respective meanings indicated below:

a. "City's Laws" means, collectively, all City ordinances, rules and regulations, including the provisions of the City's General Plan, the City's zoning ordinances, the City's engineering development standards and specifications, and any permits issued by the City pursuant to the foregoing ordinances and regulations.

b. "Effective Date" has the meaning set forth in Section 3.

3. **Effectiveness.** This Agreement, including the PMP, shall become effective on the date that the City and Developer sign the Agreement.

4. **Alternative Approval Process.** The City has held all public hearings necessary for, and has approved the PMP. Such approval of the City council shall remain in full force and effect from the date hereof until the termination of this Agreement. Developer and/or Developer's successors and assigns may from time to time apply to develop any phase of Farmington Station II greater than two and half (2.5) acres in size in accordance with an alternative approval process as set forth in section of 11-18-140 of the City's zoning ordinance. Developer shall be entitled to bring such future applications under Section 11-18-140 of the City's zoning ordinance, even if a future phase is less than 25 acres in size. Such future applications may deviate from the PMP approved hereunder at the discretion of the City and shall be considered according to the procedures and standards for approval set forth in Section 11-18-140 of the City's zoning ordinance.

5. **Assignment.** Developer shall not assign this Agreement or any rights or interests herein without giving prior written notice to the City. Any future assignee shall consent in writing to be bound by the terms of this Agreement as a condition precedent to the assignment.

6. **Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To Developer:

E & H
c/o PLW. Inc.
2001 N. 1210 W.
Pleasant Grove, Utah 84062
Attn: Mark Evans

With a copy to:

Snell and Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, UT 84101
Attn: Wayne Budge

To the City: Farmington City
Attn: City Manager
160 South Main Street
Farmington, Utah 84025-0160

7. **Entire Agreement.** This Agreement together with the Exhibits attached thereto and the documents referenced herein, and all regulatory approvals given by the City for the Property, contain the entire agreement of the parties and supersede any prior promises, representations, warranties or understandings between the parties with respect to the subject matter hereof which are not contained in this Agreement and the regulatory approvals for the Property, including any related conditions.

8. **Construction.** Words in any gender are deemed to include the other genders. The singular is deemed to include the plural and vice versa, as the context may require. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein. Use of the word "including" shall mean "including but not limited to", "including without limitation", or words of similar import.

9. **Non-Liability of City Officials, Employees and Others.** No officer, representative, agent, or employee of the City shall be personally liable to Developer, or any successor-in-interest or assignee of Developer in the event of any default or breach by the City or for any amount which may become due Developer, or its successors or assigns, for any obligation arising under the terms of this Agreement, unless it is established that the officer, representative, agent or employee acted or failed to act due to fraud or malice.

10. **No Third-Party Rights.** The obligations of Developer set forth herein shall not create any rights in and/or obligations to any persons or parties other than the City. The parties hereto alone shall be entitled to enforce or waive any provisions of this Agreement.

11. **Recordation.** This Agreement shall be recorded by the City against the Property in the office of the Davis County Recorder, State of Utah.

12. **Relationship.** Nothing in this Agreement shall be construed to create any partnership, joint venture or fiduciary relationship between the parties hereto.

13. **Term.** This Agreement shall become effective upon the Effective Date and shall continue in full force and effect from such date until the date that is thirty (30) years, unless terminated earlier pursuant to Section 15 below.

14. **Termination.** Notwithstanding the foregoing, if Developer has not commenced development activities on the Property within five (5) years after the principal roads are completed, the City may request Developer to provide the City with reasonable plans and assurances that Developer will develop the Property in accordance with this Agreement. In such event, Developer shall have 120 days after receiving such request from the City to provide the City with such information. If Developer fails to respond to such request within such time period, or responds

within such time period with plans and assurances that are unacceptable to the City in the City's reasonable discretion, the City may terminate this Agreement by giving written notice to Developer within sixty (60) days following the termination of the 120-day response period described above.

15. **Severability.** If any portion of this Agreement is held to be unenforceable or invalid for any reason by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

16. **Amendment.** This Agreement may be amended only in writing signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

"CITY"

FARMINGTON CITY

ATTEST:

Holly Gadd
City Recorder

By: [Signature]
Mayor



"DEVELOPER"

E & H LAND LTD

By: [Signature]

Its: MANAGER

CITY ACKNOWLEDGMENT

STATE OF UTAH)
 :SS.
COUNTY OF DAVIS)

On the 9 day of JUNE, 2020, personally appeared before me H. James Talbot, who being duly sworn, did say that he is the Mayor of **FARMINGTON CITY**, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said H. James Talbot acknowledged to me that the City executed the same.



Holly Gadd
Notary Public

ACKNOWLEDGMENT

STATE OF Utah)
 : SS.
COUNTY OF DAVIS)

The foregoing instrument was acknowledged before me this 28 day of August, 2020, by Mark Evans, the Manager of E & H LTD.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Holly Gadd
Notary Public for Utah



ATTACHED EXHIBITS:

- EXHIBIT "A" – LEGAL DESCRIPTION OF THE PROPERTY
- EXHIBIT "B" – PMP (PROJECT MASTER PLAN)

EXHIBIT "A" – LEGAL DESCRIPTION OF THE PROPERTY

Davis County Serial Number 080600008

BEG 77.1 RODS E FR SW COR OF SE 1/4 OF SEC 14-T3N-R1W, SLM; TH N 9.4 RODS; TH W 61 RODS, M/L, TO E R/W LINE OF D&RGW RR; TH S 34°40' E ALG SD R/W TO A PT W OF BEG; TH E 59 RODS, M/L, TO POB. CONT. 3.53 ACRES.

Davis County Serial Number 080600044

BEG NW COR OF LOT 16, BLK 27, PLAT BC, FARMINGTON TS SURVEY IN SE 1/4 OF SEC 14-T3N-R1W, SLM; E 991.82 FT TO A BNDRY LINE AGMT RECORDED 05/12/2011 AS E# 2598549 BK 5272 PG 348; TH S 0°06'13" E 154.59 FT ALG SD AGMT; TH W 991.82 FT; TH N 10 RODS TO BEG. CONT. 3.513 ACRES (NOTE: THIS REMAINING LEGAL WAS WRITTEN IN THE DAVIS COUNTY RECORDER'S OFFICE FOR I.D. PURPOSES. IT DOES NOT REFLECT A SURVEY OF THE PROPERTY.)

Davis County Serial Number 080720005

BEG 20 CHAINS E FR NW COR OF NE 1/4 OF SEC 23-T3N-R1W, SLM; TH S 13.18 CHAINS; TH W 6.042 CHAINS, M/L, TO E LINE OF D&RGW RR R/W; TH N 34°40' W ALG SD R/W 15.91 CHAINS, M/L, TO N LINE OF SEC AT A PT W OF BEG; TH E 15.155 CHAINS, M/L, TO POB. CONT. 14.13 ACRES

Davis County Serial Number 080720024

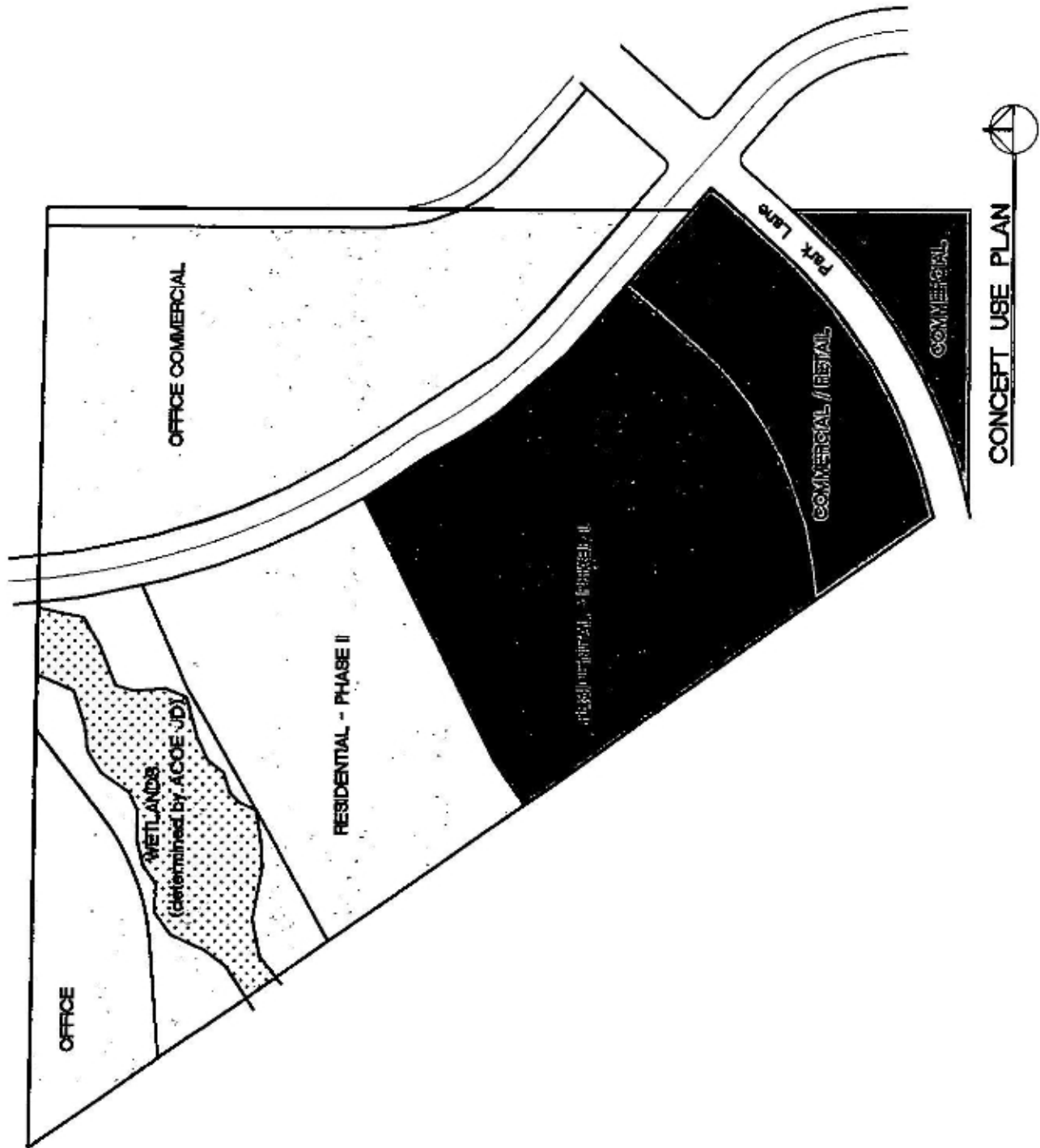
BEG 11.29 CHAINS N, 6.13 CHAINS W & N 00°09'31" E 515.61 FT FR SE COR OF NE 1/4 OF SEC 23-T3N-R1W, SLM; SD PT BEING ON THE N'LY LINE OF PPTY CONV IN SPECIAL WARRANTY DEED RECORDED 01/21/2011 AS E# 2580452 BK 5194 PG 122; TH N 474.39 FT; TH N 5.15 CHAINS; TH W 14.49 CHAINS; TH S 15 CHAINS; TH SE 361.59 FT ALG THE E R/W LINE OF THE D&RGW RR; TH NE'LY ALG THE ARC OF A 1093.69 FT RADIUS CURVE TO THE LEFT A DIST OF 717.93 FT (LC BEARS N 59°59'12" E 705.11 FT TO A PT OF COMPOUND CURVATURE & NE'LY ALG THE ARC OF A 28.00 FT RADIUS CURVE TO THE LEFT A DIST OF 44.77 FT (LC BEARS N 03°49'06" W 40.31 FT) TO A PT OF NON-TANGENCY; & N 48°49'06" W 13.00 FT; & N 41°10'54" E 100.00 FT TO A NON-TANGENT PT ON CURVE & SE'LY ALG THE ARC OF A 28.50 FT RADIUS CURVE TO THE LEFT A DIST OF 26.96 FT (LC BEARS S 75°55'08" E 25.96 FT) TO BEG. CONT. 25.418 ACRES ALSO: BEG 12.21 CHAINS; S 12.91 CHAINS E FR NW COR OF NE 1/4 OF SEC 23-T3N-R1W, SLM; E 7.41 CHAINS; S 10 CHAINS; W 0.50 CHAINS; NW 12.45 CHAINS TO BEG. CONT. LESS R/W 1.95 ACRES ALSO: BEG 18.91 CHAINS E; 3.18 CHAINS S FR NW COR OF NE 1/4 OF SEC 23-T3N-R1W, SLM; E 980.10 FT TO BNDRY LINE AGMT RECORDED 05/12/2011 AS E# 2598549 BK 5272 PG 348; TH S 00°06'13" E 349.59 FT ALG SD AGMT; TH W 982.50 FT; N 5 CHAINS TO BEG. CONT. 7.58 ACRES ALSO: BEG 413.35 FT W FR NE COR OF SEC 23-T3N-R1W, SLB&M; SD PT ALSO BEING ON THE BNDRY LINE AGMT RECORDED 05/12/2011 AS E# 2598549 BK 5272 PG 348; W 978.59 FT; S 3.18 CHAINS; E 980.10 FT TO SD BNDRY LINE AGMT; TH ALG SD AGMT N 00°06'13" W 219.69 FT TO THE POB. CONT. 4.86 ACRES TOTAL ACREAGE 39.808 ACRES (NOTE: THIS REMAINING LEGAL WAS WRITTEN IN THE DAVIS COUNTY RECORDER'S OFFICE FOR I.D. PURPOSES. IT DOES NOT REFLECT A SURVEY OF THE PROPERTY.)

Davis County Serial Number 080720021

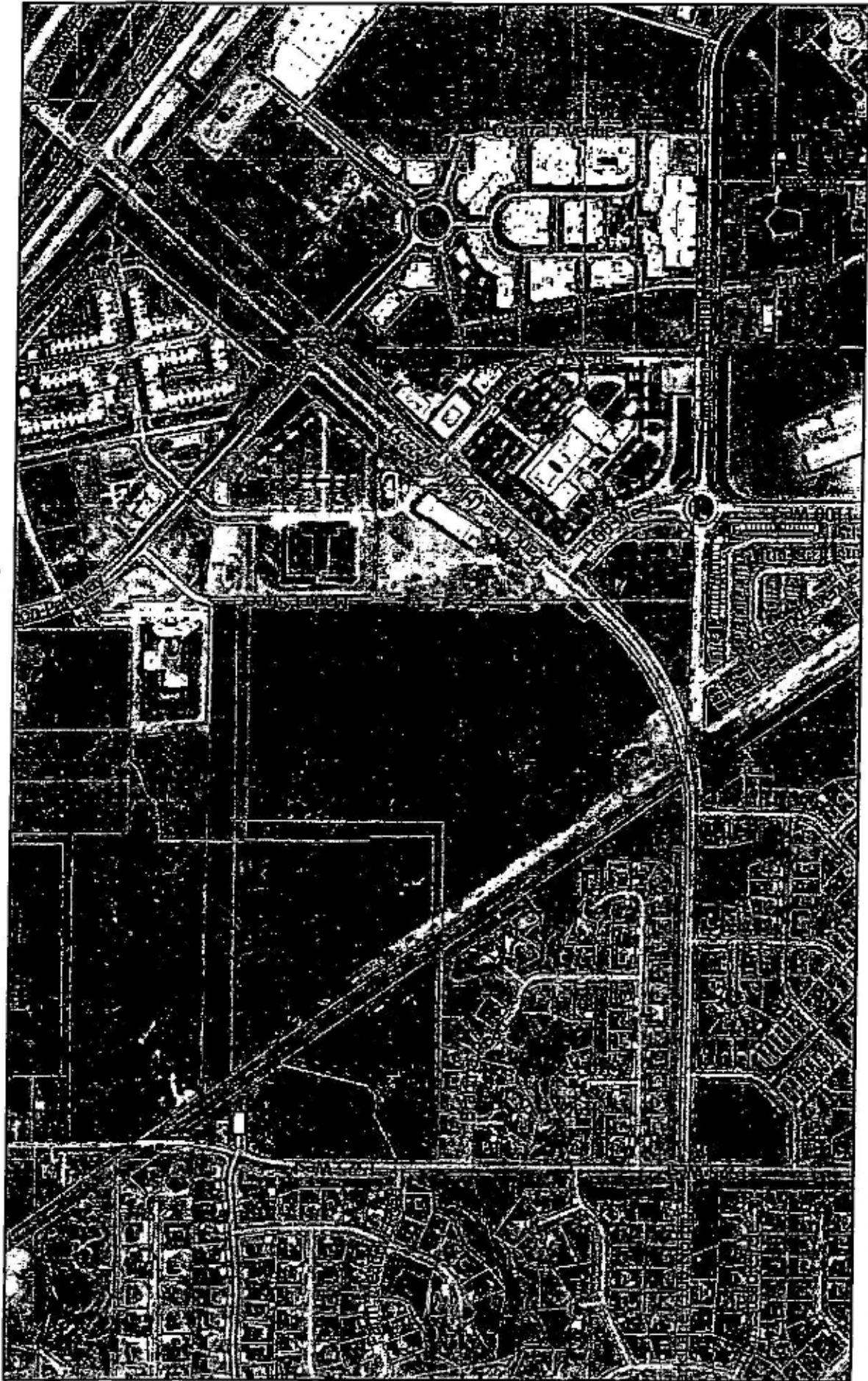
BEG 11.29 CHAINS N, 6.13 CHAINS W FR SE COR OF NE 1/4 OF SEC 23-T3N-R1W, SLM; N 354.74 FT, M/L, TO THE SE'LY LINE OF PPTY CONV IN SPECIAL WARRANTY DEED RECORDED 01/21/2011 AS E# 2580452 BK 5194 PG 122; TH ALG SD LINE THE FOLLOWING

TWO COURSES: SW'LY ALG THE ARC OF A 28.50 FT RADIUS CURVE TO THE LEFT A DIST OF 20.81 FT (LC BEARS S 62°05'50" W) TO A PT OF REVERSE CURVATURE; TH SW'LY ALG THE ARC OF A 1173.69 FT RADIUS CURVE TO THE RIGHT A DIST OF 592.86 FT (LC BEARS S 55°39'08" W 586.58 FT; E 502.04 FT, M/L, TO BEG. CONT. 1.72 ACRES (NOTE: THIS REMAINING LEGAL WAS WRITTEN IN THE DAVIS COUNTY RECORDER'S OFFICE FOR I.D. PURPOSES. IT DOES NOT REFLECT A SURVEY OF THE PROPERTY.)

Exhibit B



ArcGIS Web Map

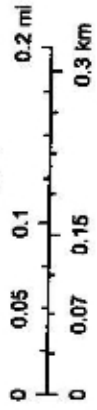


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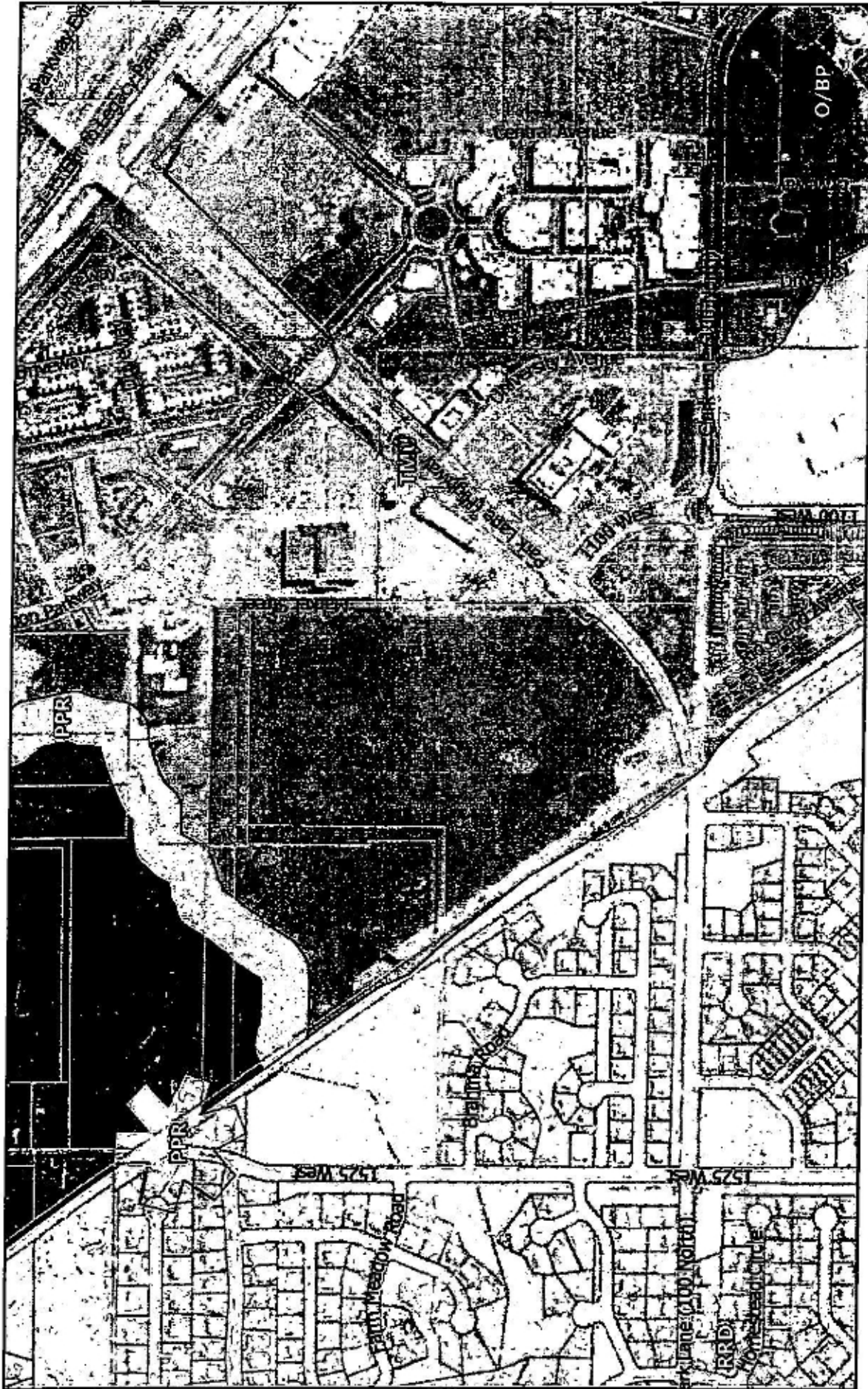
--- Farmington City Boundary

▭ Parcels

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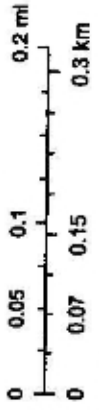
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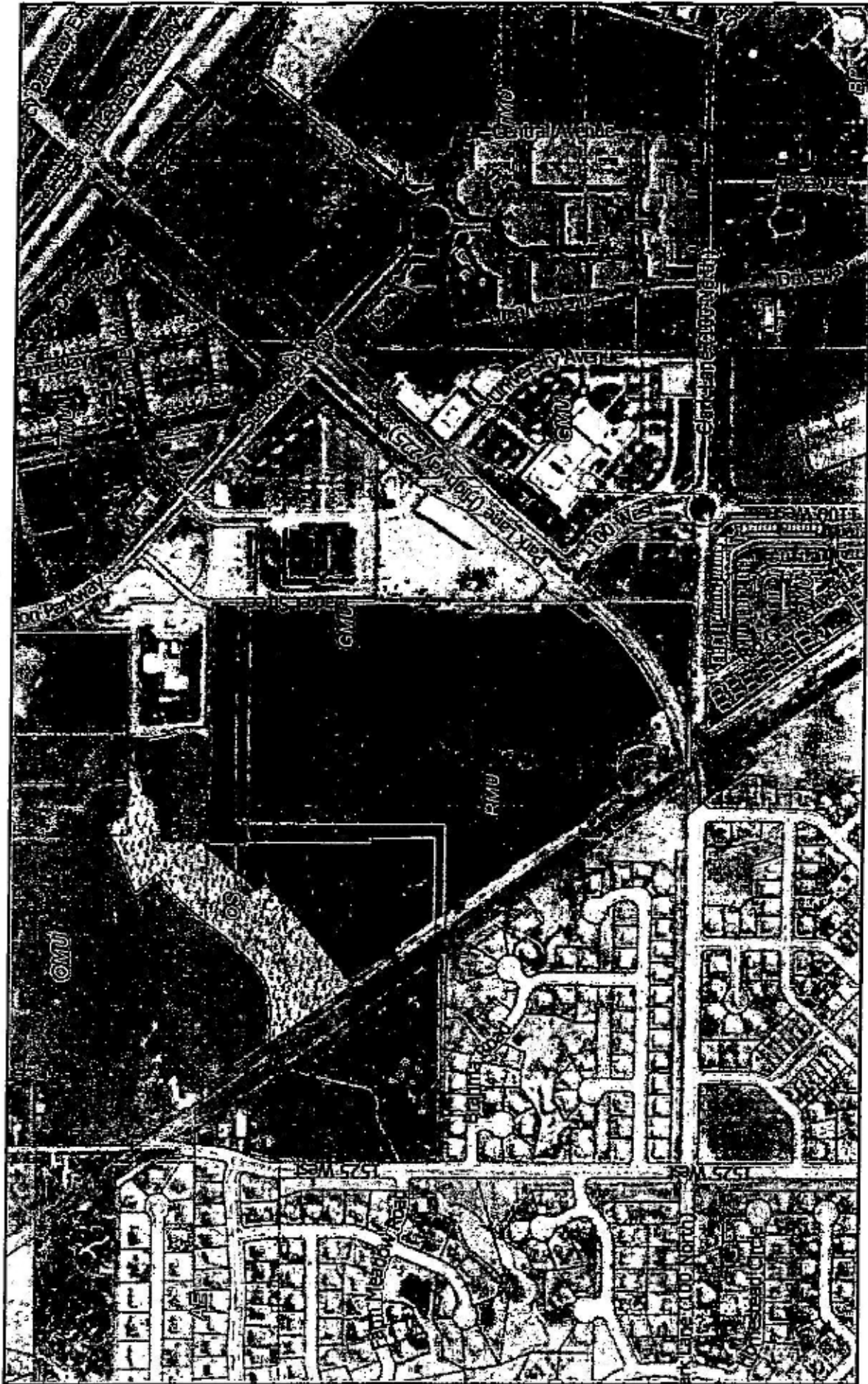
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- Farmington City Boundary
- Parcels
- CABP - CLASS A BUSINESS PARK
- O/BP - OFFICE/BUSINESS PARK

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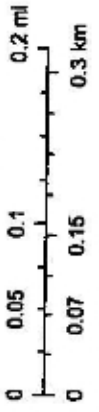
ArcGIS Web Map



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- Farmington City Boundary
- Parcels
- A
- AE
- OS
- BP
- TMU
- RMU
- GMU
- OMU

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Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus
Farmington City
USDA FSA