

County Agreement No. 23-82

City Agreement No. -

**Memorandum of Understanding Between the County of Yolo and the City of Davis
Relating to the North Fork Putah Creek Channel**

This Memorandum of Understanding (“MOU”) is made and entered into this 9th day of May, 2023 (“Effective Date”) by and between the County of Yolo, a political subdivision of the State of California (“County”), and the City of Davis, a municipality under the laws of the State of California (“City” and collectively with County, the “Parties”).

RECITALS

WHEREAS, the North Fork Putah Creek Channel (“Channel”) runs from Mace Boulevard, in the City of Davis, west to Drummond Avenue; and

WHEREAS, the City and County each own parcels along portions of the Channel, as depicted in Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, the County has no need to own the following Channel properties, which recorded records indicate are owned by the County, hereinafter referred to as the “County Channel Parcels,” which are identified as:

APN	Acres
069-230-007	2.45 +/-
069-180-008	0.83 +/-
069-100-001	3.13 +/-
069-150-019	0.003 +/-
069-100-005	0.76 +/-
069-100-009	0.75 +/-
069-100-010	1.89 +/-
Total	9.813 acres

WHEREAS, the County previously deeded certain County Channel Parcels (APNs 069-100-009 and 069-100-010), which are located within the City limits, to the City as part of prior annexation(s), but these deeds appear to have never been recorded by the City; and

WHEREAS, the City utilizes the Channel for storm drainage from residential developments within the City located south of Interstate 80 and north of the Channel, and the City and County will study the utilization of the Channel for storm drainage from residential developments south of the Channel as part of the City’s South Davis Drainage Area Study, which the City has commenced; and

WHEREAS, the City operates and maintains the Channel storm drainage system, which provides storm drainage benefits for City parcels north and south of the Channel, which will be identified as part of the South Davis Drainage Area study; and

WHEREAS, the City has installed bicycle and pedestrian paths along the Channel, portions of which were constructed over, upon, or across the County Channel parcels; and

WHEREAS, questions have arisen as to the respective ownership interests and maintenance obligations as between the City and County with respect to the County Channel Parcels identified in Exhibit A; and

WHEREAS, the Parties desire to enter into this MOU to establish the Parties respective obligations for resolving the title issues, maintenance obligations, and other issues related to the Channel so that just one entity, the City, owns and maintains the Channel; and

WHEREAS, the County and City have expended funds for vegetation management within and along the Channel on both City and County parcels; and

WHEREAS, the Parties want to clarify their respective commitments regarding cleaning up the title of the Channel properties, transferring title of certain properties to the City and clarifying the Parties' respective obligations with respect to on-going maintenance of the Channel.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

- 1. County Commitments.** Within 30 days of the Effective Date of this MOU, County shall commence the following actions at its sole cost and expense:
 - A. To complete lot line adjustments or similar mechanisms of the County Channel Parcels to remove encroachments by private adjacent property owners from the County Channel Parcels (e.g., decks, patios, treehouses, etc.) so that the lot lines allow the private properties to encompass the respective encroachments. The County will exercise all reasonable efforts to complete the lot line adjustments by December 31, 2023.
 - B. To execute all agreements necessary to vest fee simple interest in the County Channel Parcels to the City. County understands that City will not accept the grant deeds, except for the 1996 Grant Deed specified in Subsection 2.B of this MOU, until the private encroachments upon the County Channel Parcels are addressed by lot line adjustments as provided in Section 1.A of this MOU, above, and evidence of clear title to the parcels to be accepted by the City have been provided.
 - C. Cooperate and work with the City to address weed abatement or fire hazard concerns on private properties located within the County that abut the Channel. The County will work cooperatively with the City to educate and inform adjacent residents, including residents in the Willowbank County Services Area, and

recreational users of the North Fork Putah Creek corridor on fuel risk reduction activities.

- D. To work with the City on a methodology for calculating potential stormwater fees, charges, or assessments on properties located in the unincorporated areas of the County that utilize the South Davis Drainage Area, including the North Fork Putah Creek Channel, for storm drainage runoff and the South Davis Drain pump station and support the implementation of said assessments, upon agreement by the City and County that the assessments meet Proposition 218 requirements. The City and County will work together in good faith to achieve to achieve this objective.
- E. Pay an annual amount to City, up to \$25,000, to reimburse the City for half of its channel maintenance costs related to fire abatement, until June 30, 2028 or until the City begins collecting drainage fees from the relevant unincorporated County parcels from the South Davis Drainage Area, whichever occurs first (“County Contribution End Date”). The City will invoice this fee once per fiscal year, commencing with the fiscal year that begins July 1, 2023, based on actual costs incurred for maintenance until the County Contribution End Date and County will pay such invoiced amount within 30 days of receipt.

All of the foregoing actions shall proceed in a manner reasonably calculated to ensure the County Channel parcels are transferred to the City by December 31, 2023. If the County is unable to fully and timely execute all of the weed, fire abatement, tree removals, and lot line adjustments or grant deeds necessary to transfer fee title to the City by December 31, 2023, it shall consult with the City regarding appropriate alternatives.

2. City Commitments. The City agrees from the Effective Date of this MOU at its sole cost and expense to:

- A. To cooperate in good faith with the County’s efforts to discharge its duties under this MOU.
- B. By December 31, 2023, accept and record the 1996 Grant Deed attached hereto and incorporated herein by reference as Exhibit B, which was supposed to have been completed as a condition of the annexation of the Willowbank #9 Reorganization.
- C. By December 31, 2023, accept and record grant deeds transferring the remaining County Channel Parcels to the City after the County provides reasonable evidence that the parcels conveyed do not include any private or unpermitted encroachments and weed, fire abatement, and tree removal work has been performed to the satisfaction of the City Fire Marshal.
- D. To maintain the North Fork Putah Creek Channel, including the County Channel Parcels and the City’s improvements thereon, adjacent to, and crossing the Channel, such as the City’s bike and pedestrian paths and overcrossings, which

are identified on Exhibit A. Such maintenance shall include any maintenance necessary for fire mitigation as required by the City's Fire Marshal. The City will work cooperatively with the County to educate and inform adjacent residents, including residents in the Willowbank County Services Area, and recreational users of the North Fork Putah Creek corridor on fuel risk reduction activities.

- E. Reimburse the County up to \$20,000 for half of the expenses incurred in surveying the Channel parcels to define ownership. The County will invoice after all expenses are realized.
- F. The City shall provide meaningful opportunities for the County Service Area Manager, the El Macero County Service Area, and Willowbank County Service Area to provide input and comments on the draft South Davis Drainage Area Study, any draft or future study, including any methodology for purposes of calculating benefit or cost, related to stormwater/drainage in the South Davis area.

3. Administration; Recordings. Following the execution of this MOU, the County Administrator and City Manager, or their authorized designees, are delegated authority to sign any additional forms, documents or amendments necessary, and take all actions necessary to carry out the purposes and intent of this MOU. As necessary or desired by either Party, the County shall record this Agreement or prepare and record a mutually acceptable Memorandum of Agreement in the Official Records of the County of Yolo.

4. Indemnity and Defense.

a. With the exception that this section shall in no event be construed to require indemnification by either Party to a greater extent than permitted under the public policy of the State of California, the Parties shall indemnify, defend, and hold harmless each other, their elected representatives, officials, consultants, agents and employees, from and against any and all loss, damages, liability, claims, suits, costs and expenses (collectively, "Claims"), including reasonable attorney's fees, arising from or alleged to arise from each Party's performance or non-performance of its obligations under this MOU, except to the degree that a Claim is based upon the negligent or intentional acts or omissions of the Party otherwise eligible for defense and indemnity. Any defense shall be provided by counsel reasonably acceptable to the Party receiving defense and indemnity.

b. Government Code Section 895.2 imposes certain tort liability jointly upon public agencies solely by reason of such public agencies being parties to an agreement as defined in Government Code Section 895. Therefore, the Parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, each assumes the full liability imposed upon it or any of its officers, agents, representatives or employees by law for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve this purpose, each Party indemnifies and holds harmless the other Party for any loss, cost, or expense, including reasonable attorneys' fees that may be imposed upon or incurred by such other Party solely by virtue of Government Code Section 895.2.

5. Amendments. Modifications or amendments to the terms of this MOU shall be in writing and executed by both Parties.

6. Notices. All notices, letters, and other communications under this MOU from one Party to the other will be mailed, first class, or hand delivered, or via email followed by delivery of the original documents to the address shown. Either Party may change its address at any time by providing written notification to the other Party.

If to City:
City of Davis
23 Russell Blvd., Suite 1
Davis, CA 95616
Attn: City Manager
cmoweb@cityofdavis.org

If to the County of Yolo:
County of Yolo
625 Court Street, Room 202
Woodland, CA 95695
Attn: County Administrator
Gerardo.Pinedo@yolocounty.org

No change of address shall be binding upon the other party hereto until such party receives, at the address shown herein, written notice thereof. All notices shall be in English and shall be effective upon receipt.

7. Third Party Beneficiaries. There are no intended third-party beneficiaries of any right or obligation of either party to this MOU.

8. Jurisdiction. Any lawsuit, action, or other proceeding arising from this Agreement shall be brought in a California state court located in the County of Yolo, California.

9. Successors and Assigns. This MOU may be assigned with the consent of the other party. It shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. No assignment or delegation of the obligation to make any payment or reimbursement hereunder will release the assigning party without the prior consent of the other.

10. Severability. If any provision of this MOU is deemed invalid or unenforceable, the balance of this MOU shall remain in full force and effect; provided that if any material obligation or benefit under this Agreement is deemed invalid or unenforceable, the Parties shall negotiate in good faith to amend the MOU to ensure adequate consideration by both Parties.

11. Compliance with Applicable Laws. Both Parties shall comply with all applicable laws, decisions, statutes, regulations, ordinances, policies, and procedures of the United States, the State of California, and local governments.

12. Status of Parties. It is understood and agreed by all the Parties that each is an independent agency or contractor and that no relationship of employer-employee exists between any of the Parties hereto.

13. Integration. This MOU constitutes the entire understanding among the Parties pertaining to the subject matter hereof and supersedes all prior understandings and representations of the parties with respect to the subject matter hereof. Any representation, promise, or condition not incorporated into this MOU shall not be binding on any party to this MOU.

14. Authorized Representatives. The persons executing this MOU on behalf of each of the Parties affirmatively represent that s/he has the requisite legal authority to enter this MOU on behalf of the party and to bind the party to the terms and conditions of this MOU.

[Signatures on Following Page]

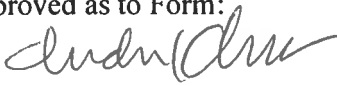
This MOU is effective as of the day and year first set forth above.

CITY OF DAVIS

By 
Will Arnold, Mayor
Davis City Council

Attest:
Zoe S. Mirabile, CMC
City Clerk

By 

Approved as to Form:
By 
Inder Khalsa, City Attorney

COUNTY OF YOLO

By _____
Oscar E. Villegas, Chair
Yolo County Board of Supervisors

Attest:
Julie Dachtler, Senior Deputy Clerk
Board of Supervisors

By _____
Deputy (Seal)

Approved as to Form:
By _____
Philip J. Pogledich, County Counsel

This MOU is effective as of the day and year first set forth above.

CITY OF DAVIS

By _____
Will Arnold, Mayor
Davis City Council

Attest:
Zoe S. Mirabile, CMC
City Clerk

By _____

Approved as to Form:

By _____
Inder Khalsa, City Attorney

COUNTY OF YOLO

By Oscar E. Villegas
Oscar E. Villegas, Chair
Yolo County Board of Supervisors

Attest:
Julie Dachtler, Senior Deputy Clerk
Board of Supervisors

By _____
Deputy (Seal)

Approved as to Form:

By Philip J. Pogledich
Philip J. Pogledich, County Counsel



RESOLUTION NO. 22-121.23

(Resolution Increasing the Fiscal Year 2022-23 Department of Community Services, Natural Resources Budget by \$40,000)

WHEREAS, the North Fork of Putah Creek (also known as “Old Putah Creek”) channel requires regular maintenance to reduce fuel load along the banks; and

WHEREAS, in 2008, due to concerns vegetation removal on native plants, wildlife, and the scenic aspects along Old Putah Creek, all maintenance in the area was deferred until January 2018; and

WHEREAS, in January 2018 the County’s contractors started immediate tree and vegetation maintenance after the City of Davis (City) and the City’s Fire Marshal approached the County to abate wildfire risk; and

WHEREAS, since January 2018, the County has responded to maintenance requests to abate wildfire risk and potential threats to public safety along the County-owned areas of the Old Putah Creek channel; and

WHEREAS, the County recently collaborated with the California Conservation Corps (CCC) in an effort to return the Old Putah Creek channel to “baseline conditions;” and

WHEREAS, CCC crews returned to the project area as recently as April 17, 2023 to remove downed and damaged trees from the Old Putah Creek channel that resulted from the extreme winter storm events; and

WHEREAS, the County agreed to transfer its Old Putah Creek channel parcels to the City and the City will take over long-term maintenance per the 2023 Memorandum of Understanding between the City and County; and

WHEREAS, the MOU requires the County to undertake additional tasks as a condition of the City accepting the parcels and on-going maintenance obligations, including obtaining surveys for lot line adjustments and recording fees related to such adjustments, but said funds were not included in the Department of Community Services budget for Fiscal Year 2022-23; and

WHEREAS, additional funds are available through use of County Public Safety Contingency in the approved Fiscal Year 2022-23 Adopted Budget; and

WHEREAS, Section 29125 of the Government Code provides for the appropriations of these funds by a four-fifths vote of the Board of Supervisors.

NOW, THEREFORE, BE IT ORDERED AND FOUND as follows:

1. The foregoing recitals are true and correct.
2. The Chief Financial Officer is authorized and directed to amend the budget for Fiscal Year 2022-23 as follows:

**0100-20-2972 Water Resources
Current Appropriations**

\$655,999

Increase: Services and Supplies	\$40,000
Total Amended Appropriations	\$695,999
Current Estimated Revenue & Fund Balance	\$655,999
Increase: Other Financing Sources	\$40,000
Total Amended Revenue & Fund Balance	\$695,999
0100-10-1000 Countywide General	
Current Appropriations	\$92,526,272
Increase: Other Financing Uses	\$40,000
Total Amended Appropriations	\$92,566,272
0100-10-9991 Countywide Contingencies	
Current Appropriations	\$7,627,571
Decrease: Public Safety Contingencies	(\$40,000)
Total Amended Appropriations	\$7,587,571

PASSED AND ADOPTED by the Yolo County Board of Supervisors this 9th day of May, 2023 by the following vote:

AYES: Frerichs, Sandy, Provenza, Barajas, Villegas.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.



Oscar E. Villegas, Chair
Yolo County Board of Supervisors

Attest:

Julie Dachler, Senior Deputy Clerk

Approved as to Form:

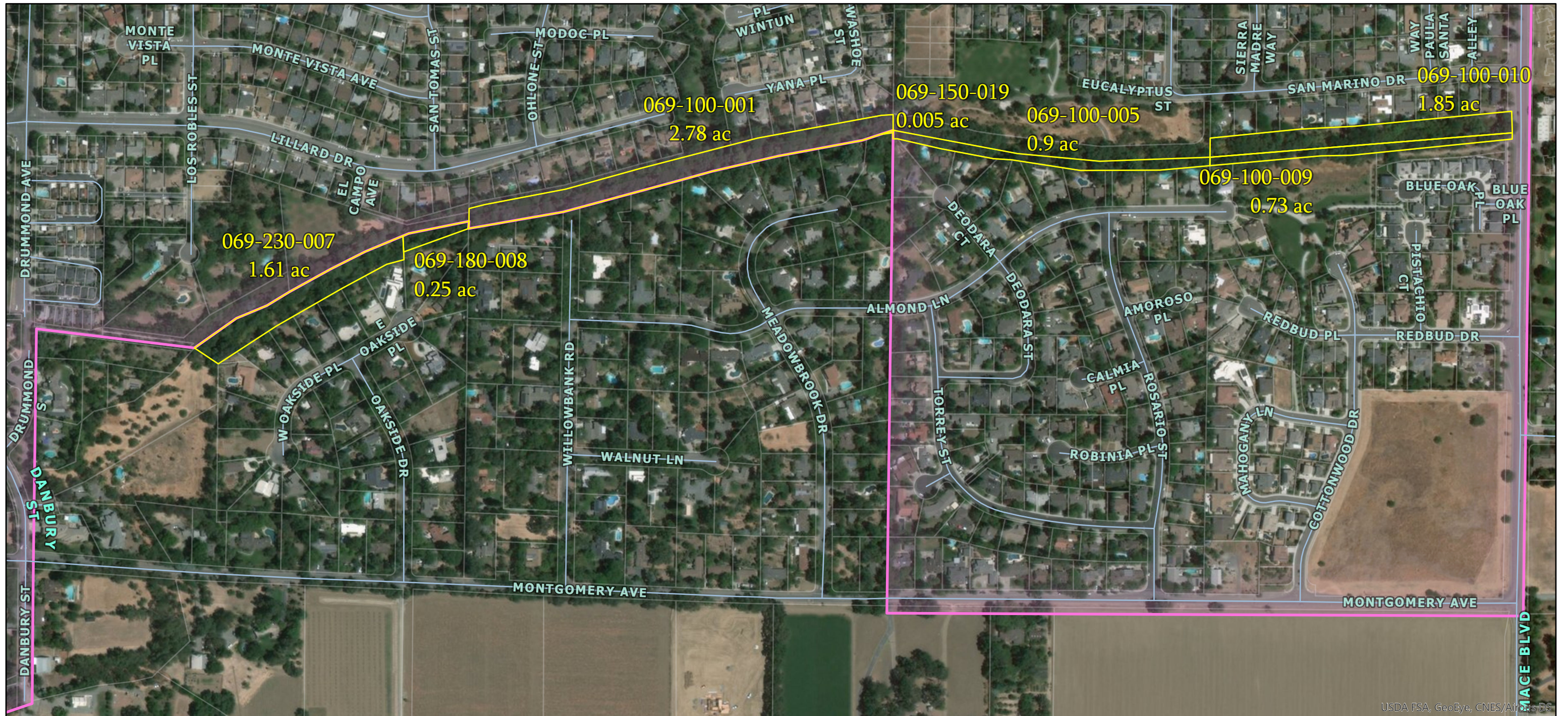
Philip J. Pogledich, County Counsel

By  _____
Deputy (Seal)

By 

Kimberly E. Hood, Assist. County Counsel

Putah Creek Parcels - Imagery



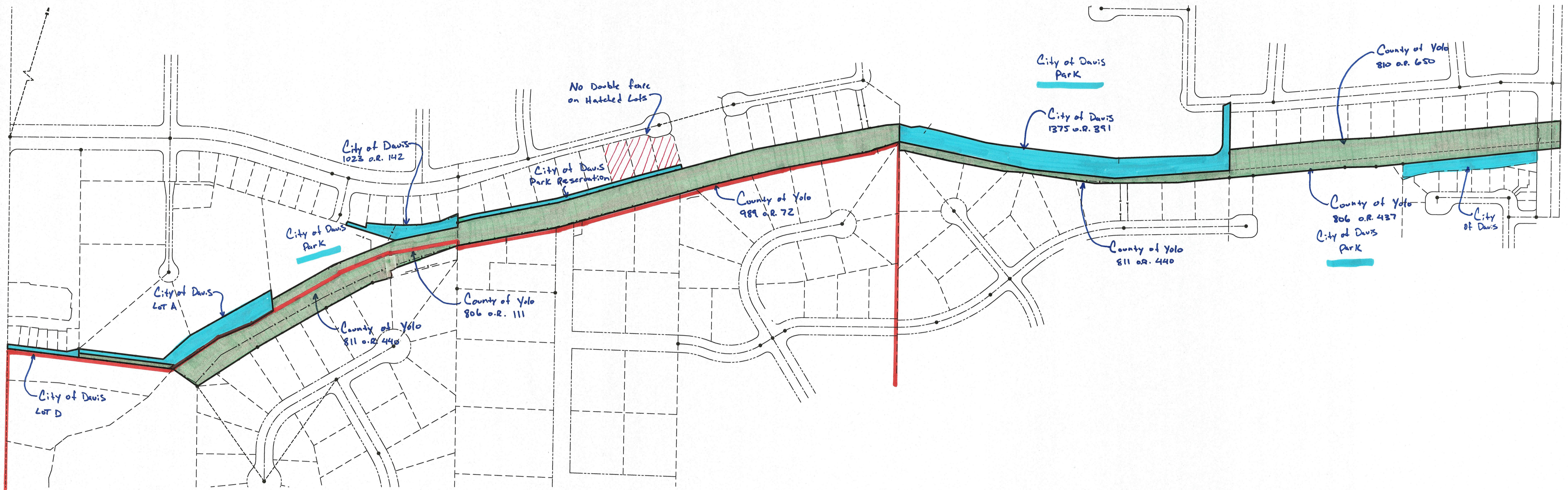
USDA FSA, GeoEye, CNES/Airbus DS

Parcels of Interest
 City of Davis



Data Source: Yolo County
 Produced by: Yolo County ITTD
 Date: 4/26/2018





- County of Yolo
- City of Davis
- City Limits