

EXECUTION VERSION 11/17/20

TAX ABATEMENT AND BUSINESS SUBSIDY AGREEMENT

BY AND BETWEEN

CITY OF WASECA, MINNESOTA

AND

COUNTY OF WASECA, MINNESOTA

AND

CONAGRA FOODS PACKAGED FOODS, LLC.

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## TAX ABATEMENT AND BUSINESS SUBSIDY AGREEMENT

THIS AGREEMENT, made as of the \_\_\_\_ day of \_\_\_\_\_, 2020, by and among the City of Waseca, Minnesota, a Minnesota municipal corporation (the “City”), the County of Waseca, a political subdivision of the State of Minnesota (the “County”) (together, the City and County shall be referred to herein as the “Public Parties”), and Conagra Foods Packaged Foods, LLC., a Delaware limited liability corporation (the “Developer”) (the City, County and Developer shall be collectively referred to herein as the “parties”, and any one of them as a “party”),

### WITNESSETH:

WHEREAS, the Developer has owned and operated the Birdseye vegetable processing facility located at 400 4<sup>th</sup> Street Southwest in the City of Waseca, Waseca County, Minnesota, with Parcel Identification (PID) No. 172190020 (the “Current Facility”), for the previous for at least the last 90 years, but has determined that it is no longer practical to continue operating such facility and intends to decommission, close and otherwise cease operations at the current facility on or before June 30, 2023 and

WHEREAS, the Developer employs 160 full-time employees and approximately 248 seasonal employees at the current facility, which jobs would leave the City and County upon the Developer’s closure of the Current Facility if not for Developer’s construction of the Project, as defined below; and

WHEREAS, the Developer is the fee owner of a parcel of real property approximately 120-acres in size located at 2351 Brown Ave in the City of Waseca, which is generally adjacent to the south of Brown Avenue and to the east of 110th Street, Waseca County Parcel Identification No. 09.013.0600 (parcel number subject to change by annexation), as legally described in Exhibit A and depicted on Exhibit B, which exhibits are attached hereto and incorporated herein by reference, (the “Development Property”), and plans to develop its northernmost 47 acres as legally described on Exhibit C and depicted as “Parcel A” on Exhibit D, which exhibits are attached hereto and incorporated herein by reference, by constructing a new vegetable processing facility with capital improvements and processing equipment totaling at least \$140 million thereon. The development of the Development Property generally consists of, at a minimum, site grading, building pad construction and construction of an approximate 240,000 square foot building on the Development Property, and associated infrastructure, including but not limited to soil corrective measures, stormwater management facilities, grading and erosion control facilities, parking improvements, lighting facilities, private utility installations, machinery, equipment, personal property and other improvements, all as shown on the proposed site plan for the project attached hereto and incorporated herein by reference as Exhibit E (collectively, the “Project”); and

WHEREAS, pursuant to Minnesota Statutes, Sections 469.1812 through 469.1815, the Public Parties have each established a Tax Abatement Program pursuant to which they are each authorized to grant an abatement of ad valorem property taxes imposed by them under certain conditions; and

WHEREAS, the Developer has requested that the City provide financial assistance in the form of property tax abatement on the Development Property in the City to abate 50 percent of the City’s share of ad valorem property taxes on the Development Property derived from the value of the Project and paid by the Developer for a period of twenty (20) years; subject to a maximum annual amount, specifically with respect to the payable 2023 through 2042 property taxes, in a total amount not to exceed \$2,450,000.00, unless the abatement is modified to increase such maximum value to

support future expansion of the Project pursuant to Minnesota Statutes, Section 469.1813, subdivision 7; and

WHEREAS, the Developer has requested that the County provide financial assistance in the form of property tax abatement on the Development Property to abate 65 percent of the County's share of ad valorem property taxes on the Development Property derived from the value of the Project and paid by the Developer for a period of twenty (20) years, subject to annual maximum amounts, specifically with respect to the payable 2023 through 2042 property taxes, in a total amount not to exceed \$2,650,000.00; and

WHEREAS, the Public Parties believe that the development and construction of the Project and fulfillment of this Agreement are vital and are in the best interests of each of them, will result in the retention of vital employment opportunities for their citizens, increase and modernize the industrial building facilities available in the City, and increase the tax base in the City and County, and are in accordance with the public purpose and provisions of the applicable state and local laws and requirements under which the Project has been undertaken and is being assisted; and

WHEREAS, following notice and a public hearing conducted on August 18, 2020, the City adopted Resolution [REDACTED], dated November 17, 2020 (the "City Abatement Resolution"), agreeing to provide, in accordance with the referenced City Abatement Resolution, State law and this Agreement, abatement of City property taxes on the Development Property subject to the terms and conditions contained in the above-referenced City Abatement Resolution and this Agreement (the "City Tax Abatement" or "City Abatement"); and

WHEREAS, following notice and a public hearing the County adopted Resolution 2020-28, dated August 18, 2020 (the "County Abatement Resolution"), agreeing to provide, in accordance with the referenced County Abatement Resolution, State law and this Agreement, abatement of County property taxes on the Development Property subject to the terms and conditions contained in the above-referenced County Abatement Resolution and this Agreement (the "County Tax Abatement" or "County Abatement") (collectively, the City Tax Abatement and the County Tax Abatement shall be referred to herein as the "Tax Abatements" or the "Abatements"); and

WHEREAS, the requirements of the Business Subsidy Law, Minnesota Statutes, Section 116J.993 through 116J.995, apply to this Agreement; and

WHEREAS, the Public Parties believe that the Project will meet the conditions of the Tax Abatement Act and Tax Abatement Program in that: (a) the Public Parties expect the benefits to each of them from this Agreement to equal or exceed the costs to each of them of this Agreement; and (b) the Public Parties find that granting the Tax Abatement is in the public interest because it will increase or preserve the tax base, help retain and expand industrial enterprise, and provide employment opportunities in their jurisdictions; and

WHEREAS, the Public Parties have determined that the Project: (a) will promote and carry out the objectives for which development in the City has been undertaken; (b) will be in the vital best interests of their jurisdictions and the health, safety, morals and welfare of their residents; and (c) is in accord with the public purposes and provisions of the applicable state and local laws, including requirements of the City's Code, under which the Project will be undertaken and is being assisted; and

WHEREAS, the Developer and the Public Parties desire to enter into this Agreement in satisfaction of applicable requirements of each jurisdiction, and to set out the undertakings and obligations of each party from this point forward with respect to the Project.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

## ARTICLE I

### DEFINITIONS

Section 1.1 Definitions. All capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

Agreement means this Agreement, as the same may be from time to time modified, amended or supplemented;

Base Market Value means the estimated 2020 market value of the Development Property in the amount of \$840,840.00 (based on a mutually-agreed upon present land value of \$7,007.00 per acre for the 120-acre Development Property);

Benefit Date means every date on which the City or County makes a payment of Tax Abatements to the Developer according the specific provisions of Section 3.9 or 3.10, consistent with the statutory definition of the term contained in Minnesota Statutes, Section 116J.993, Subdivision 2.

Business Day means any day except a Saturday, Sunday or a legal holiday or a day on which banking institutions in the City are authorized by law or executive order to close;

Business Subsidy means the cumulative value of the City Tax Abatement Program, the County Tax Abatement Program, and the other public assistance provided in support of the Project under Section 3.11;

City means the City of Waseca, Minnesota;

City Tax Abatement Program means the action by the City pursuant to Minnesota Statutes, Section 469.1812 through 469.1815, as amended, and undertaken in support of the Project;

City Tax Abatements means the City's reimbursement to the Developer of fifty (50) percent of the City's share of ad valorem property taxes on the Development Property derived from the value of the Project and paid by the Developer for a period of twenty (20) years, subject to a maximum annual amount, specifically with respect to the payable 2023 through 2042 property taxes, in a total amount not to exceed \$2,450,000.00, unless the abatement is modified during the term of this Agreement pursuant to Minnesota Statutes, Section 469.1813, subdivision 7, pursuant to the specific provisions of Section 3.9;

Code means the City's Code of Ordinances;

County means the County of Waseca, Minnesota;

County Tax Abatement Program means the action by the County pursuant to Minnesota Statutes, Section 469.1812 through 469.1815, as amended, and undertaken in support of the Project;

County Tax Abatements means the County's reimbursement to the Developer of sixty-five (65) percent of the County's share of ad valorem property taxes on the Development Property derived from the value of the Project and paid by the Developer for a period of twenty (20) years, subject to annual maximum amounts, specifically with respect to the payable 2023 through 2042 property taxes, in a total amount not to exceed \$2,650,000.00, pursuant to the specific provisions of Section 3.10.

Current Facility means the Birdseye vegetable processing facility located at 400 4<sup>th</sup> Street Southwest in the City of Waseca, Waseca County, Minnesota, with Parcel Identification (PID) No. 172190020;

Developer means Conagra Brands, Inc., and its successors and assigns;

Development Agreement means that certain Development Agreement for the Conagra Waseca Plant by and between the City and Developer, dated November 17, 2020;

Development Property means the real property described on Exhibit A and depicted on Exhibit B, attached hereto;

Event of Default means any of the events described in Section 4.1;

Project means the Developer's construction of a new vegetable processing facility with capital improvements and processing equipment totaling at least \$140 million consisting of, at a minimum, site grading, building pad construction and construction of an approximate 240,000 square foot building on the northernmost 47 acres of the Development Property as legally described on Exhibit C and depicted on Exhibit D, attached hereto, and associated infrastructure, including but not limited to soil corrective measures, stormwater management facilities, grading and erosion control facilities, parking improvements, lighting facilities, private utility installations, machinery, equipment, personal property and other improvements, all as shown on the proposed site plan for the project attached hereto and incorporated herein by reference as Exhibit E as provided in the Project Plans (as the same may be modified with City approval from time to time) and this Agreement;

Project Plans means all submissions required by the City Ordinances, the Development Agreement, or this Agreement with respect to the Project and all plans, drawings, plats and related documents for the construction of the Project, approved by the City and Developer, irrespective of whether the Developer's and/or the City's final approval of any such documents occurs before or after the execution and delivery of this Agreement.

State means the State of Minnesota;

Tax Abatement Act means Minnesota Statutes, Sections 469.1812 through 469.1815;

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of the City. The City makes the following representations and warranties:

(1) The City is a municipal corporation organized under the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

(2) The Tax Abatement Program was created, adopted and approved in accordance with the terms of the Tax Abatement Act.

(3) To finance the costs of the Project to be undertaken by the Developer, the City proposes, subject to the further provisions of this Agreement, to reimburse the Developer for Project costs as further provided in this Agreement.

(4) The City has made the findings required by the Tax Abatement Act for the City Tax Abatement Program.

(5) This Agreement has been duly approved by the City Council of the City and the execution and delivery of this Agreement has been authorized by such City Council.

Section 2.2 Representations and Warranties of the County. The County makes the following representations and warranties:

(1) The County is a political subdivision of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

(2) The County Tax Abatement Program was created, adopted and approved in accordance with the terms of the Tax Abatement Act.

(3) To finance the costs of the Project to be undertaken by the Developer, the County proposes, subject to the further provisions of this Agreement, to reimburse the Developer for Project costs as further provided in this Agreement.

(4) The County has made the findings required by the Tax Abatement Act for the County Tax Abatement Program.

(5) This Agreement has been duly approved by the Board of Commissioners of the County and the execution and delivery of this Agreement has been authorized by such Board.

Section 2.3 Representations and Warranties of the Developer. The Developer makes the following representations and warranties:

(1) The Developer is a corporation duly organized, in good standing, and validly existing under the laws of the State of Delaware and is registered and in good standing with the Office of the Secretary of State of Minnesota, with full authority to transact business in this State, has the power to enter into the Agreement and to perform its obligations hereunder, and is not in violation of its charter, articles of incorporation, operating agreement or any local, state or federal laws.

(2) The Developer will cause the Project to be constructed in accordance with the terms of this Agreement, the Project Plans, and all local, state, and federal laws and regulations (including, but not limited to, environmental, zoning, energy conservation, building code and public health laws and regulations, City Policy and Code).

(3) The Developer will obtain or cause to be obtained, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable

local, state, and federal laws and regulations which must be obtained or met before the Project may be lawfully constructed. Without in any way limiting the foregoing, the Developer will request and seek to obtain from the City, if necessary, such approvals, variances, conditional use permits, zoning changes and other required City approvals as may be applicable.

(4) The Project will, as of the date it is completed and subject to the issuance of City approvals as herein contemplated, contain only uses permitted under the Code, except that the City acknowledges that the Developer's use of that portion of the Development Property that will not be developed as part of the Project as agricultural spray fields the spray fields will be a legal non-conforming use governed by Minn. Stat. § 462.357, subd. 1e.

(5) The construction of the Project would not be undertaken by the Developer, and in the opinion of the Developer would not be economically feasible within the reasonably foreseeable future, without the assistance and benefit to the Developer provided for in this Agreement.

(6) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provision of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(7) The Developer will cooperate fully with the City with respect to any litigation commenced with respect to the Project, but only to the extent that the City and the Developer are not adverse parties to the litigation.

(8) The Developer will address any traffic, drainage, utility, parking, trash removal or public safety problems which may arise in connection with the construction and operation of the Project as required in the Development Agreement.

(9) The Developer requested that Waseca County and Waseca Public School District (Independent School District #829) each abate their shares of ad valorem real property taxes in support of the Project; however, the Waseca Public School District declined to consider providing such abatement in a written response to the Developer.

### ARTICLE III

#### UNDERTAKINGS BY DEVELOPER AND PUBLIC PARTIES

##### Section 3.1 Construction of Project and Reimbursement of Cost.

(1) The Developer will construct or cause the Project to be constructed in a good and workmanlike manner in accordance with the Project Plans and at all times prior to the termination of this Agreement will operate and maintain, preserve and keep the Project or cause the Project to be maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition.

(2) The Public Parties shall partially reimburse the Developer for the costs of the Project paid by the Developer pursuant to the City Abatement Program and County Abatement Program as



provided in Sections 3.9 and 3.10, and shall have no other financial obligation to the Developer with respect to the Project unless expressly stated herein or in the Development Agreement.

Section 3.2 Limitations on Undertaking of the Public Parties. Notwithstanding the provisions of Section 3.1, the Public Parties shall have no obligation to reimburse the Developer for the costs of the Project, if either of them, at the time or times such payment is to be made, is entitled under Section 4.2 to exercise any of the remedies set forth therein as a result of an Event of Default which has not cured.

Section 3.3 Commencement and Completion of Construction.

The Developer shall complete the Project by June 30, 2023, unless extended to a date mutually agreeable to the City and Developer, in writing. All work with respect to the Project to be constructed or provided by the Developer shall be in conformity with the Project Plans as submitted by the Developer and approved by the City.

Nothing in this Agreement shall be deemed to impair or limit any of the City's rights or responsibilities under its zoning laws or construction permit processes.

Section 3.4 Damage and Destruction. In the event of damage or destruction of the Project, whether during construction or following the completion thereof, the Developer shall repair or rebuild the Project.

Section 3.5 No Change in Use of Project. The Public Parties' obligations pursuant to this Agreement shall be subject to the continued operation of the Project by the Developer.

Section 3.6 Transfer of Project and Assignment of Agreement. Developer may transfer the Project or the Development Property, or any part thereof or any interest therein, to a third party that will conduct industrial operations on the Development Property, with the prior written consent of the City and County, which consent shall not be unreasonably withheld considering the qualifications and financial responsibility of such third party. Developer may not assign its rights or obligations under this Agreement, or any portion of them, to a third party without the written consent of the City and County which consent the City and County may grant or withhold in their sole and absolute discretion.

Section 3.7 Real Property Taxes. The Developer acknowledges that it is obligated under law to pay all real property taxes and special assessments payable with respect to all parts of the Development Property acquired and owned by it which are payable pursuant to this Agreement, State law and any other statutory or contractual duty that shall accrue subsequent to the date of its acquisition of title to the Development Property (or part thereof) and until title to the property is vested in another person. The Developer agrees that for tax assessments so long as this Agreement remains in effect:

(1) It will not seek administrative review or judicial review of the applicability of any tax statute relating to the ad valorem property taxation of real property contained on the Development Property determined by any tax official to be applicable to the Project or the Developer or raise the inapplicability of any such tax statute as a defense in any proceedings with respect to the Development Property, including delinquent tax proceedings; provided, however, "tax statute" does not include any local ordinance or resolution levying a tax;

(2) It will not seek administrative review or judicial review of the constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Project or the Developer or raise the unconstitutionality of any such tax statute as a defense in any proceeding, including delinquent tax proceeding with respect to the Development Property; provided, however, “tax statute” does not include any local ordinance or resolution levying a tax;

(3) It will not seek a reduction in the market value of the Development Property as determined by the Waseca County Assessor, provided that the assessed value of the Development Property does not exceed \$14,000,000, excluding any future real property investments outside the scope of the Project

(4) It will not seek any tax deferral or abatement not expressly provided for in this Agreement, either presently or prospectively authorized under Minnesota Statutes, Section 469.181, or any other State or federal law, of the ad valorem property taxation of the Development Property so long as this Agreement remains in effect.

### Section 3.8 Economic Development Goals and Reporting.

(1) In order to satisfy the provisions of Minnesota Statutes, Sections 116J.993 to 116J.995 (the “Business Subsidies Act”), the Developer acknowledges and agrees that the amount of the Business Subsidy granted to the Developer under this Agreement is needed because the Project is not sufficiently feasible for the Developer to undertake without the Business Subsidy. The public purposes of the Business Subsidy are to retain vital employment opportunities for the Public Parties’ citizens, which would leave their jurisdictions when Developer ceases operating its Current Facility without Developer’s construction of the Project, increase and modernize the industrial building facilities and increase the tax base in the their jurisdictions. The Developer agrees that it will meet the following goals (the “Goals”):

- (a) To create a minimum of 125 full-time equivalent jobs on the Development Property by December 31, 2028, and thereafter maintain at least such number of full-time equivalent jobs on the Development Property for the duration of this Agreement and for ten years thereafter, and to satisfy the following interim job creation benchmarks:
  - i. To create a total of 119 full-time equivalent jobs on the Development Property by December 31, 2023; and
  - ii. To create an additional six full time equivalent jobs on the Development Property by December 31, 2028.
- (b) For each full-time equivalent job added pursuant to subparagraph (a) above, to pay a wage that with benefits, exceeds the minimum hourly wage required for qualification for job creation or retention goals in the City’s Public Financial Assistance and Business Subsidy Development Policy, as the same may be amended.
- (c) To employ a minimum of 250 seasonal jobs on the Development Property by December 31, 2023, and thereafter maintain at least such number of seasonal jobs on the Development Property for the duration of this Agreement.

- (d) To spend a minimum of \$140 million on capital projects on and improvements to the Development Property, including the purchase and installation of machinery and equipment to be installed thereon, by December 31, 2023.
- (e) For purposes of this Section, a “full-time equivalent job” shall mean a job in which a person is employed for a full year and works 40-hours per week, and a “seasonal job” shall mean a job in which a person is employed on a full-time basis (40-hours per week) for at least three months in a year.

(2) If the Goals are not met, the Developer agrees to repay all or a part of the Business Subsidy to the Public Parties, as applicable, plus interest (“Interest”) set at the implicit price deflator defined in Minnesota Statutes, Section 275.70, subdivision 2, accruing from and after the Benefit Date, as that term is defined in Minnesota Statute Section 116J.993, compounded semiannually. If the Goals are met in part, the Developer will repay a portion of the Business Subsidy (plus Interest) determined by multiplying the Business Subsidy by a fraction in proportion to the level of the Developer’s partial satisfaction of the Goals. For purposes of this calculation, the goals set forth in this Section shall be given the following relative weight: job goals: sixty (60) percent; capital investment goal: forty (40) percent. Further, each full-time equivalent job created above the minimum number stated in the applicable Goal above may be used to offset four seasonal jobs, should the Developer fail to satisfy the applicable Goal for seasonal jobs only; however, seasonal jobs created in excess of the applicable Goal for seasonable jobs shall not be used to offset the Developer’s failure to satisfy any applicable Goal for full-time equivalent jobs.

(3) The Developer agrees to (i) report its progress on achieving the Goals to the City, until the Goals are fully satisfied or, if the Goals are not met, until the date the Assistance is repaid, (ii) include in the report the information required in Subdivision 7 of the Jobs Act (Minnesota Statutes, Section 116J.994) on forms developed by the Minnesota Department of Employment and Economic Development, and (iii) send completed reports to the City and provide copies of such reports to the County. The Developer agrees to file its report no later than March 1 of each year commencing March 1, 2024. The City agrees that if it does not receive the reports, it will mail the Developer a warning within one week of the required filing date. If within 14 days of the post marked date of the warning the reports are not made, the Developer agrees to pay to the City a penalty of \$100 for each subsequent day until the report is filed up to a maximum of \$1,000.

(4) The Developer agrees to continue or cause to be continued operations of the Project on the Development Property maintaining at least the minimum number of full-time equivalent jobs for the duration of this Agreement and at least ten (10) years thereafter.

### Section 3.9 City Tax Abatement Program.

(1) The City Tax Abatement paid to the Developer shall be in accordance with and subject to the terms and conditions contained in the City Abatement Resolution and the Tax Abatement Act.

(2) The City Tax Abatement shall be for a duration of twenty (20) years and shall apply to the increased portion of the City’s share of ad valorem property taxes imposed on the Development Property derived from the value of the Project and paid by the Developer, in a total amount not to exceed \$2,450,000.00, and not to exceed \$123,000.00 in any given year, unless the abatement is modified to increase such maximum values to support future expansion of the Project pursuant to Minnesota Statutes, Section 469.1813, subdivision 7, beginning with taxes payable in 2023 and continuing through taxes payable in 2042, in an amount equal to fifty (50) percent of the increased

portion of the City's share of ad valorem property taxes on the Property resulting from the Project. In the event the Developer utilizes the entire maximum total value of the City Tax Abatement prior to the end of the 20-year abatement term, then the City and Developer will meet and negotiate in good faith regarding a modification to increase the City Tax Abatement, provided that any such modification shall be subject to the procedural requirements of the Tax Abatement Act and the approval of the Waseca City Council.

The increased portion of the City's share of ad valorem property taxes on the Property which will be subject to abatement under this paragraph shall be any property taxes collected in any given year in excess of the Base Market Value for the Development Property (\$840,840.00).

(3) On or before February 1 and August 1 each year commencing August 1, 2023 to and including February 1, 2043, upon receiving confirmation of the amount of the City's portion of ad valorem property taxes on the Development Property paid by Developer in the previous six-month period to which the Developer is entitled to reimbursement under this Section, the City shall pay the Developer the amount of the City Tax Abatements received by the City in the previous six-month period.

(4) In order to be entitled to the City Tax Abatement provided for in this Agreement, the Developer shall not be in default within the City of any of its payment obligations respecting any taxes, assessments, utility charges or other governmental impositions, or in any material respect with this Agreement or the Development Agreement. Notwithstanding the other provisions of this Article, the City shall not have any obligation to the Developer with respect to the City Abatement of taxes hereunder if the City, at the time or times such obligation is required, is entitled to exercise any of the remedies set forth in this Agreement as a result of an Event of Default, which has not been cured.

#### Section 3.10 County Tax Abatement Program.

(1) The Tax Abatement paid to the Developer shall be in accordance with and subject to the terms and conditions contained in the County Abatement Resolution and the Tax Abatement Act.

(2) The County Tax Abatement shall be for a duration of not to exceed twenty (20) years and shall apply to the increased portion of the County's share of ad valorem property taxes imposed on the Development Property derived from the value of the Project and paid by the Developer, in a total amount not to exceed \$2,650,000.00, beginning with taxes payable in 2023 and continuing through taxes payable in 2042, in an amount equal to sixty-five (65) percent of the increased portion of the County's share of ad valorem property taxes on the Property resulting from the Project, not to exceed \$132,500.00 in any given year. The increased portion of the County's share of ad valorem property taxes on the Property which will be subject to abatement under this paragraph shall be any property taxes collected in any given year in excess of the Base Market Value for the Development Property (\$840,840.00).

(3) On or before February 1 and August 1 each year commencing August 1, 2023 to and including February 1, 2043, upon receiving confirmation of the amount of the County's portion of ad valorem property taxes on the Development Property paid by Developer in the previous six-month period to which the Developer is entitled to reimbursement under this Section, the County shall pay the Developer the amount of the Tax Abatements received by the County in the previous six-month period.

(4) In order to be entitled to the County Tax Abatement provided for in this Agreement, the Developer shall not be in default within the County of any of its payment obligations respecting

any taxes, assessments, utility charges or other governmental impositions, or in any material respect with this Agreement or the Development Agreement. Notwithstanding the other provisions of this Article, the County shall not have any obligation to the Developer with respect to the County Abatement of taxes hereunder if the County, at the time or times such obligation is required, is entitled to exercise any of the remedies set forth in this Agreement as a result of an Event of Default, which has not been cured.

Section 3.11 Other Public Assistance. In addition to and separate from the Tax Abatements provided for in Sections 3.9 and 3.10 herein, the Public Parties have agreed to provide public support of the Project in other ways as follows:

(1) Pursuant to the Development Agreement, the City has agreed to construct a 16-inch replacement of the City's existing water main along Brown Avenue approximately 3,000 feet to serve the Development Property, which the City intends to continue an additional 1,850 feet to the western parcel line of the Development Property to accommodate anticipated future growth and development. This water main will at all times be owned, operated and maintained by the City. The preliminary estimated cost to construct this water main replacement is \$1,240,580.00, of which total project cost approximately \$901,168.00 is attributable to and specifically benefits the Project.

(2) The County has agreed to construct certain roadway improvements to Brown Avenue as shown on Exhibit F, which is attached hereto and incorporated herein by reference, the estimated value of which that is attributable to and specially benefits the Project is \$250,000.00.

## ARTICLE IV

### EVENTS OF DEFAULT

Section 4.1 Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean whenever it is used in this Agreement any one or more of the following events:

(1) Failure by the Developer to timely pay when due the payments required to be paid or secured under any provision of this Agreement or which are otherwise required, including the payment of any ad valorem real property taxes, special assessments, utility charges or other governmental impositions with respect to the Development Property, the Project or any portion thereof owned by the Developer.

(2) Failure by the Developer to cause the construction of the Project to be completed pursuant to the terms, conditions and limitations of this Agreement.

(3) Failure by the Developer to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement.

(4) Failure by the Developer to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under the Development Agreement.

(5) If Developer admits in writing of its inability to pay its debts generally as they become due, or shall file or be involuntarily named as a debtor in a petition in bankruptcy, or shall make an assignment for the benefit of creditors, or shall consent to the appointment of a receiver of itself or of the whole or any substantial part of the Development Property.

(6) If the Developer, on a petition in bankruptcy filed against it, be adjudicated bankrupt, or a court of competent jurisdiction shall enter an order or decree appointing, without the consent of the Developer, a receiver of the Developer or of the whole or substantially all of its property, or approve a petition filed against the Developer seeking reorganization or rearrangement of the Developer under the federal bankruptcy laws, and such adjudication, order or decree shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof.

(7) If the Developer is in default under any mortgage and has not entered into a workout agreement with the Mortgagee within sixty (60) days after such default.

Section 4.2 Remedies on Default. Whenever any Event of Default referred to in Section 4.1 occurs and is continuing, the Public Parties, or either of them, as specified below, in addition to any other remedies or rights given them under this Agreement, after the giving of thirty (30) days' written notice to the Developer citing with specificity the item or items of default and notifying the Developer that it has thirty (30) days within which to cure said Event of Default, may take any one or more of the following actions:

(1) The Public Parties, or either of them, may suspend their performance under this Agreement, including the payment of any Tax Abatements, until they receive assurances from the Developer, deemed adequate by the Public Parties, that the Developer will cure its default and continue its performance under this Agreement.

(2) The Public Parties, or either of them, may cancel and rescind the Agreement.

(3) The Public Parties, or either of them, may take any action, including legal or administrative action, in law or equity, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement; provided that any exercise by the Public Parties of their rights or remedies hereunder shall always be subject to and limited by, and shall not defeat, render invalid or limit in any way the lien of any mortgage authorized by this Agreement; and provided further that should any Mortgagee succeed by foreclosure of the mortgage or deed in lieu thereof in respect to the Developer's interest in the Development Property, the Mortgagee shall, notwithstanding the foregoing, be obligated to perform the obligations of the Developer to complete construction of the Project described and in the manner required hereunder, but only to the extent that the same have not theretofore been performed by the Developer.

(4) The Public Parties, or either of them, may withhold any certificate or permit required hereunder.

The notice of an Event of Default required in this Section shall be effective on the date mailed or hand delivered to the Developer.

Section 4.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to the Public Parties is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. The aforementioned rights in the prior sentence apply also to the Developer. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be

deemed expedient. Except as expressly set forth herein, it shall not be necessary to give notice to exercise a remedy, other than such notice as may be required in this Article.

Section 4.4 No Implied Waiver. In the event any obligation contained in this Agreement should be breached by any party hereto and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 4.5 Agreement to Pay Attorneys' Fees and Expenses. Whenever any Event of Default occurs and the Public Parties, or either of them, shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of the Developer herein contained, the Developer agrees that it shall, on demand therefore, pay to the Public Parties the reasonable fees of such attorneys and such other expenses so incurred by either of them.

Section 4.6 Release and Indemnification Covenants.

(1) The Developer expressly releases from and covenants and agrees to indemnify and hold the Public Parties and their officers, agents, servants, employees and all members of the Waseca City Council, City of Waseca Planning Commission, Waseca County Board of Commissioners and other boards or commissions harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or an account of the Project, the Development Property, or the performance of work at the development site and elsewhere pursuant to this Agreement, and further releases such officers, employees, agents and members from any personal liability in connection with handling funds pursuant to the terms of this Agreement, to the extent caused by Developer or Developer's employees, agents or invitees. The indemnification provided hereunder shall not apply to intentional acts or gross misconduct of the individual or entity so indemnified.

(2) Except for any willful misrepresentation or any willful or wanton misconduct of the following named parties, the Developer agrees to protect and defend the Public Parties and their officers, agents, servants and employees and all members of their officers, agents, servants, employees and all members of the Waseca City Council, City of Waseca Planning Commission, Waseca County Board of Commissioners and other boards or commissions, now or forever, and further agrees to hold the aforesaid harmless from any claim, demand, action or other proceeding whatsoever by any person or entity whatsoever to the extent arising or purportedly arising from a breach of the obligations of the Developer under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, maintenance and operation of the Project.

(3) The Public Parties and their officers, agents, employees and all members of the Waseca City Council, City of Waseca Planning Commission, Waseca County Board of Commissioners and other boards or commissions shall not be liable for any damages or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Project due to any act of negligence of any person, unless caused by a Public Party.

(4) All covenants, stipulations, promises, agreements and obligations of the Public Parties contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and/or County, respectively, and not of any officer, agent, servant, employee or any members of the Waseca City Council, City of Waseca Planning Commission, Waseca County

Board of Commissioners and other boards or commissions of the City or County in their individual capacity thereof.

(5) The Developer is not an agent of the City or the County and this Agreement shall not be construed as creating a joint venture, partnership or other joint arrangement between the Developer and either the City or the County relating to the Project.

## ARTICLE V

### ADDITIONAL PROVISIONS

Section 5.1 Conflicts of Interest/No Personal Liability. No member of the governing body or other official or employee of the City or County shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. No member, official or employee of the City or County shall be personally liable to the Developer in the event of any default or breach by the City or County or for any amount that may become due to the Developer for any obligations under the terms of this Agreement.

Section 5.2. Non-Discrimination. Developer shall not violate any law applicable to it with respect to civil rights and non-discrimination including, without limitation, Minnesota Statutes, Section 181.59.

Section 5.3. Responsibility for Costs. Developer shall be responsible for the following costs incurred with respect to this Agreement, which costs shall be paid as set forth below:

(1) The Developer shall reimburse the City and/or County for reasonable, administrative and out-of-pocket costs, expenses and disbursements incurred in the enforcement of this Agreement provided any such reimbursement is related to Developer's negligence or breach of this Agreement, including engineering and attorney's fees.

(2) The Developer shall pay in full all bills submitted to it by the City or County within thirty (30) days after receipt. If the bills are not paid on time, the City or County, as applicable, may without further notice to Developer exercise any one or more of the remedies provided to the Public Parties by Article 4 hereunder.

Section 5.4 Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under this Agreement by any party to any other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

(1) in the case of the Developer is addressed to or delivered personally to:

Conagra Property Tax Group  
Eleven Conagra Dr. MS-PTG  
Omaha, NE 68102

With a copy to:  
ConAgra Foods Packaged Foods, LLC



222 Merchandise Mart Plaza, Suite 1300  
Chicago, IL 60654  
Attention: Legal Department  
Email: Legal.Notices@Conagra.com

- (2) in the case of the City is addressed to or delivered personally to:

Lee Mattson  
City Manager  
City of Waseca  
508 South State Street,  
Waseca, MN 56093

- (3) in the case of the County is addressed to or delivered personally to:

County Administrator  
County of Waseca  
307 N State St  
Waseca, MN 56093

or at such other address with respect to any such party as that party may, from time to time, designate in writing and forward to the other, as provided in this Section.

Section 5.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 5.6 Duration. This Agreement shall remain in effect through December 31, 2052, unless earlier terminated or rescinded in accordance with its terms.

Section 5.7 Provisions Surviving Rescission or Expiration. Sections 4.5 and 4.6 shall survive any rescission, termination or expiration of this Agreement with respect to or arising out of any event, occurrence or circumstance existing prior to the date thereof.

Section 5.8 Records—Availability and Retention. Pursuant to Minn. Stat. § 16C.05, subd. 5, the Developer agrees that the City, the County, the State Auditor, or any of their duly authorized representatives, upon reasonable written notice, at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the Developer and involve transactions relating to this Agreement, provided Developer is not otherwise prohibited from producing any such records by law. The Developer agrees to maintain these records for a period of six years from the date of certification by the City that the Goals have been met.

Section 5.9 Data Practices. The parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*

Section 5.10. Rules of Interpretation.

(1) Governing Law. This Agreement shall be interpreted in accordance with and governed by the laws of the State of Minnesota,

(2) Includes Entire Agreement. The words "herein" and "hereof" and words of similar import, without reference to any particular section or subdivision refer to this Agreement as a whole rather than any particular section or subdivision hereof.

(3) Original Sections. References herein to any particular article, section or paragraph hereof are to the section or subdivision of this Agreement as originally executed.

(4) Headings. Any headings, captions, or titles of the several parts, articles, sections, and paragraphs of this Agreement are inserted for convenience and reference only and shall be disregarded in construing or interpreting any of its provision.

(5) Conflict Between Agreements. In the event of any conflict between the terms, conditions and provisions of this Agreement and the terms, conditions and provisions of any other instrument, the terms, conditions and provisions of this Agreement shall control and take precedence.

(6) Entire Agreement. This Agreement including any Schedules and Exhibits hereto contain the entire agreement of the parties relating to the subject matter herein, and no other prior or contemporary agreements, oral or written, shall be binding upon the parties hereto.

(7) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns as provided and as conditioned in this Agreement.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have each caused this Agreement to be duly executed in their name on or effective as of the date first above written.

**Conagra Foods Packaged Foods, LLC.**, a Delaware limited liability company

By: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_, Its President

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of Conagra Brands, Inc., a Delaware limited liability company , on behalf of the corporation.

\_\_\_\_\_  
Notary Public

**CITY OF WASECA, MINNESOTA**

By: \_\_\_\_\_  
Roy Srp, Its Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Lee Mattson, Its City Manager

Date: \_\_\_\_\_

STATE OF MINNESOTA            )  
  ) ss.  
COUNTY OF WASECA            )

The foregoing instrument was acknowledged before me this \_\_\_\_day of \_\_\_\_\_,  
20\_\_\_\_, by Roy Srp, as Mayor, and Lee Mattson, as City Manager, for the City of Waseca,  
Minnesota.

\_\_\_\_\_  
Notary Public

**COUNTY OF WASECA, MINNESOTA**

By: \_\_\_\_\_  
\_\_\_\_\_, Its \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Its \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF MINNESOTA            )  
  ) ss.  
COUNTY OF WASECA            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_, as \_\_\_\_\_, and \_\_\_\_\_, as \_\_\_\_\_, for the County of  
Waseca, Minnesota.

\_\_\_\_\_

Notary Public

**THIS INSTRUMENT WAS DRAFTED BY:**

Flaherty & Hood, P.A.  
525 Park Street, Suite 470  
St. Paul, MN 55103  
(651) 225-8840

Exhibit A  
Legal Description of Development Property

That part of the Northwest Quarter and that part of the North Half of the Southwest Quarter of Section 13, Township 107 North, Range 23 West, Waseca County, Minnesota, described as follows:

Beginning at the northeast corner of the West Half of said Section 13; thence S00°28'07"W (all bearings are referenced to the Waseca County Coordinate System NAD83 1996ADJ HARN) along the east line of said West Half 3595.95 feet; thence N89°39'46"W 1329.76 feet to the west line of the Northeast Quarter of said Southwest Quarter; thence N00°33'23"E along said west line 629.34 feet to the southeast corner of the North 330.00 feet of the Northwest Quarter of said Southwest Quarter; thence N89°39'46"W along the south line of the North 330.00 feet of the Northwest Quarter of said Southwest Quarter 755.50 feet to the northerly corner of Lot 1, Block 1, WASECA WASTEWATER TREATMENT FACILITIES FIRST ADDITION according to the plat thereof on file at the County Recorders office, Waseca County, Minnesota; thence N00°38'39"E along the northerly line of said Lot 1 a distance of 40.00 feet; thence N89°39'40"W along the northerly line of said Lot 1 a distance of 117.50 feet; thence N27°19'17"W along the northerly line of said Lot 1 a distance of 265.32 feet; thence N89°39'40"W along the northerly line of said Lot 1 a distance of 331.38 feet to the west line of said Southwest Quarter; thence N00°38'39"E along said west line 55.00 feet to the northwest corner of said Southwest Quarter; thence S89°39'46"E along the south line of said Northwest Quarter 1328.29 feet to the southwest corner of the East Half of said Northwest Quarter; thence N00°33'05"E along the west line of the East Half of said Northwest Quarter 2308.68 feet to a point distant southerly of the northeast corner of the Northwest Quarter of said Northwest Quarter; thence N89°34'26"W 396.00 feet parallel with the north line of said Northwest Quarter; thence N00°33'05"E 330.00 feet to the north line of said Northwest Quarter; thence S89°34'26"E along said north line 396.00 feet to the northwest corner of the East Half of said Northwest Quarter; thence S89°34'26"E along said north line 1324.49 feet to the northeast corner of the West Half of said Section 13 and the point of beginning.

Exhibit B  
Depiction of Development Property

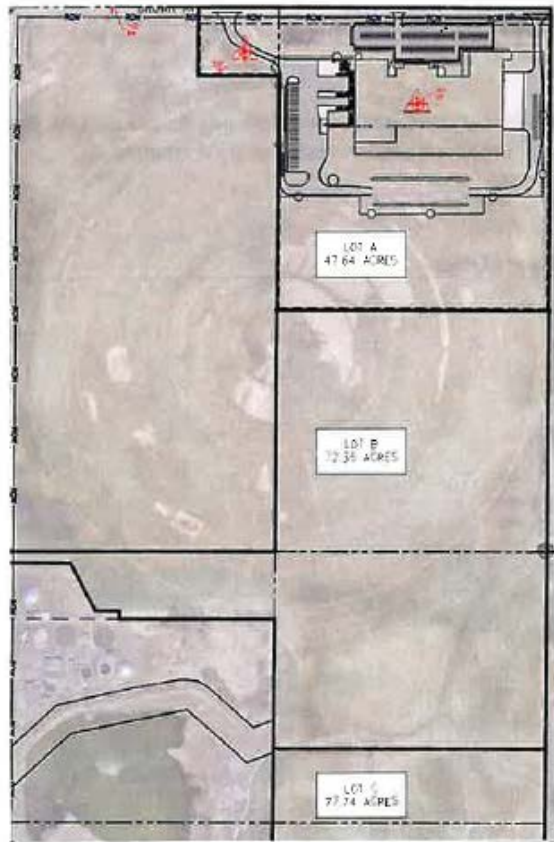


Exhibit C  
Legal Description of Development Property "Parcel A"

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 107 NORTH, RANGE 23 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASECA COUNTY, MINNESOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF NORTHWEST QUARTER OF SAID SECTION 13, THENCE SOUTH 00° 28' 07" WEST, 1466.83 FEET ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 13 TO THE SOUTH LINE OF THE NORTH 1466.83 FEET OF THE EAST HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 89° 34' 26" WEST, 1326.60 FEET ALONG SAID SOUTH LINE TO THE WEST LINE OF THE EAST HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 00° 33' 05" EAST, 1136.83 FEET ALONG SAID WEST LINE TO A POINT DISTANT SOUTHERLY OF THE NORTHEAST CORNER OF THE WEST HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 89° 34' 26" WEST, 396.00 FEET PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE NORTH 00° 33' 05" EAST, 330.00 FEET TO THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 89° 34' 26" EAST, 1720.49 FEET ALONG SAID NORTH LINE TO THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER AND THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 2,075,027 SQUARE FEET OR 47.64 ACRES MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83 (96 HARN) WASECA COUNTY COORDINATE SYSTEM.

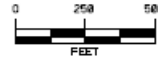


Exhibit D  
Depiction of Development Property "Parcel A"

# CERTIFICATE OF SURVEY

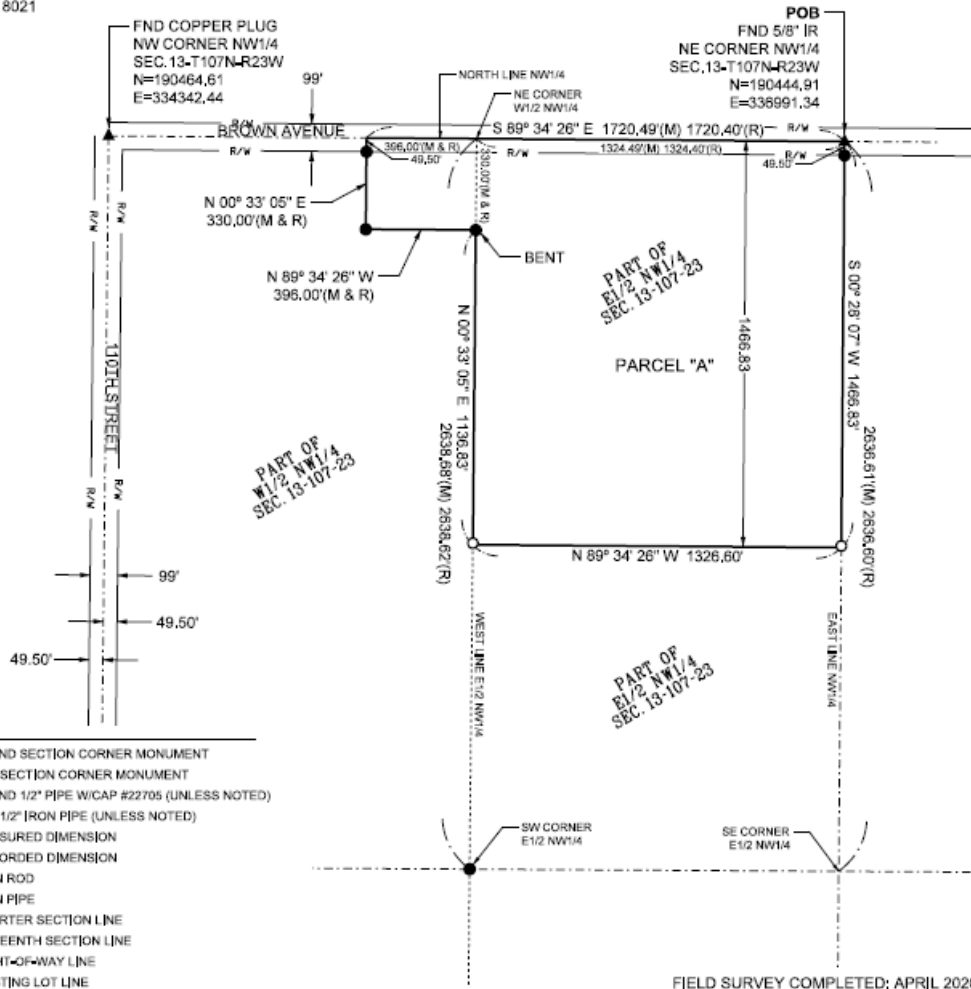
EXHIBIT "A"

PART OF THE NW1/4  
 SECTION 13, T107N, R23W  
 WASECA COUNTY, MINNESOTA  
 11393 350TH AVENUE  
 PARCEL "A"



NOTE: MONUMENTS SHOWN TO BE SET WILL BE ESTABLISHED AFTER CONSTRUCTION IS COMPLETED

PROPERTY OWNER:  
 CONAGRA FOODS PACKAGED FOODS, LLC  
 ATTN: PROPERTY TAX GROUP  
 ELEVEN CONAGRA DRIVE, MS-PTG  
 OMAHA, NE 68102  
 FILE # 318021



**LEGEND**

- ▲ FOUND SECTION CORNER MONUMENT
- △ SET SECTION CORNER MONUMENT
- FOUND 1/2" PIPE W/CAP #22705 (UNLESS NOTED)
- SET 1/2" IRON PIPE (UNLESS NOTED)
- (M) MEASURED DIMENSION
- (R) RECORDED DIMENSION
- I.R. IRON ROD
- I.P. IRON PIPE
- QUARTER SECTION LINE
- SIXTEENTH SECTION LINE
- R/W --- RIGHT-OF-WAY LINE
- EXISTING LOT LINE

FIELD SURVEY COMPLETED: APRIL 2020

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

*Chad J. Nolte*  
 CHAD J. NOLTE  
 06/30/2022  
 LICENSE EXPIRES  
 9/23/2020  
 48632  
 DATE NUMBER  
 1 & 2 OF 2  
 PAGES COVERED BY THIS SEAL

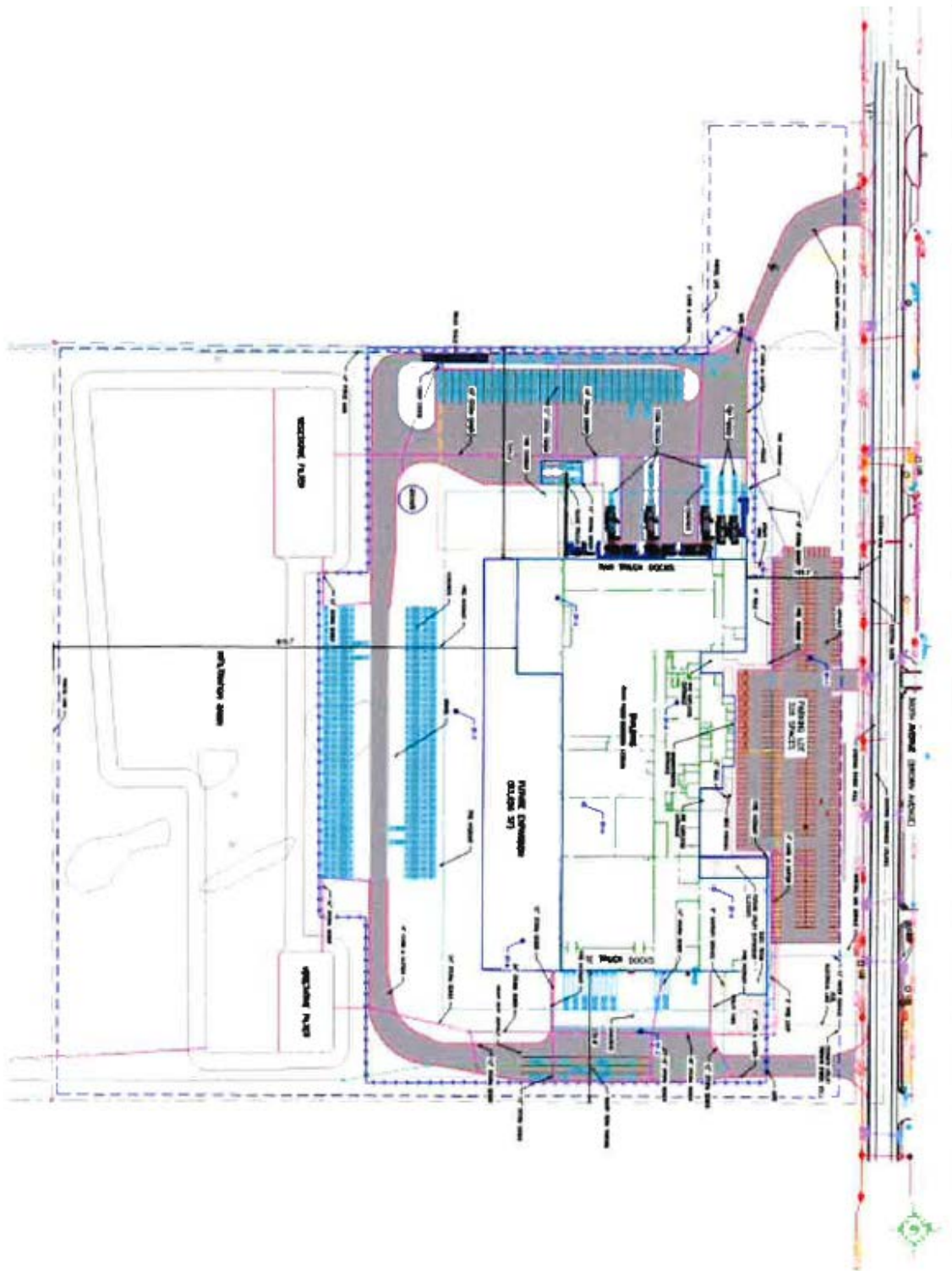


**NOLTE'S**  
**SURVEYING**  
 10488 COUNTY RD 139 SE  
 CHATFIELD, MN 55923  
 507-421-5427  
COPYRIGHT 2020 © NOLTE'S SURVEYING

SHEET  
 1 OF 2

DATE: 9/23/2020 PROJECT #: 20C013-00 SURVEYOR: C.NOLTE SURVEYED FOR: CONAGRA FOODS PACKAGED FOODS, LLC

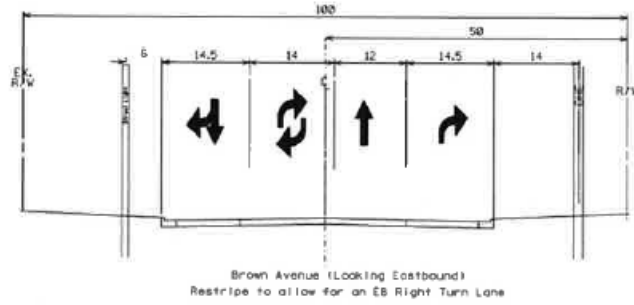
Exhibit E  
Project Site Plan



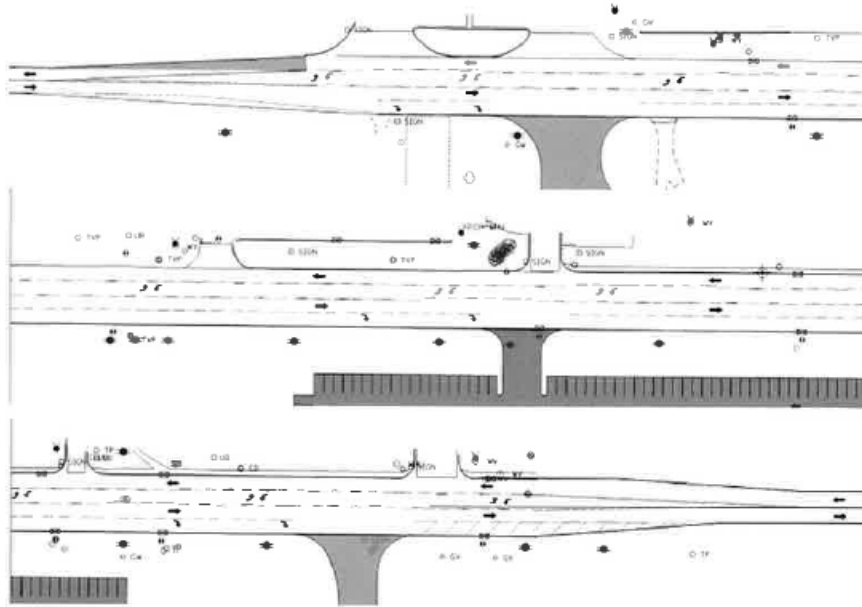
# Exhibit F

## Brown Avenue Improvements

Proposed Brown Ave Section – Alternative #1



Pavement Marking Layout – Alternative #1



*(reserved for recording information)*

## **DEVELOPMENT AGREEMENT**

*(City Installed Improvements)*

### **CONAGRA – WASECA PLANT – PROJECT GREEN JAY**

**AGREEMENT** (the “Agreement”) dated \_\_\_\_\_, 20\_\_\_\_, by and between the **CITY OF WASECA** a municipal corporation under the laws of the State of Minnesota, with its principal office located at 508 South State Street, Waseca, Minnesota 56093 (the “City”), and **CONAGRA FOODS PACKAGED FOODS, LLC**, a limited liability company under the laws of the State of Delaware, with its principal office located at Eleven Conagra Drive, 11-190, Omaha, Nebraska 68102 (the “Developer”); (collectively, the City, the County and the Developer shall be referred to herein as the “parties”).

#### **RECITALS**

A. The Developer owns and operates the Birdseye vegetable processing facility located at 400 4<sup>th</sup> Street Southwest in the City of Waseca, Waseca County, Minnesota, with Parcel Identification (PID) No. 172190020 (the “Current Facility”), which facility has operated on the site for at least the last 90 years, but the Developer has determined that it is no longer practical to continue operating such facility and intends to decommission, close and otherwise cease operations at the current facility on or before July, 2023.

B. Conagra Foods Packaged Foods, LLC is the fee owner of a parcel of real property approximately 120 acres in size located at 2351 Brown Ave in the City of Waseca, which is generally adjacent to the south of Brown Avenue and to the east of 110th Street in St. Mary's Township, Waseca County Parcel Identification No. 090130600 (the parcel number may change after its incorporated and subdivided into the City (potentially resulting in multiple parcel numbers) and later added by amendment to this Agreement) as legally described in Exhibit A and depicted on Exhibit B, which exhibits are attached hereto and incorporated herein by reference, (the "Development Property"); and

C. The Developer proposes to develop a new vegetable processing facility consisting of, at a minimum, site grading, building pad construction and construction of an approximate 240,000 square foot building, including mezzanine, on the northernmost 47.64 acres of the Development Property, as legally described on Exhibit C attached hereto and incorporated herein by reference (the "Project Site"), and associated infrastructure, including but not limited to soil corrective measures, stormwater management facilities, grading and erosion control facilities, parking improvements, lighting facilities, private utility installations (including water and sewer service lines and facilities related to Developer's storage, treatment and disposal of process wastewater), and other improvements, all as shown on the preliminary proposed site plan for the project attached hereto and incorporated herein by reference as Exhibit D (collectively, the "Project"); and

D. The Developer has previously used the Development Property as spray fields for irrigation and land application of vegetable processing wastewater generated at the current facility, and Developer intends to continue using the portion of the Development Property that will not be developed as part of the Project (approximately 72.36 acres) as spray fields for irrigation and land application of vegetable processing wastewater generated from the new facility, and has a need for additional spray field capacity in the vicinity of the Project to replace the 47 acres of the Development Property currently used for spray fields on which the Project will be developed; and

E. Due to unique requirements of the new facility to be developed on the Project Site and its anticipated demands on public infrastructure, the parties have agreed to certain arrangements affecting

parcels of property other than the Development Property in support of the Project and to best equip the City to serve such facility with public infrastructure as more fully described herein; and

F. The Project necessitates the construction of public improvements including a 16-inch replacement of the City's existing water mains along 5<sup>th</sup> Avenue Southwest from the City's Well No. 2 through a stub across a railroad property to a connection at Elm Avenue and along Brown Avenue, a total of approximately 3,000 feet to serve the Development Property, which the City intends to continue an additional approximately 1,850 feet to the western parcel line of the Development Property to accommodate anticipated future growth and development, as shown on Exhibit E, which is attached hereto and incorporated herein by reference (the "Water Main Improvements"); and

G. The City and Waseca County (the "County") have each approved a tax abatement resolution for abatement of a percentage of the City's and County's shares of ad valorem property taxes on the Development Property derived from the value of the Project for a term of 20 years, pursuant to Minn. Stat. § 469.1813, and the parties shall enter into a joint Tax Abatement and Business Subsidy Agreement (the "BSA") contemporaneous with the signing of this Agreement setting forth the terms and conditions upon which such public assistance is granted to the Developer in support of the Project; and

H. The City has determined that the public support for the Project contemplated herein and in the BSA are warranted because the development and construction of the Project and fulfillment of this Agreement are vital and are in the best interests of the City, will result in the retention of vital employment opportunities for its citizens, increase and modernize the industrial building facilities available in the City, and increase the tax base in the City; and

I. The Developer, the City and the County entered into a nonbinding letter of intent, effective July 21, 2020, which generally outlined each of the parties' anticipated roles, responsibilities and contributions with respect to the Project; and

J. The parties desire to enter into this Agreement in satisfaction of applicable City requirements and to list the undertakings and obligations of each party from this point forward with

respect to the Project and with respect to the City Approval Process, as defined below, all as required by the City's Code of Ordinances (the "Code").

**NOW, THEREFORE**, in consideration of the promises and the mutual obligations of the parties hereto, each does hereby covenant and agree with the other as follows:

1. **COMMITMENT TO CONSTRUCT PROJECT.** In consideration of the significant public support committed to this Project by the City herein and in the BSA, the Developer agrees to exercise all reasonable diligence to construct the Project on the Development Property and complete such construction in accordance with the schedules, timelines, procedures, plans and requirements set forth herein and in the BSA.

2. **PROJECT APPROVALS.** The Project is subject to the approvals, requirements and procedures specified in this Section 2 as follows (the "City Approval Process"):

a. Environmental Review. An Environmental Assessment Worksheet ("EAW") is a mandatory requirement for this Project under Minn. R. 4410.4300, subps. 1 and 14.B because the Project involves the "construction of a new . . . industrial . . . facility, other than a warehousing or light industrial facility" in a fourth-class city and will have "gross floor space of at least 200,000 square feet." Consequently, the Project "may not be started and a final governmental decision may not be made to grant a permit, approve (the Project), or begin (the Project)" under Minn. R. 4410.3100, subpt. 1 until the environmental review process has been completed as specified thereunder. The Developer filed its EAW for the Project with the City, which is acting as the Responsible Governmental Unit (RGU) under Minn. R. 4410.4300, subpt. 14.B, on May 18, 2020. The EAW was published in the Environmental Quality Board Monitor on July 13, 2020 and was open for public comment under Minn. R. 4410.1600 through August 12, 2020. The City received two public comments during the comment period. The City issued a negative declaration on the need for an Environmental Impact Statement on August 18, 2020, and prepared and submitted a Record of Decision ("ROD") to the Environmental Quality Board ("EQB") for publication. EQB's publication of the ROD completed the environmental review process.

b. Land Use Approvals.

i. Annexation. The Development Property was ordered annexed from St. Mary's Township by the City pursuant to that certain Order of the Office of Administrative Hearings in its Municipal Boundary Adjustments Unit Docket No. A-8275 dated July 24, 2020.

ii. Final Plat/Subdivision. Developer shall subdivide the Development Property to create separate parcels for the site of the Project and the remainder of the Development Property to be used as agricultural spray fields within 12 months after the City's issuance of a Certificate of Occupancy for the Project. Such subdivision of the Development Property shall comply with Chapter 151 of the City Code.

iii. Zoning. At the time the City annexed the Development Property from St. Mary's Township by ordinance, it duly established the zoning of the Development Property as within the City's I-2, Moderate Industry District. The Project is a permitted use in the City's I-2 District pursuant to City Code § 154.031 and Table 6-1.

iv. Legal Nonconforming Use. The City acknowledges that although the approximately Developer's use of the approximately 72.36 acres of the Development Property that is not included in the Project Site as agricultural spray fields is not permitted in the I-2 district, such use by Developer is entitled to continue as a legal non-conforming use governed by Minn. Stat. § 462.357, subd. 1e.

c. Site Plan, Building and Occupancy Permits.

i. Site Plan. Site plan review and approval is required for the Project pursuant to City Code § 154.178 before the City may issue a building permit for the Project. The Developer submitted a site plan application in June of 2020, which the City accepted and authorized the Project to proceed to the permitting stage.



ii. Grading, drainage and erosion control permit. The Developer shall not begin grading or other construction activity on the Development Property without first obtaining a grading, drainage and erosion control permit pursuant to City Code § 154.188. The Developer submitted and/or shall submit a complete grading, drainage and erosion control permit application on or before August 28, 2020, and the City shall thereafter proceed with all reasonable speed and diligence to consider and act on the Developer's grading, drainage and erosion control permit application pursuant to the requirements of City Code § 154.188.

iii. Building Permit. The Developer shall obtain a building permit for the Project pursuant to Chapter 150 of the City Code, inclusive of any components thereof that may be broken out for separate approval such as, by way of example and without limitation, the foundation permit. An application for a building permit may not be submitted before the zoning application process has been completed and all land use approvals required in Section 2.b above and site plan approval required in Section 2.c.i above have been issued. The Developer proposes to begin construction of the Project in the fall of 2020, and to complete such construction by May 1, 2022, and shall be responsible for submitting a complete building permit application pursuant to the requirements of Chapter 150 of the City Code at such time as will facilitate its desired construction schedule.

iv. Certificate of Occupancy. The Developer intends to complete construction of the Project by May 1, 2022. A Certificate of Occupancy will be required to be issued by the City upon the City's inspection of the Development Property and confirmation that the Project conforms to all code requirements before the new facility may be occupied or used in whole or in part, pursuant to City Code § 154.186. The City agrees to issue a temporary occupancy permit in early 2022 for plant commission, limited food production, and office equipment installation, testing, training and trial operations if the Developer applies for the same and submits evidence to the satisfaction of the City's Building Official that the

Project is of such state of completion that it may safely be occupied on a temporary basis prior to final building occupancy permit approval. In such case, the City may require the Developer to enter into an agreement specifying the time and manner of completion of any outstanding work to complete the Project in conformance with all code requirements, which agreement may require the Developer to provide security for the cost of completing such work, at the discretion of the City, depending on the nature of the outstanding work. The City and Developer each agree that they will act with all reasonable speed and diligence regarding the preparation, submission, review and staff issuance of said temporary occupancy permit.

3. **CONDITIONS OF PROJECT APPROVAL.** City approval of the Project is conditioned on the Developer entering into this Agreement, the Developer successfully completing the environmental review process, the Developer entering into a Tax Abatement and Business Subsidy Agreement with the City and County in a form acceptable to the City and County contemporaneous with the execution of this Agreement, and approval of Developer's wetland Notice of Application (NOA) by Minnesota's Bureau of Water and Soil Resources ("BWSR").

4. **RIGHT TO PROCEED/CONDITIONS PRECEDENT.** The City provided the Developer approval to proceed with the grade improvements, earth removal, tree removal, private utility improvements construction, foundation construction, and the Developer shall satisfy the following conditions prior to proceeding with construction of any buildings or structures on the Development Property:

- a. This Agreement has been fully executed by both parties and filed with the City Clerk. This Agreement shall be recorded by the Developer within 60 days following execution hereof;
- b. The Developer shall have successfully completed the environmental review process;
- c. The site plan for the Project on the Development Property and the plans and specifications for the Project related thereto have been approved and signed by the City Engineer (hereinafter, the title "City Engineer" shall refer to the City Engineer, the Director of Public Works, or such other

designee as may be approved by the City Manager) with such conditions as required by the City Code;

d. The construction plans and other such plans as required by the City have been approved and signed by the City Engineer;

e. The Developer's wetland Notice of Application (NOA) has been approved by Minnesota's Bureau of Water and Soil Resources ("BWSR");

f. The City Engineer has issued a letter that all conditions have been satisfied and that the Developer may proceed.

g. A certificate of public liability and property damage insurance as required in this Agreement has been filed with the City Clerk; and

5. **DEVELOPMENT PLANS.** The Development Property shall be developed in accordance with the following plans where applicable. The plans shall not be attached to this Agreement. If the plans vary from the written terms of this Agreement, the written terms of this Agreement shall control. The plans are:

a. Plan A – Site Plan

b. Plan B – Stormwater Management Plan / SWPPP

c. Plan C – Grading Plan

d. Plan D – Civil Plans

e. Plan E – Building Plans

The foregoing plans and specifications shall be prepared by a competent registered professional engineer engaged by the Developer and shall be subject to the City's review and approval, which approval shall not be unreasonably withheld, conditioned or delayed. The Project Improvements, as defined below, shall be installed in accordance with the City-approved plans for such improvements and the policies, rules, regulations, standards and ordinances of the City. No work shall commence on the Project or the Project Improvements until the Developer obtains a grading, erosion and sediment control permit or building permit, as applicable, for the Project and the Project Improvements and pays all costs and fees required in connection with the procurement of such permit.

**6. PROJECT IMPROVEMENTS.**

a. The Developer shall construct the Project, at its sole cost and expense and subject to the terms and conditions contained herein, including the following private improvements (the “Project Improvements”) in compliance with City approved plans and specifications prepared in accordance with all policies, rules, regulations, standards, specifications and ordinances of the City and as shown on the final construction plans and summarized below:

- i. Surface Water Facilities (pipe, ponds, rain gardens, and similar improvements);
- ii. Grading, Drainage and Erosion Control;
- iii. Utilities (domestic sanitary sewer and industrial and domestic water service connections, facilities related to Developer’s storage, treatment and disposal of process wastewater, gas, electric, cable, telephone, etc.);
- iv. Soil Correction;
- v. Landscaping Required by the Zoning Ordinance;
- vi. Lighting Equipment and Facilities;
- vii. Parking Improvements;
- viii. Surveying and Monuments Required by Minnesota Statutes;
- ix. A minimum 240,000square-foot vegetable manufacturing plant, including the mezzanine; and
- x. Miscellaneous Facilities or other elements defined by the guiding documents.

b. The Project Improvements shall be constructed and installed in accordance with the latest versions in place at the time of this Agreement of the City Code, zoning ordinance and subdivision regulations, and City standards and policies, as applicable.

c. The Developer shall be solely responsible for the costs of constructing the required Project Improvements. The costs of constructing the Project Improvements shall include the actual construction costs, the actual engineering, administration, and any legal costs related thereto, and all other costs relating to the construction of the Project Improvements incurred by

the Developer. The engineering, administration and legal costs shall include the actual outside construction engineering assistance costs, law firms and other consultants engaged by the Developer.

d. The Developer shall commence and complete construction of the Project pursuant to the times established therefore herein and in the BSA.

**7. PUBLIC INFRASTRUCTURE.**

a. Water Main Improvements. The Project necessitates the design, construction and installation of the Water Main Improvements as shown on Exhibit E. Said Water Main Improvements shall be designed, constructed and paid for by the City pursuant to all policies, standards, and specifications of the City and in full compliance with Minnesota's Uniform Municipal Contracting Law, Minn. Stat. § 471.345; however, the City shall coordinate its design and construction of the Water Main improvements with the Developer to facilitate Developer's connection thereto. The City shall exercise all reasonable diligence so as to complete the Water Main Improvements on or before November 15, 2021 or such later date as may be approved by the Developer, which approval shall not be unreasonably withheld, in the event that the Project does not progress to a state of completion sufficient for the Developer to apply for a certificate of occupancy or temporary certificate of occupancy by May 1, 2022 as contemplated in Section 2.b.iv above. Nothing herein shall be construed as the City's waiver of water availability charges (WAC) for the Project in any amount, which must be paid in full by Developer pursuant to Section 16 below.

b. The City's obligation to design, construct, install or otherwise commence work on the Water Main Improvements shall be subject to the condition precedent that Developer first successfully complete the City Approval Process, obtain a building permit, and commence construction of the Project Improvements.

c. If this Agreement is terminated for any reason the City shall have no obligation to design, construct or install the Water Main Improvements, or to continue any such design, construction or installation thereof.

d. Nothing in this Section 7 shall be construed as requiring the City to construct, or incur any expenses for the construction of, service lines or other connections from the 16-inch main to serve the Development Property of the facility to be constructed thereon; any such service lines or connections shall be included in the Project Improvements for which Developer is responsible.

e. City Ownership of Public Improvements. The Water Main Improvements and associated public improvements shall be constructed by and at all times be under the ownership and full control of the City.

8. **EASEMENTS.** Subsequent to the execution of this Agreement and prior to the call for bids to construct the Water Improvements, the Developer shall convey to the City, in a form acceptable to the City, the following easements in relation to the Water Main Improvements:

a. Developer shall grant the City a permanent utility easement over, under and across the northerly 20 feet of the Development Property on a form substantially consistent with Exhibit F attached hereto to accommodate the Water Main Improvements and limited other City-owned utilities such as underground fiber and/or electric lines.

b. A temporary construction easement, for the duration of the construction time period, ten feet in width immediately adjacent to and running parallel with the southern line of the permanent easement described in subparagraph a above.

9. **OTHER PERMITS AND APPROVALS.** The Developer shall obtain or require its contractors and subcontractors to obtain all necessary and required permits for the Project from the Minnesota Pollution Control Agency (MPCA), Minnesota Department of Health (MDOH), and all other agencies and governmental authorities with jurisdiction over the Project. Copies of these permits shall be provided to the City Engineer, and may include but are not limited to the following:

- MPCA Permit for Stormwater Management

- BWSR and other wetlands permits as applicable
- DNR for Dewatering
- MPCA for Process Wastewater storage, treatment and disposal and/or Hazardous Material Removal and Disposal
- City of Waseca for Building Permits
- Waseca County Road Access Permits
- Federal Aviation Administration/MNDOT Aeronautics. 7460-1 Notices of Proposed Construction or Alterations required for temporary cranes and the structure itself and other permits and approvals as necessary
- Other permits as applicable

The Developer or its engineer shall schedule pre-construction meetings for the Project Improvements with all the parties concerned, including City staff, as necessary to review the program for the construction work.

10. **LICENSE.** The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the Development Property to perform all work and inspections authorized by any law, regulation, and/or the Waseca Code of Ordinances, or as otherwise required by any administrative agencies with jurisdiction over the City and/or the Project, in conjunction with this Agreement, the Project and the Project Improvements. The license shall expire upon completion of the Project and Project Improvements. The City shall thereafter have the right to enter the Development Property to perform inspections as authorized by City Code.

11. **CONSTRUCTION ACCESS.** Construction traffic access and egress for the Project, including grading and utility construction is restricted to access to the Development Property from the west via Brown Avenue (or otherwise across private roads on property owned by the Developer). Traffic shall generally enter the City from the north by taking Minnesota Highway 13 south, then west on 375<sup>th</sup> Avenue, south on County Road 27 (110<sup>th</sup> Street) to Brown Avenue; from the east, west and south by taking U.S. Highway 14 to the County Road 2 exit, then east on County Road 2 (360<sup>th</sup> Ave), which turns into Brown Avenue. No construction traffic is permitted on residential streets or in the City other than as identified herein, and under no circumstances shall construction traffic use State Street or Elm Avenue in the City to access the Development Property. Notwithstanding the restrictions imposed in this Section, traffic from the borrow site described in Section 19.b below may take Minnesota Highway 13 into the City's industrial park, proceed

west on County Road 40 (350<sup>th</sup> Avenue), north on County State Aid Highway 27 (110<sup>th</sup> Street) and east on Brown Avenue to the Development Property, as shown on Exhibit G, which is attached hereto and incorporated herein by reference.

12. **STORMWATER MANAGEMENT PLAN.** The Development Property shall be graded and the Project constructed in accordance with the approved stormwater pollution prevention plan (the “SWPPP”). The SWPPP shall conform to City of Waseca requirements and specifications, City Code and applicable law. The SWPPP shall specifically include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications contained in the Minnesota Stormwater Manual or other standards approved by the City Engineer. The Developer shall furnish the City Engineer with satisfactory “as-constructed” plans after completion of construction.

13. **EROSION AND SEDIMENT CONTROL.** Prior to initiating site grading, the erosion and sediment control measures included in the SWPPP shall be implemented by the Developer and inspected and approved by the City Engineer. The SWPPP shall be implemented by the Developer and inspected and approved by the City Engineer. Site inspections to ensure compliance with the SWPPP shall be conducted by the City Engineer or the City Engineer’s designee on a weekly basis, at a minimum, but may be conducted more frequently if determined necessary by the City Engineer. Erosion and sediment control practices must comply with the Minnesota Pollution Control Agency’s (MPCA) Best Management Practices and applicable MPCA NPDES permit requirements for construction activities and the Developer’s SWPPP. The City may impose additional erosion and sediment control requirements if they would be beneficial in the City’s reasonable judgment. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the erosion control measures in the SWPPP or supplementary instructions received from the City Engineer, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City’s rights or obligations hereunder. The Developer shall be responsible for the costs incurred by the City in conducting such work.



**14. DECLARATION OF COVENANTS AND AGREEMENT FOR MAINTENANCE OF STORMWATER FACILITIES.** In order to provide stormwater management and control, to meet the City's stormwater permitting requirements, City Code and state law and regulations, as applicable, and to promote the water quality and volume control to the City's stormwater system and water bodies, the Developer and the City agree that it is reasonable for the City to require the Developer to construct, inspect, operate, repair, maintain and replace, at the Developer's cost and expense, permanent storm water control facilities in the form of stormwater detention pond(s). Stormwater runoff from the site will be conveyed overland and via storm sewer to the detention facilities. Runoff will be released from the detention via a multi-stage outlet and conveyed south eventual draining to an existing creek. Pursuant to City Code, the City and Developer shall enter into an agreement on a form acceptable to the City and containing terms and conditions as required by the City setting forth, in a recordable instrument, an agreement to establish covenants and declarations upon the Development Property for the installation of and ongoing operation, repair, maintenance and replacement of such stormwater facilities as required by applicable City Code and law at the Developer's and the Developer's successors' and assigns' cost and expense.

**15. SANITARY SEWER AND WATER TRUNK UTILITY CHARGES.** The Developer is subject to sanitary sewer and water access/availability area charges for the Development Property. The sanitary sewer and water access/availability area charges shall be calculated as follows:

- a. Sanitary Sewer Availability Charge:
  - i. The Developer shall pay a sanitary sewer availability charge ("SAC") for the service connection through which domestic human sanitary wastewater generated at the proposed facility will be routed to the City's Waseca Wastewater Treatment Facility. The SAC shall be imposed and calculated based on the size of the water meter(s) pursuant to the table of charges established in City Council Resolution No 18-86, which is attached hereto as Exhibit H and incorporated herein by reference.

ii. The Developer is not currently planning to discharge or utilize an emergency process wastewater connection to the City's wastewater treatment facility ("WWTF"); however, the ability to access equalization storage would be beneficial to the Developer's ability to conduct future facility expansions. Any such future connection to the City's WWTF or any equalization pond(s) operated by the City in conjunction with its WWTF shall be pursuant to a wastewater significant industrial user agreement and/or wastewater equalization storage facility shared use agreement, as applicable, and shall be subject to the applicable SAC(s) at that time.

b. Water Availability Charge: The Developer shall pay a watermain availability charge(s) ("WAC") for the service connection(s) through which water will be supplied from the City's centralized water system for both Developer's industrial use and for Developer's domestic human use on the Development Property. The SAC shall be imposed and calculated based on the size of the water meter(s) pursuant to the table of charges established in City Council Resolution No 18-85, which is attached hereto as Exhibit I and incorporated herein by reference.

The Developer shall pay the above sanitary sewer and water availability charges at the time of building permit application, and a building permit shall not be issued by the City until such charges are paid in full.

**16. WETLAND MITIGATION.** No wetland mitigation is planned for the site. The Developer has proposed to satisfy its mitigation obligations by purchasing wetland bank credits in its NOA to BWSR. The Developer shall satisfy all requirements of BWSR and obtain all required wetland permits from the City. The Developer is further responsible for any undisclosed mitigation on the land, and will be required to submit any necessary security should subsequent wetlands be identified.

**17. UNDERGROUND UTILITIES – PRIVATE.** This section covers those smaller private utilities such as gas, electric, phone, cable, etc.

a. The Developer is responsible for the cost of installing all private utilities of any nature or kind whatsoever.

b. The Developer shall contact the utility companies to coordinate the installation of the utilities. Private utilities shall not be installed until the curb and gutter are completed and backfilled, as applicable. All utilities shall be installed underground or as otherwise approved in writing by the City Engineer.

c. The City Engineer and County Engineer (as the County controls the right-of-way) must approve of the final location for all private utilities. Joint trenching of the utilities is strongly encouraged. All utilities must be located in public rights-of-way or within drainage and utility easements.

d. If any conditions set forth in this Agreement conflict with the City's utility franchise agreements, the franchise agreements shall in all cases prevail.

#### **18. RESPONSIBILITY FOR COSTS.**

a. Except as otherwise specified herein, the Developer shall pay all costs incurred by it in conjunction with this Agreement, the grading and development of the Development Property, the construction of the Project and the Project Improvements required by this Agreement, and any future subdivision of the Development Property, including but not limited to, all costs of persons and entities doing work or furnishing skills, tools, machinery, equipment and materials; insurance premiums; legal, planning and engineering fees; the preparation and recording of this Agreement and all easements and other documents relating to the Development Property as directed by Developer, as applicable; all Response Action Plans, traffic studies, environmental assessments and/or engineering and other studies and reports; and all permits and approvals.

b. Except as expressly agreed to by the City, the City shall not be obligated to pay Developer or any of its agents or contractors for any costs incurred in connection with the construction of the Project or the development of the Development Property. Developer agrees to defend, indemnify, and hold the City and its mayor, council members, employees, agents and contractors harmless from any and all third-party claims of whatever kind or nature and for all

costs, damages or expenses which the City may pay or incur in consequence of such claims, including reasonable attorneys' fees, to the extent proximately caused by Developer or which may arise as a result of plat approval, the Project, this Agreement, the construction of the Project Improvements, the development of the Development Property or the acts of Developer, and its employees, agents, contractors or subcontractors, in relationship thereto, except if caused by the negligence or intentional act of the City or its employees, agents or contractors.

c. The Developer hereby covenants and agrees that Developer will not permit or allow any mechanic's or materialman's liens to be placed on the City's interest in any property that is the subject of the Project or this Agreement during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so placed on the City's interest, the Developer shall take all steps necessary to see that it is removed within thirty (30) business days of its being filed; provided, however, that the Developer may contest any such lien provided the Developer first posts a surety bond, in favor of and insuring the City, in an amount equal to 125% of the amount of any such lien.

d. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Agreement within 30 days of receipt of the City's invoice, including detailed statements or documentation regarding such charges, to Developer. If Developer fails to pay a required bill, then after providing the Developer with at least fifteen (15) days prior written notice, the City may declare the same an event of default, and the City may thereafter assess and certify such unpaid charges to the County Auditor for collection in like manner with property taxes on the Development Property, or the City may take any other actions as may be available under this Agreement, at law, or in equity. Bills not paid within sixty (60) days shall accrue interest at the rate of eight percent (8%) per year.

e. In addition to the charges referred to herein, other charges and special assessments may be imposed as set forth in the City's ordinances such as but not limited to City building permit fees and plat review fees, which shall be paid by Developer.

19. **SPECIAL PROVISIONS.** The following special provisions shall apply:

a. Borrow Site. If needed by the Developer, the City may additionally also allow Developer to use a 20-acre property, Parcel ID No. 120200600 (the “borrow site”), located along 14<sup>th</sup> Avenue in Woodville Township in Waseca for soil borrow or topsoil waste purposes and/or crop production, subject to the City Public Works Director’s approval of Developer’s grading plan for the borrow site. In such case, the parties shall enter into a separate agreement setting forth the terms and conditions under which such use by the Developer will be authorized. Under no circumstances shall any borrow material be removed from or any crops planted within any portion of this parcel that is subject to a conservation easement. Developer shall indemnify and hold harmless the City against any loss in lease revenue sustained by the City as a result of Developer’s use of the borrow site pursuant to this paragraph. The parties shall include Woodville Township in discussions should this parcel be used for borrow purposes to address how damage caused to township roads accessing the site will be handled to the township’s satisfaction, and the license agreement shall further include appropriate measures for the protection of any City streets upon which the Developer’s trucks may transport borrow material from this parcel.

b. Water Services and Connection Agreement.

i. The Developer owns existing Well No. 4 located on real property identified as Waseca County Parcel No. 171511040. Well No. 4 is operated by the City, permitted to the City through the City’s water appropriation permit from the Minnesota Department of Natural Resources (“MNDNR”), and with the Developer’s authorization, is fully integrated into the City’s centralized water system; however, the Developer reimburses the City for certain operation and maintenance expenses (and pays electrical costs directly to the vendor), including the costs of bulk chemical purchases for the well. (The Developer also pays fixed customer base charges, water capital funding charges, an industrial usage standby water fee, and reduced rates for its annual peak water demand during the vegetable packing season.) The City benefits from Well No. 4’s integration

into the City's centralized water system because Well No. 4's pumping capacity exceeds 20 percent of the total pumping capacity for the City's system. This additional capacity is advantageous to meet peak system demand, and for efficiency of system maintenance due to well rotation capability integrated with City SCADA computer assisted pumping operations.

ii. The Developer's existing operations require extensive potable water supplied from the City's centralized water system, which includes Developer-owned Well No. 4, particularly each fall during the vegetable packing season.

iii. The parties agree to negotiate a Water Services and Connection Agreement which shall specify the terms and conditions upon which Well No. 4 is connected to and integrated with the City's centralized water system, based upon the Parties' current practice, including (1) services to be performed by the City with respect to water pumped from Well No. 4 and otherwise and returned to Developer's facility (e.g. transportation, distribution, storage, conditioning, etc.); (2) requirements that the amount of water the City may pump from Well No. 4 not substantially exceed the amount of water returned to Developer's facility from Well No. 4, as calculated over a five-year rolling average; (3) the charges to Developer; (4) the Developer's responsibilities for ongoing ownership and maintenance expenses related to Well No. 4; (5) the water demand reduction measures to be incorporated into the Project by the Developer; and (6) the agreement shall be subject to federal and state regulations administered by MNDNR and applicable to the City through its water appropriation permit. The term of the agreement shall be 30 years, the maximum term authorized by Minn. Stat. § 444.075, subd. 5.

iv. The charges to Developer under subparagraph iii above shall apply to water supplied to the Developer's facility through the Developer's eight to twelve-inch water service line for Developer's industrial use; water supplied to Developer's facility through the Developer's two-inch service line for domestic use shall be billed under the City's

adopted non-residential rates. The charges to Developer under #3 above shall be substantially consistent with Exhibit J attached hereto and structured so as to encourage conservation consistent with the requirements of Minnesota law, subject to the approval of MNDNR.

v. Costs in Exhibit J, include, but are not limited to: customer-based charges, meter charges, city operations, labor, and bulk water. The Developer's annual water usage is expected to be between 120 and 150 Million Gallons or more. The City will maintain a rolling five-year average of the amount of water used by each party annually from Well No. 4 and operate its centralized water system accordingly so as not to pump more water from Well No. 4 than is provided to Developer over such rolling five-year period. Should the City require Well No. 4 water in the case of an emergency it will notify the Developer and attempt balance the water used by each party with the five-year rolling average.

vi. Excluded from the charges specifically listed in Exhibit J are the following expenses for which Developer currently reimburses the City and will be required to continue reimbursing the City in the Water Services and Connection Agreement: electrical charges, chemicals, annual well maintenance, and periodic routine well maintenance as part of the City's well maintenance program generally performed every five years (by way of example, the 2019 bid price for this maintenance work attributable to Well No. 4 was \$54,554.60).

c. Transfer of Land Near WWTF. The developer owns certain real property near the City's WWTF. The City is interested in acquiring additional land near its WWTF to facilitate future expansion or intensification of its WWTF operations in order to serve the City's residents and businesses, including the Developer. In consideration and recognition of the City's commitment of significant public support for the Project, the Developer shall convey three parcels of Developer-owned property totaling approximately 10.75 acres to the City, all as shown on Exhibit K attached hereto and incorporated herein by reference. The proposed lot transfer of "Lot

1” is Parcel ID 090130510. The third parcel “Lot 3” to be transferred to the City would be created from approximately 0.75 acres located north of the City WWTF outside of the area covered by a pivot on an existing spray field. The City shall be responsible for relocating all drain tile for any of the parcels affected by its ownership. The Developer will allow covered concrete tanks and enclosed buildings associated with the City’s WWTF on the site of “Lot 3”, but would prohibit the placement of a flow equalization open air wastewater storage pond, or any other structure that could negatively impact Developer’s adjacent spray field, upon such parcel. Prior to completing these lot transfers of Lot 1 and Lot 2, and Lot 3, the Developer shall first complete the decommissioning the existing lagoon thereon, commonly referred to as the ’47 Lagoon, with the goal of completing such decommissioning and receiving final approval of such decommissioning from the MPCA on or before November 15, 2021. The City will not accept transfer of these parcels without first receiving conformation of such approval by MPCA.

d. Future Water Tower. The City, County, and Developer agree that the construction of a new water tower in the vicinity of the Development Property would be of benefit to both the City and the Developer; however state and federal funding will be necessary for such project to be feasible. The City and County will act with all reasonable diligence to secure the necessary state and federal funding for this project with the goal that a new water tower would be completed by 2026. Developer agrees to assist in the pursuit of state and federal funding by coordinating lobbying efforts with the City and County.

e. Cleanup. The Developer shall promptly clear or cause to be cleared from the Development Property and any public streets or property, any soil, earth or debris or unnecessary personal property or equipment resulting from construction work by the Developer or its agents or assigns. If Developer fails to do so within two (2) business days of receipt of telephone or personally delivered notice from the City, the City shall be entitled to undertake such corrective action as it deems necessary and to charge the Developer for the cost of such corrective action. This remedy is in addition to any other remedy available to the City hereunder. Developer’s



failure to pay such charges when billed by the City shall be an additional Event of Default under this Agreement.

f. Individual structures must comply with the overall grading plan for the site. Each individual building permit will be reviewed for compliance with the overall grading plan and is subject to review and approval of the City Engineer and Building Official.

g. Utility connections are subject to review and approval by the City Engineer.

**20. MISCELLANEOUS.**

a. The Developer may not assign this Agreement without the written permission of the City Council, which approval shall not be unreasonably withheld; provided, however, that Developer may assign this Agreement to an entity that is owned or controlled by Developer or Developer's owners without the approval of the City Council. For the purposes of this subparagraph (a), it shall be reasonable for the City to require, as conditions to any assignment of this Agreement in which the Developer seeks to be released from its obligations under this Agreement, that any proposed assignee shall have the qualifications and financial responsibility, in the reasonable judgment of the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer, and that such transferee do so by written instrument satisfactory to the City and in form recordable among the land records pursuant to which such assignee, for itself and its successors and assigns, and expressly for the benefit of the City, expressly assumes all of the obligations of the Developer under this Agreement and agrees to be subject to all the conditions and restrictions to which the Developer is subject.

b. Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the Project and Project Improvements are completed liability and property damage insurance covering contractual liability, personal injury, including death, and claims for property damage which may arise out of Developer's performance of its obligations under this Agreement, Developer's work on the Project or the work of its subcontractors or by one directly or indirectly employed by any of them. Limits for bodily injury and death shall be not less than \$500,000 for one

person and \$1,500,000 for each occurrence; limits for property damage shall be not less than \$300,000 for each occurrence; or a combination single limit policy of \$1,500,000 or more. The City shall be named as an additional insured on the policy, and the Developer shall file with the City a certificate evidencing coverage prior to the City authorizing the commencement of work on the Project and Improvements specified in this Agreement. The certificate shall provide that the City must be given ten days advance written notice of the cancellation of the insurance.

c. Retaining walls that require a building permit shall be constructed in accordance with plans and specifications prepared by a structural or geotechnical engineer licensed by the State of Minnesota. Following construction, a certification signed by the design engineer shall be filed with the City Engineer evidencing that the retaining wall was constructed in accordance with the approved plans and specifications. All retaining walls identified on the development plans or by special conditions referred to in this Agreement shall be constructed before any other building permit is issued for a lot on which a retaining wall is required to be built.

d. Third parties shall have no recourse against the City or Developer under this Agreement.

e. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Agreement is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Agreement.

f. The action or inaction of the either party shall not constitute a waiver or amendment to the provisions of this Agreement. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. Either party's failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.

g. This Agreement shall run with the land and shall be binding upon and inure to the benefit of Developer and its successors and assigns.

h. This Agreement will be recorded against the title to the Development Property within 60 days following execution hereof.

i. The Developer covenants with the City, its successors and assigns, that the Developer is well seized in fee title of the Development Property and/or has obtained consents to this Agreement, in the form attached hereto, from all parties who have an interest in the Development Property; that there are no unrecorded interests in the Development Property; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.

j. Each right, power or remedy herein conferred upon the either party is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to either party, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.

k. Both parties agree to comply with all local, state and federal laws, ordinances and regulations applicable to the development of the Development Property and Project Improvements.

l. The City's approval of this Agreement does not include approval of building permits for any structures to be constructed on the Development Property. The Developer must submit and the City approve building plans prior to the issuance of building permits for structures on the Development Property.

21. **DEVELOPER'S DEFAULT.** In the event of default by the Developer as to any of the work to be performed by it hereunder or the failure to comply with all terms and conditions of this Agreement which is not cured following 30 days' written notice to Developer, the City may, at its option, take one or more of the following actions:

a. Obtain an order from a court of competent jurisdiction requiring Developer to perform its obligations pursuant to the terms and provisions of this Agreement;

b. Obtain an order from a court of competent jurisdiction enjoining the continuation of an event of default;

c. Halt all development work and construction of improvements until such time as the event of default is cured;

d. Withhold the issuance of a building permit or permits or certificates of occupancy and/or prohibit the occupancy of any structure(s) for which permits have been issued until the event of default has been cured;

e. Terminate this Agreement by giving written notice of such termination to the Developer and discontinue the performance of the City's obligations and responsibilities hereunder; provided that if the nature of the default is such that it cannot reasonably be cured within thirty days' after Developer's receipt of the City's notice of default, Developer may submit a written plan for curing such default to the City within the 30 day notice period and shall thereafter exercise all reasonable diligence to cure its default, but in any event shall cure such default not later than 180 days after Developer's receipt of the City's notice of default; or

f. Exercise any other remedies which may be available to it at law or in equity.

In addition to the remedies and amounts payable set forth or permitted above, upon the occurrence of an event of default by Developer, the Developer shall pay to the City all reasonable, documented, and verifiable fees and expenses, including reasonable attorney's fees, incurred by the City as a result of the event of default, whether or not a lawsuit or other action is formally taken.

**22. NOTICES.** Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by certified mail at the following address: ConAgra Foods Packaged Foods, LLC, 222 West Merchandise Mart Plaza, Suite 1300 Chicago, IL 60654 Attention: Legal Department with a copy to Conagra Brands, Inc. 11 Conagra Dr. Omaha, NE 68102 ATTN: Real Estate. Notices to the City shall be in writing and shall be either hand delivered to the City Manager, or mailed to the City by certified mail in care of the City Administrator at the following address: Waseca City Hall, 508 South State Street, Waseca, MN 56093.

23. **CONSTRUCTION MANAGEMENT.** During construction of the Project, the Developer and its contractors and subcontractors shall minimize impacts from construction on the surrounding neighborhood, as follows:

a. Definition of Construction Area. The limits of the Project Area shall be as shown in the City approved SWPPP and shall be demarcated with construction fencing approved by the City Engineer. Any grading, construction or other work outside this area requires approval by the City Engineer and the affected property owner.

b. Parking and Storage of Materials. Adequate on-site parking for construction vehicles and workers must be provided or provisions must be made to have workers park off site and be shuttled to the Project Area. No fill, excavating material or construction materials shall be stored in the public right-of-way.

c. Site Maintenance. Developer shall ensure that its contractor(s) maintains a clean work site. Measures shall be taken to prevent debris, refuse or other materials from leaving the site. Construction debris and other refuse generated from the Project shall be removed from the site in a timely fashion and/or upon the request by the City Engineer. After Developer has received at least forty-eight (48) hour verbal notice, the City may complete or contract to complete the site maintenance work at Developer's expense.

d. Project Identification Signage. Project identification signs shall comply with City Code.

24. **EXPIRATION OF AGREEMENT.** This Agreement shall remain in effect until such time as the Developer shall have fully performed all of its duties and obligations under this Agreement. Upon the written request of the Developer and upon the adoption of a resolution by the City Council finding that the Developer has fully complied with all the terms of this Agreement and finding that the Developer has completed performance of all Developer's duties mandated by this Agreement, the City shall issue to the Developer on behalf of the City an appropriate Certificate of Compliance/Completion. Upon issuance of the Certificate of Compliance/Completion by the City, this Agreement shall terminate.

**25. TERMINATION; CONDITIONS PRECEDENT.**

e. If Developer fails to satisfy and complete the conditions precedent contained in Section 4 of this Agreement within 365 days of execution hereof, this Agreement shall terminate. In the event of termination of this Agreement under this Section or due to the Developer's default pursuant to Section 20, such termination shall be subject to the following conditions:

i. All costs, fees and other amounts previously paid to the City in connection with the Project, the Project Improvements and this Agreement shall belong to and be retained by the City;

ii. The obligations of the Developer for costs incurred shall survive such termination and continue with respect to unpaid costs, fees and expenses incurred prior to such termination;

iii. The Developer shall indemnify and reimburse the City for any costs incurred by the City and not otherwise reimbursed through outside funding sources, including but not limited to state grants, to construct the Water Main Improvements or associated public improvements that specially benefit the Development Property;

iv. The indemnifications of Developer shall survive and continue after such termination; and

v. The parties shall be released from all other obligations and liabilities under this Agreement not specified above.

f. The City shall have no obligation to construct (or complete construction of) the Water Main Improvements or any associated public improvements and Developer shall have no right to construct the Project on the Development Property unless the Developer records this Agreement and the Plat in the office of the Waseca County Recorder as required herein within one year after the later of approval of the Final Plat or this Agreement by the City Council.

g. In the event of the termination of this Agreement, the parties agree, if requested by the other party, to execute and deliver to the other party a written termination acknowledgment in a form reasonably satisfactory to both parties.

h. Developer's right to construct the Project is contingent upon its obtaining a building permit from the City following submission of a complete and valid application for same. Nothing contained in this Agreement shall be construed to contain a covenant, either express or implied, for Developer to commence the development of the Development Property as set forth herein.

26. **ADOPTED BY REFERENCE.** The provisions of the City's Code, Chapters 150, 152 and 154 are hereby adopted by reference in their entirety, unless specifically excepted, modified, or varied by the terms of this Agreement, or by the final plat as approved by the City, as applicable. In the event that a provision of this Agreement is inconsistent with or in conflict with the City's ordinances, the ordinances shall govern.

*[Remainder of page left intentionally blank.]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

**Conagra Foods Packaged Foods, LLC**, a Delaware limited liability company

By: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_, Its President

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of Conagra Foods Packaged Foods, a Delaware limited liability company, on behalf of the company.

\_\_\_\_\_  
Notary Public



**CITY OF WASECA, MINNESOTA**

By: \_\_\_\_\_  
Roy Srp, Its Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Lee Mattson, Its City Manager

Date: \_\_\_\_\_

STATE OF MINNESOTA            )  
  ) ss.  
COUNTY OF WASECA            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Roy Srp, as Mayor, and Lee Mattson, as City Manager, for the City of Waseca, Minnesota.

\_\_\_\_\_  
Notary Public

**THIS INSTRUMENT WAS DRAFTED BY:**

Flaherty & Hood, P.A.  
525 Park Street, Suite 470  
St. Paul, MN 55103  
(651) 225-8840

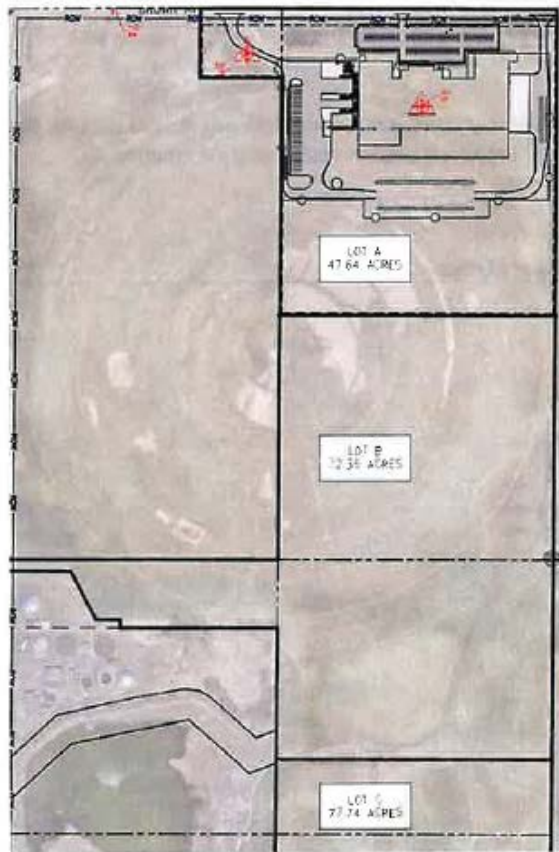
## **EXHIBIT A TO DEVELOPMENT AGREEMENT**

### **LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY**

That part of the Northwest Quarter and that part of the North Half of the Southwest Quarter of Section 13, Township 107 North, Range 23 West, Waseca County, Minnesota, described as follows:

Beginning at the northeast corner of the West Half of said Section 13; thence S00°28'07"W (all bearings are referenced to the Waseca County Coordinate System NAD83 1996ADJ HARN) along the east line of said West Half 3595.95 feet; thence N89°39'46"W 1329.76 feet to the west line of the Northeast Quarter of said Southwest Quarter; thence N00°33'23"E along said west line 629.34 feet to the southeast corner of the North 330.00 feet of the Northwest Quarter of said Southwest Quarter; thence N89°39'46"W along the south line of the North 330.00 feet of the Northwest Quarter of said Southwest Quarter 755.50 feet to the northerly corner of Lot 1, Block 1, WASECA WASTEWATER TREATMENT FACILITIES FIRST ADDITION according to the plat thereof on file at the County Recorders office, Waseca County, Minnesota; thence N00°38'39"E along the northerly line of said Lot 1 a distance of 40.00 feet; thence N89°39'40"W along the northerly line of said Lot 1 a distance of 117.50 feet; thence N27°19'17"W along the northerly line of said Lot 1 a distance of 265.32 feet; thence N89°39'40"W along the northerly line of said Lot 1 a distance of 331.38 feet to the west line of said Southwest Quarter; thence N00°38'39"E along said west line 55.00 feet to the northwest corner of said Southwest Quarter; thence S89°39'46"E along the south line of said Northwest Quarter 1328.29 feet to the southwest corner of the East Half of said Northwest Quarter; thence N00°33'05"E along the west line of the East Half of said Northwest Quarter 2308.68 feet to a point distant southerly of the northeast corner of the Northwest Quarter of said Northwest Quarter; thence N89°34'26"W 396.00 feet parallel with the north line of said Northwest Quarter; thence N00°33'05"E 330.00 feet to the north line of said Northwest Quarter; thence S89°34'26"E along said north line 396.00 feet to the northwest corner of the East Half of said Northwest Quarter; thence S89°34'26"E along said north line 1324.49 feet to the northeast corner of the West Half of said Section 13 and the point of beginning.

**EXHIBIT B TO DEVELOPMENT AGREEMENT**  
**DEPICTION OF DEVELOPMENT PROPERTY**



## **EXHIBIT C TO DEVELOPMENT AGREEMENT**

### **LEGAL DESCRIPTION OF PROJECT SITE**

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 107 NORTH, RANGE 23 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASECA COUNTY, MINNESOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

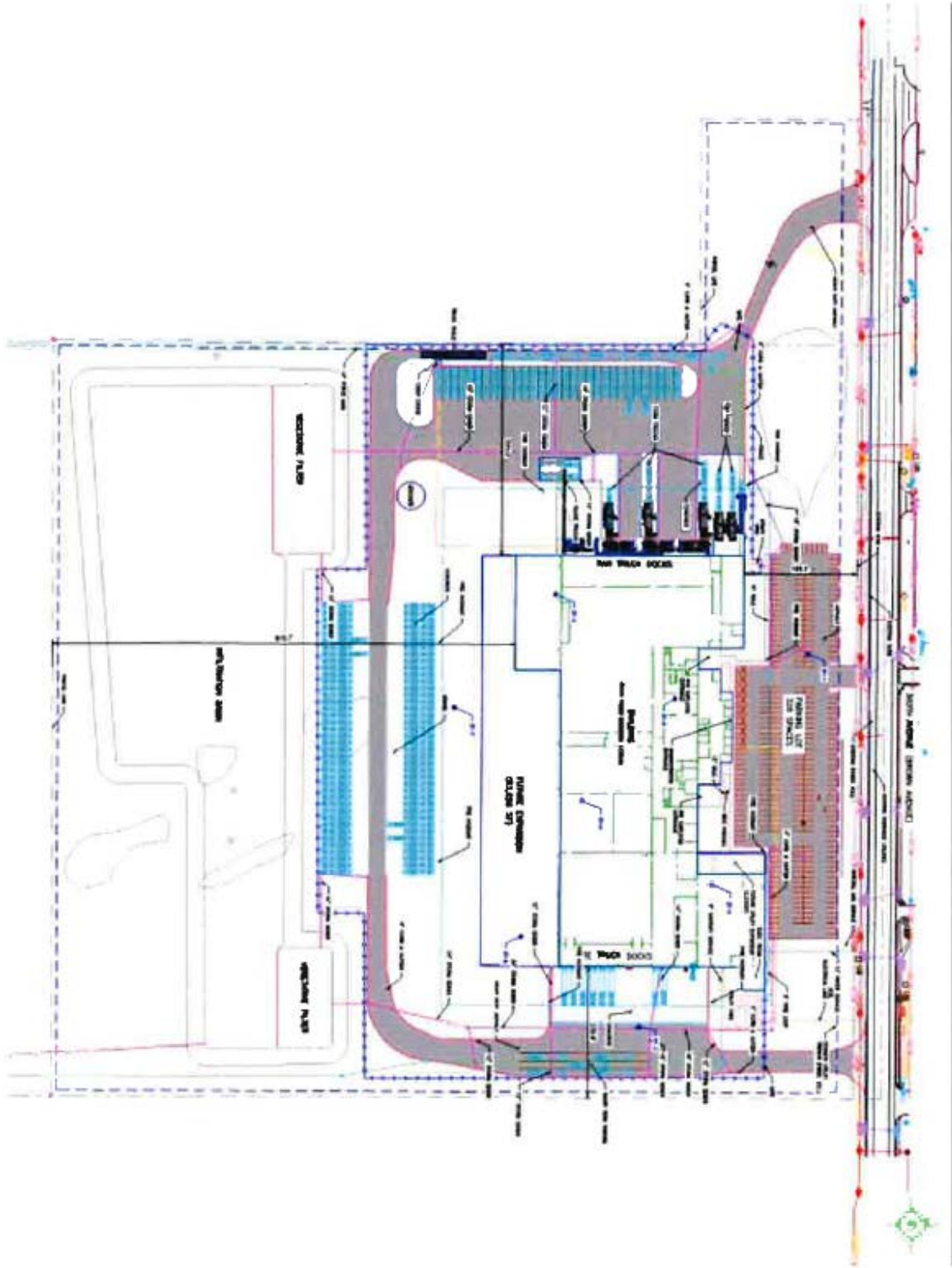
BEGINNING AT THE NORTHEAST CORNER OF NORTHWEST QUARTER OF SAID SECTION 13, THENCE SOUTH 00° 28' 07" WEST, 1466.83 FEET ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 13 TO THE SOUTH LINE OF THE NORTH 1466.83 FEET OF THE EAST HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 89° 34' 26" WEST, 1326.60 FEET ALONG SAID SOUTH LINE TO THE WEST LINE OF THE EAST HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 00° 33' 05" EAST, 1136.83 FEET ALONG SAID WEST LINE TO A POINT DISTANT SOUTHERLY OF THE NORTHEAST CORNER OF THE WEST HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 89° 34' 26" WEST, 396.00 FEET PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE NORTH 00° 33' 05" EAST, 330.00 FEET TO THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 89° 34' 26" EAST, 1720.49 FEET ALONG SAID NORTH LINE TO THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER AND THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 2,075,027 SQUARE FEET OR 47.64 ACRES MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

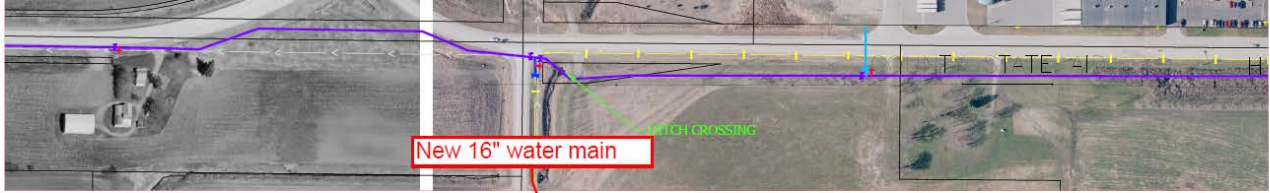
FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83 (96 HARN) WASECA COUNTY COORDINATE SYSTEM.

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**EXHIBIT D TO DEVELOPMENT AGREEMENT**  
**PROJECT SITE PLAN**



# EXHIBIT E TO DEVELOPMENT AGREEMENT WATER MAIN IMPROVEMENTS



TRUNK WATERMAIN

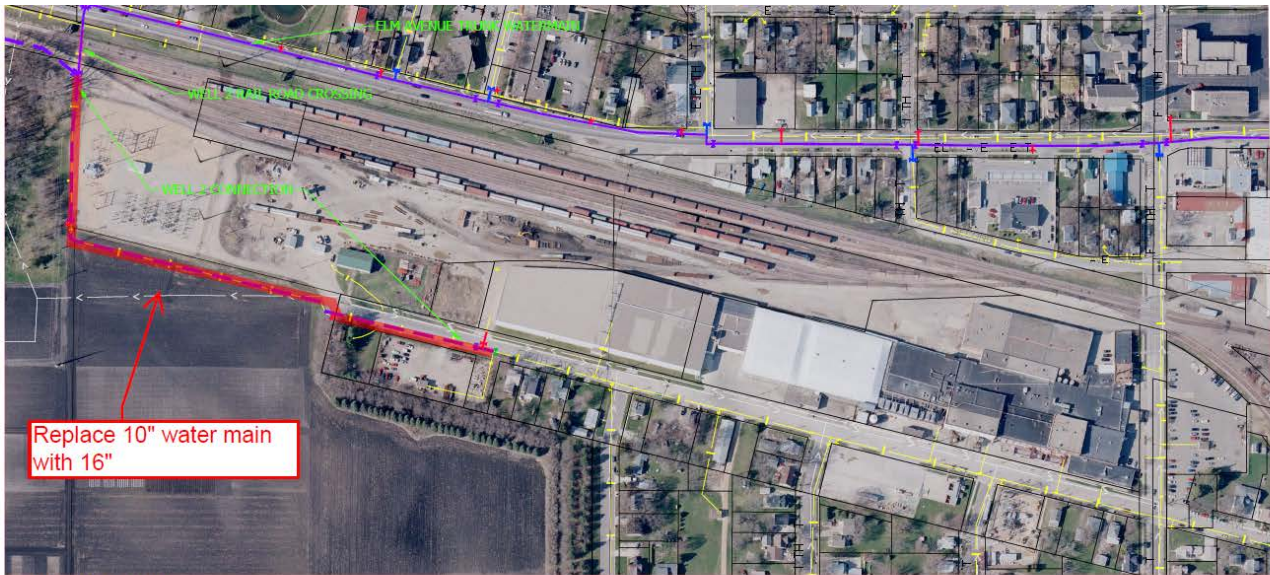
CITY OF WASECA  
WEST INTERCHANGE

FIGURE 2



Date: PROJ. NO.: 193800266

PROJECT NO.: 193800266  
 SHEET NO.: 193800266-01  
 DATE: 11/15/2019  
 DRAWN BY: J. HARRIS  
 CHECKED BY: J. HARRIS  
 APPROVED BY: J. HARRIS



TRUNK WATERMAIN

CITY OF WASECA  
ELM AVENUE

FIGURE 4

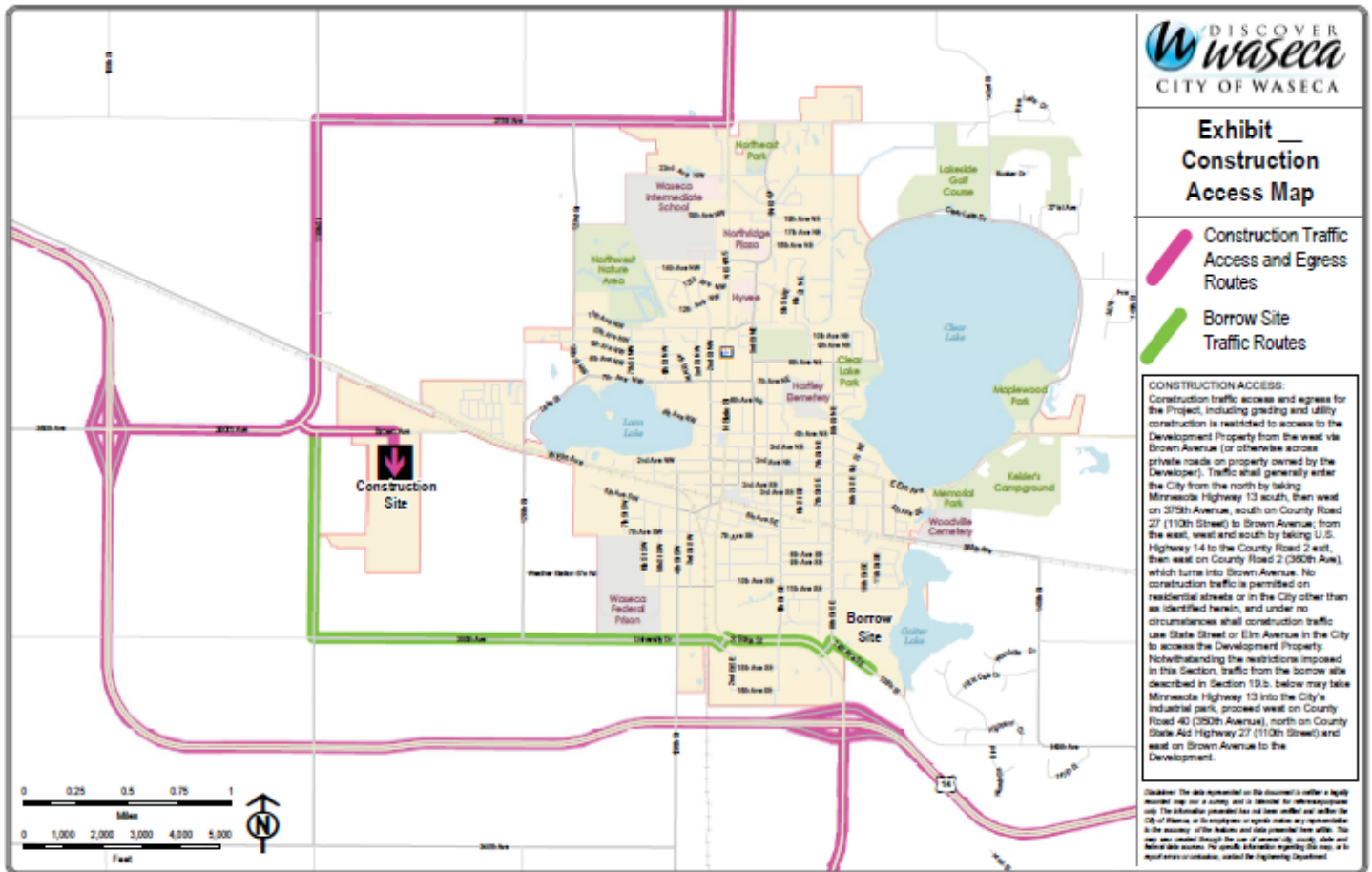


Date: PROJ. NO.: 193800266

PROJECT NO.: 193800266  
 SHEET NO.: 193800266-02  
 DATE: 11/15/2019  
 DRAWN BY: J. HARRIS  
 CHECKED BY: J. HARRIS  
 APPROVED BY: J. HARRIS

**EXHIBIT F TO DEVELOPMENT AGREEMENT  
FORM PERMANENT UTILITY EASEMENT**

# EXHIBIT G TO DEVELOPMENT AGREEMENT APPROVED CONSTRUCTION TRAFFIC ROUTE FROM BORROW SITE TO DEVELOPMENT PROPERTY





**EXHIBIT H TO DEVELOPMENT AGREEMENT**  
**CITY COUNCIL RESOLUTION 18-86**

**RESOLUTION NO. 18-86**  
**A RESOLUTION OF THE WASECA CITY COUNCIL**  
**SETTING SANITARY SEWER UTILITY RATES**  
**FOR 2019-2021**

**WHEREAS**, the Waseca City Council establishes Sanitary Sewer Utility rates and charges by resolution; and

**WHEREAS**, Sanitary Sewer Utility Customer Base Charges and Usage Charges for 2019, 2020, and 2021 will increase; and

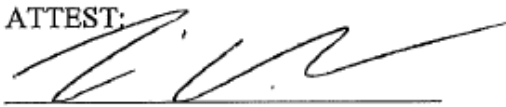
**WHEREAS**, The City of Waseca has established that the Sanitary Sewer Utility will be operated in a financially responsible manner, maintaining a balanced budget and sufficient working capital reserves.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Waseca that the Sanitary Sewer Utility rates shall be amended as set forth in Attachment A, which is attached hereto and incorporated herein by reference.

This resolution shall become effective upon its passage without publication. Attachment A will be implemented each year effective with all utility invoices payable and due on April 15 of 2019, 2020, and 2021

Adopted this 18<sup>th</sup> day of December, 2018.

  
\_\_\_\_\_  
R.D. SRF  
MAYOR

ATTEST:  
  
\_\_\_\_\_  
MIKE ANDERSON  
ASSISTANT TO THE CITY MANAGER

<b>City of Waseca Sanitary Sewer Rate Structure</b>				Attachment A
<b>Current &amp; Three Year Proposed</b>				
<b>Residential and Non-residential Customer Charges</b>				
<b>Meter Size</b>	<b>Current</b>	<b>Proposed 2019</b>	<b>Proposed 2020</b>	<b>Proposed 2021</b>
<1"	\$ 14.46	\$ 14.96	\$ 15.26	\$ 15.46
1"	\$ 17.00	\$ 17.59	\$ 17.94	\$ 18.17
1.5"	\$ 68.00	\$ 70.35	\$ 71.75	\$ 72.69
2", 2"TC	\$ 75.00	\$ 77.59	\$ 79.14	\$ 80.17
3", 3"TC	\$ 95.00	\$ 98.28	\$ 100.24	\$ 101.55
4"	\$ 105.00	\$ 108.62	\$ 110.79	\$ 112.24
6"	\$ 271.00	\$ 280.37	\$ 285.96	\$ 289.67
8"	\$ 487.00	\$ 503.80	\$ 513.88	\$ 520.56
10"	\$ 632.00	\$ 653.80	\$ 666.88	\$ 675.55
	\$ 1,764.46			\$ 1,886.06
<b>Residential and Non-residential Consumption Charges</b>				
per unit (100 cu ft)	\$ 4.04	\$ 4.08	\$ 4.12	\$ 4.15
<b>Sewer Access Charge (SAC)</b>				
Small (5/8" - 1")	\$ 1,090.00	\$ 1,090.00	\$ 1,090.00	\$ 1,090.00
Medium (1.5" - 4")	\$ 2,300.00	\$ 2,300.00	\$ 2,300.00	\$ 2,300.00
Large (6" - 10")	\$ 4,600.00	\$ 4,600.00	\$ 4,600.00	\$ 4,600.00
<b>Sewer Strength Surcharges</b>				
CBOD <sub>5</sub> > 300 mg/l (per lb.)	\$ 0.71	\$ 0.72	\$ 0.73	\$ 0.74
T.S.S. > 300 mg/l (per lb.)	\$ 0.71	\$ 0.72	\$ 0.73	\$ 0.74
Phosphorus > 8 mg/l (per lb.)	\$ 2.37	\$ 2.40	\$ 2.43	\$ 2.45
<b>Notes:</b>				
a. New rates begin on bill due April 15 of each year (consumption from mid-February to mid-March).				
b. Residential sewer charge				
*for bills due Jan 15 - May 15: based on actual water meter reading				
*for bills due June 15 - Dec 15: based on 5 month ave of winter water usage or actual, whichever is less				
Winter water usage = usage from mid-Nov through mid-April (bills due 1-15 through 5-15)				
c. Commercial sewer charge				
*year round - based on actual water meter reading with policy approved exceptions				
d. 1 unit = 100cu ft = 748 gallons				

**EXHIBIT I TO DEVELOPMENT AGREEMENT**  
**CITY COUNCIL RESOLUTION 18-85**

**RESOLUTION NO. 18-85**

**A RESOLUTION OF THE WASECA CITY COUNCIL  
SETTING WATER UTILITY RATES FOR 2019-2021**

**WHEREAS**, the Waseca City Council establishes Water Utility rates and charges by resolution; and

**WHEREAS**, Water Utility Customer Base Charges and Usage Charges for 2019, 2020, and 2021 will increase; and

**WHEREAS**, The City of Waseca has established that the Water Utility will be operated in a financially responsible manner, maintaining a balanced budget and sufficient working capital reserves.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Waseca that the Water Utility rates shall be amended as set forth in Attachment A, which is attached hereto and incorporated herein by reference.

This resolution shall become effective upon its passage without publication. Attachment A will be implemented each year effective with all utility invoices payable and due on April 15 of 2019, 2020, and 2021

Adopted this 18<sup>th</sup> day of December, 2018.

  
\_\_\_\_\_  
R.D. SRP  
MAYOR

ATTEST:

  
\_\_\_\_\_  
MIKE ANDERSON  
ASSISTANT TO THE CITY MANAGER

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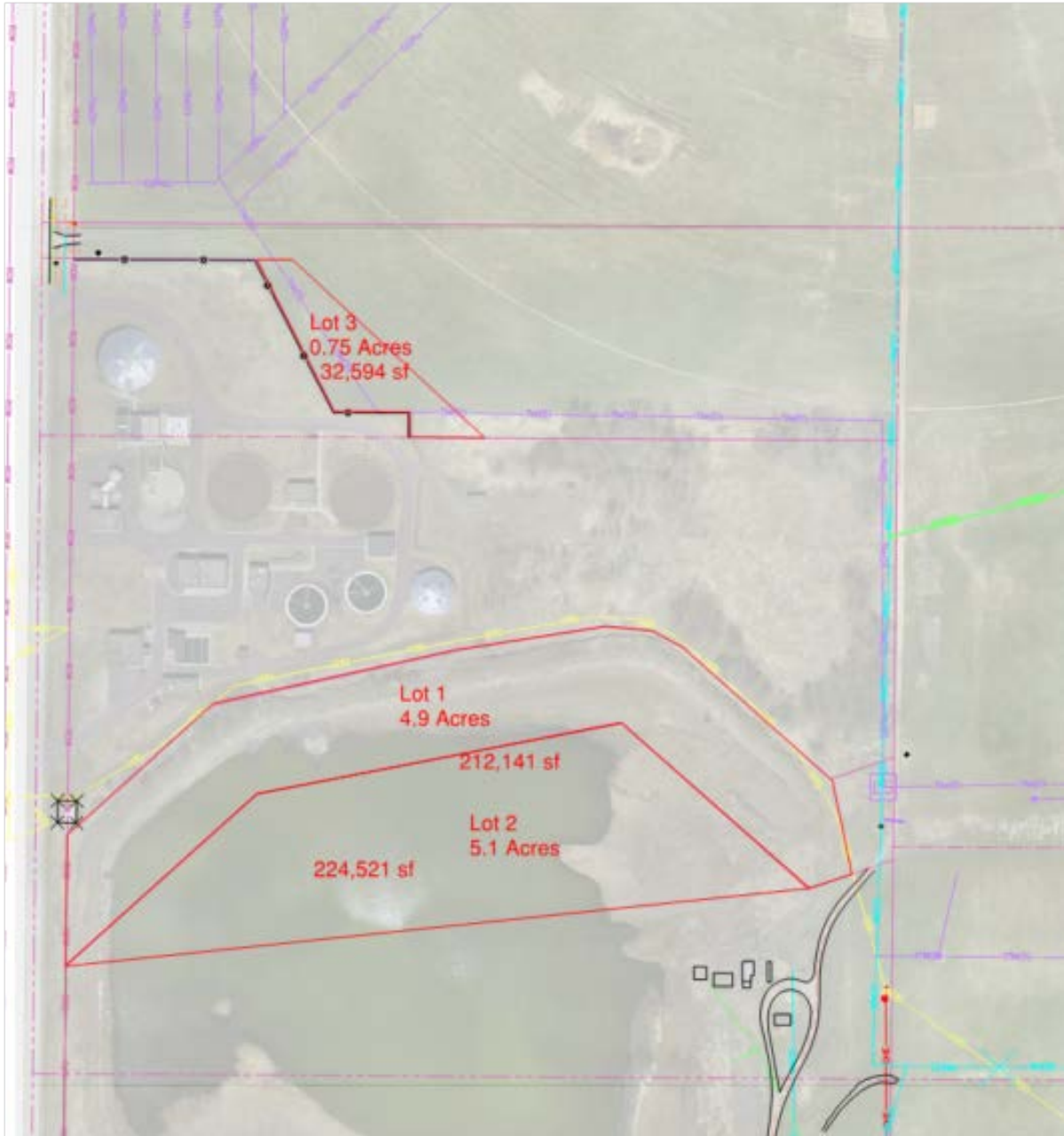
<b>City of Waseca Water Rate Structure</b>				<b>Attachment A</b>
<b>Current &amp; Three Year Proposed</b>				
<b>Residential and Non-residential Customer Charges</b>				
<b>Meter Size</b>	<b>Current</b>	<b>Proposed 2019</b>	<b>Proposed 2020</b>	<b>Proposed 2021</b>
<1"	\$ 8.85	\$ 8.98	\$ 9.12	\$ 9.25
1"	\$ 12.50	\$ 12.69	\$ 12.88	\$ 13.07
1.5"	\$ 25.00	\$ 25.38	\$ 25.76	\$ 26.14
2", 2"TC	\$ 37.50	\$ 38.06	\$ 38.63	\$ 39.21
3", 3"TC	\$ 68.75	\$ 69.78	\$ 70.83	\$ 71.89
4"	\$ 118.75	\$ 120.53	\$ 122.34	\$ 124.17
6"	\$ 234.40	\$ 237.92	\$ 241.48	\$ 245.11
8"	\$ 421.25	\$ 427.57	\$ 433.98	\$ 440.49
10"	\$ 546.85	\$ 555.05	\$ 563.38	\$ 571.83
<b>Residential Consumption Charges</b>				
0-8 units	\$ 1.56	\$ 1.58	\$ 1.60	\$ 1.62
9-17 units	\$ 1.64	\$ 1.66	\$ 1.68	\$ 1.70
> 17 units	\$ 1.72	\$ 1.74	\$ 1.76	\$ 1.79
<b>Non-Residential Consumption Charges</b>				
per unit (100 cu ft)	\$ 1.59	\$ 1.63	\$ 1.68	\$ 1.73
<b>Non-Residential Sprinkler Consumption Charges</b>				
per unit (100 cu ft)	\$ 1.72	\$ 1.74	\$ 1.76	\$ 1.79
<b>Water Sales Station</b>				
per 200 gallons	\$ 1.50	\$ 1.54	\$ 1.57	\$ 1.61
<b>Water Access Charge (WAC)</b>				
Small (5/8" - 1")	\$ 1,240.00	\$ 1,240.00	\$ 1,240.00	\$ 1,240.00
Medium (1.5" - 4")	\$ 3,560.00	\$ 3,560.00	\$ 3,560.00	\$ 3,560.00
Large (6" - 10")	\$ 8,105.00	\$ 8,105.00	\$ 8,105.00	\$ 8,105.00
<b>Vegetable Company Industrial Usage Standby Water Fee</b>				
per month	\$ 1,240.00	\$ 1,240.00	\$ 1,240.00	\$ 1,240.00
Notes:				
a. New rates begin on bill due April 15 of each year (consumption from mid-February to mid-March).				
b. Downsizing of a customer account meter will be determined by staff based on past practice.				
c. All meters must be obtained from the water utility				
d. Meter replacement charges will apply based on the most recent meter prices				
e. 1 unit = 100cu ft = 748 gallons				

**EXHIBIT J TO DEVELOPMENT AGREEMENT**  
**TABLE OF WATER CHARGES FOR WATER SERVICES AND CONNECTION**  
**AGREEMENT**

**GreenJay 8 Inch Meter Annual Water Charges to City of Waseca**

<b>GreenJay 8 Inch Meter Annual Water Charges</b>	<b>YEAR 2020</b>	<b>YEAR 2025</b>	<b>YEAR 2030</b>	<b>Year 2035</b>	<b>YEAR2040</b>	<b>YEAR 2045</b>	<b>YEAR 2050</b>
Annual Customer Base Charge-8 Inch Meter	\$5,208	\$5,468	\$5,742	\$6,029	\$6,330	\$6,647	\$6,979
Annual Capital Funding Charge-8 Inch Meter	\$6,297	\$6,611	\$6,942	\$7,289	\$7,653	\$8,036	\$8,438
Annual City Labor	\$10,000	\$10,500	\$11,025	\$11,576	\$12,155	\$12,763	\$13,401
Annual Water Demand (<150 MG)	\$52,320	\$54,936	\$57,683	\$60,567	\$63,595	\$66,775	\$70,114
Annual Industrial Usage Standby Fee	\$14,880	\$15,624	\$16,405	\$17,225	\$18,087	\$18,991	\$19,941
<b>Grand Total Paid by ConAgra</b>	<b>\$88,704</b>	<b>\$93,139</b>	<b>\$97,796</b>	<b>\$102,686</b>	<b>\$107,821</b>	<b>\$113,212</b>	<b>\$118,872</b>
<b>Charge per 1,000 Gallons: up to 150MG</b>	<b>\$0.59</b>	<b>\$0.62</b>	<b>\$0.65</b>	<b>\$0.68</b>	<b>\$0.72</b>	<b>\$0.75</b>	<b>\$0.79</b>

**EXHIBIT K TO DEVELOPMENT AGREEMENT  
EQUALIZATION STORAGE LAND TRANSFER MAP**



## RESOLUTION NO. 20-60

### RESOLUTION APPROVING PROPERTY TAX ABATEMENT FOR CONAGRA FOODS PACKAGED FOODS, LLC VEGETABLE PROCESSING PLANT

BE IT RESOLVED by the City Council (the "Council") of the City of Waseca, Minnesota (the "City"), as follows:

1. Recitals.

- a. Conagra Brands, Inc., a corporation under the laws of the State of Delaware, with its principal office located at Eleven Conagra Drive, 11-190, Omaha, Nebraska 68102 (the "Developer"), proposes to develop a new vegetable processing facility consisting of, at a minimum, site grading, building pad construction and construction of an approximate 240,000 square foot building and associated infrastructure (the "Project") on Developer's real property located at located at 2351 Brown Ave in the City of Waseca, which is generally adjacent to the south of Brown Avenue and to the east of 110th Street (Waseca County Parcel No. 09.013.0600, the "Development Property"). The Developer plans make a minimum capital investment in developing the project of \$140,000,000, and it is estimated that the taxable market value of the Development Property will be \$10,800,000 upon completion of the Project.
- b. The Developer has requested that the City provide financial assistance to the Developer for the Project. The City proposes to use tax abatement for the purposes provided for in the Abatement Law (and hereinafter defined), including the Project. The proposed term of the abatement will be for a term not to exceed twenty years in a total amount not to exceed \$2,450,000. The abatement will apply to the City's share of ad valorem property taxes on the Development Property derived from the value of the Project and paid by the Developer (the "Abatement").
- b. On August 18, 2020, the Council held a public hearing on the question of the Abatement, with proper notice being duly given.
- c. The Abatement is authorized under Minnesota Statutes, Section 469.1812 through 469.1815 (the "Abatement Law").

2. Findings for the Abatement. The City Council hereby makes the following findings:

- a. The Council expects the benefits to the City of the Abatement to at least equal or exceed the costs to the City thereof.
- b. Granting the Abatement is in the public interest because it will increase or preserve the tax base of the City, help retain and expand industrial enterprise in the City and provide employment opportunities in the City.
- c. The Council expects the public benefits described in (b) above to be derived from the Abatement.

- d. The Property is not located in a tax increment financing district.
  - e. In any year, the total amount of property taxes abated by the City by this and other resolutions, if any, does not exceed the greater of ten percent (10%) of the current levy or \$200,000.00.
  - f. The Council finds that the City and the Developer requested that Waseca County and Waseca Independent School District each abate their shares of ad valorem real property taxes in support of the Project, and further finds that the Waseca Independent School District declined to consider providing such abatement.
3. Terms of Abatement. The Abatement is hereby approved pursuant to the following terms and conditions:
- a. The Abatement shall be for twenty (20) years and shall apply to the taxes payable in the years 2023 through 2042 inclusive as follows:
    - i) The City will abate an amount equal to fifty (50) percent of the increased portion of the City's share of ad valorem property taxes on the Property resulting from the Project, not to exceed \$123,000.00 in any given year.
    - ii) The Abatement shall be limited to the increase in property taxes resulting from the Project.
    - iii) The total amount abated over the entire 20-year period shall not exceed \$2,450,000.00.
  - b. The increased portion of the City's share of ad valorem property taxes on the Property which will be subject to abatement under this paragraph shall be any property taxes collected in any given year in excess of the 2020 base taxable market value for the Development Property of \$840,840.00.
  - c. The Abatement shall be subject to all the terms and limitations of the Abatement Law.
  - d. All terms will be subject to final approval of the Tax Abatement and Business Subsidy Agreement between the City and the Developer setting forth the rights and obligations of the parties with respect to the Abatement in greater detail.
  - e. In order to be entitled to the Abatement, the Developer shall not be in default within the City of any of its payment obligations respecting any taxes, assessments, utility charges or other governmental impositions, or in any material respect with the Tax Abatement and Business Subsidy Agreement between the City and the Developer.
  - f. The Abatement may be modified or changed during its term, including as necessary to confine the Abatement to that portion of the Development Property



upon which the Project is developed should the Development Property be subdivided into two or more separate tax parcels.

Dated this 17<sup>th</sup> day of November, 2020.

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Mayor

Attest:

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City Clerk