

# CITY OF LIVERMORE GUIDE TO THE AGRICULTURAL MITIGATION PROGRAM

## INTRODUCTION

The South Livermore Valley Specific Plan (“Specific Plan”) requires agricultural mitigation, via dedication of permanent conservation easements, for approved residential development in the Specific Plan area. This agricultural mitigation is a vital component of the Specific Plan’s vision of quality housing and commercial vitality in the rural South Livermore Valley wine country. Implementing the agricultural mitigation program to achieve the Specific Plan vision requires the cooperative efforts of the City of Livermore (“City”), the Tri-Valley Conservancy (“TVC”), and the Applicant.

*The City and TVC have prepared this Guide to the Agricultural Mitigation Program, which outlines the process for submittal, review, and approval of documents and materials required to (i) determine the eligibility of lands in the agricultural mitigation program, and (ii) complete the documentation necessary for the recordation of conservation easements. Part I, “Process for Acceptance of Conservation Easements”, describes the process of Conservation Easement submittal, review, and approval. Part II, “Requirements for Acceptance of Conservation Easements”, describes the documents and materials required for submittal for Conservation Easement review and approval. Please refer to the Guide to the Agricultural Mitigation Program throughout the Tentative Map and Final Map application processes.*

*Processing of proposed conservation easements is lengthy and complex, and typically occurs over the entire Tentative Map and Final Map application periods. The City and TVC recommend that Applicants initiate the processing of conservation easement proposals early in the processing of development applications. Development will not be approved until agricultural mitigation is secured.*

Please feel free to contact City staff or TVC staff at any time if you have questions concerning the agricultural mitigation program. Listed below are the contacts for the City and TVC.

Mr. Matt Weintraub  
City of Livermore  
Planning Division  
1052 S. Livermore Avenue  
Livermore, California 94550-4899  
925.960.4450  
925.960.4459 fax  
[maweintraub@ci.livermore.ca.us](mailto:maweintraub@ci.livermore.ca.us)

Ms. Sharon Burnham  
Executive Director  
Tri-Valley Conservancy  
1736 Holmes St., Building B  
Livermore, California 94550  
925.449.8706  
925.449.8709 fax  
[sburnham@pacbell.net](mailto:sburnham@pacbell.net)

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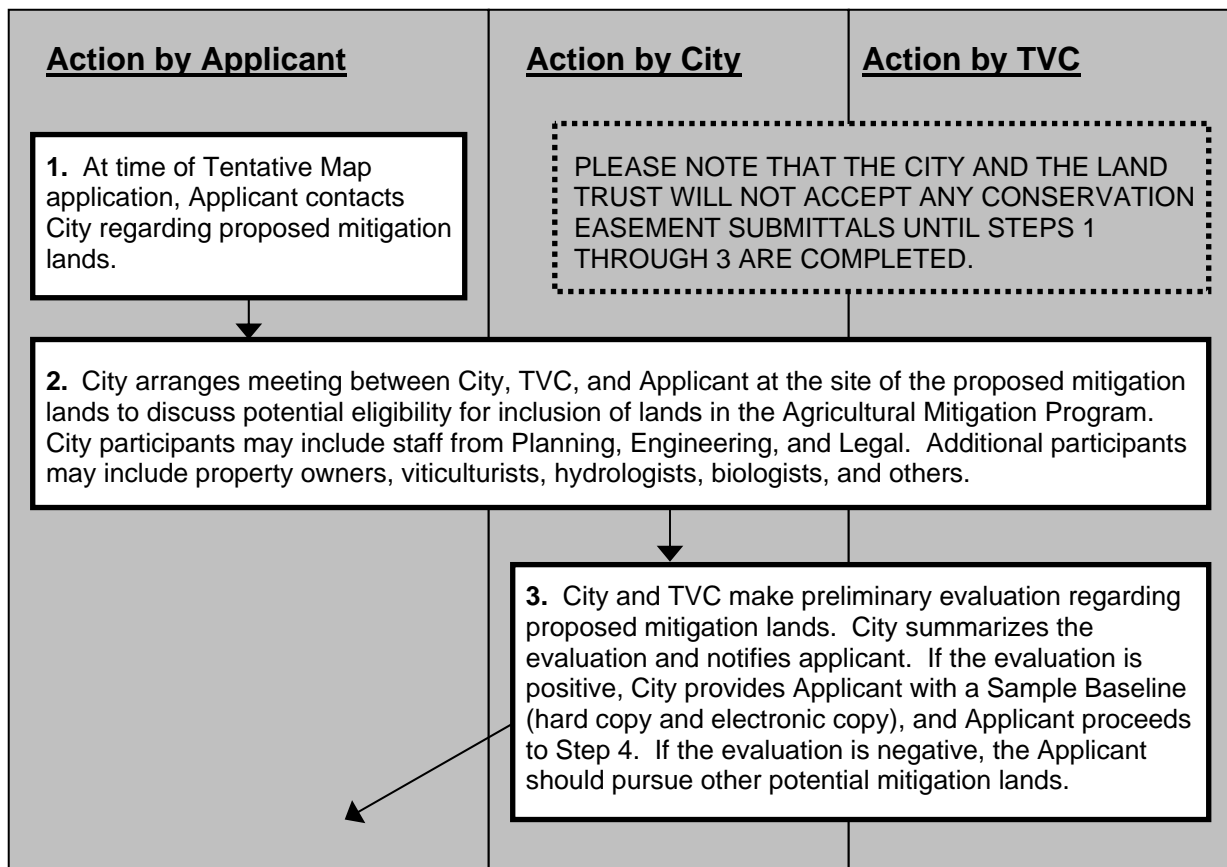
## PART I: PROCESS FOR ACCEPTANCE OF CONSERVATION EASEMENTS

The City of Livermore (“City”) and the Tri-Valley Conservancy (“TVC”) require submittal of documents and materials for lands that are to be considered for agricultural mitigation under the South Livermore Valley Specific Plan (“Specific Plan”). The process for submittal, review, and approval of these documents and materials is described below.

*All required Conservation Easement submittals must be reviewed, approved, and deemed complete by City staff and TVC staff prior to TVC staff calendaring the Conservation Easement for consideration by TVC Board. The Conservation Easement must be acted upon by TVC Board prior to City staff calendaring the Conservation Easement and related Final Map for consideration by the City Council.*

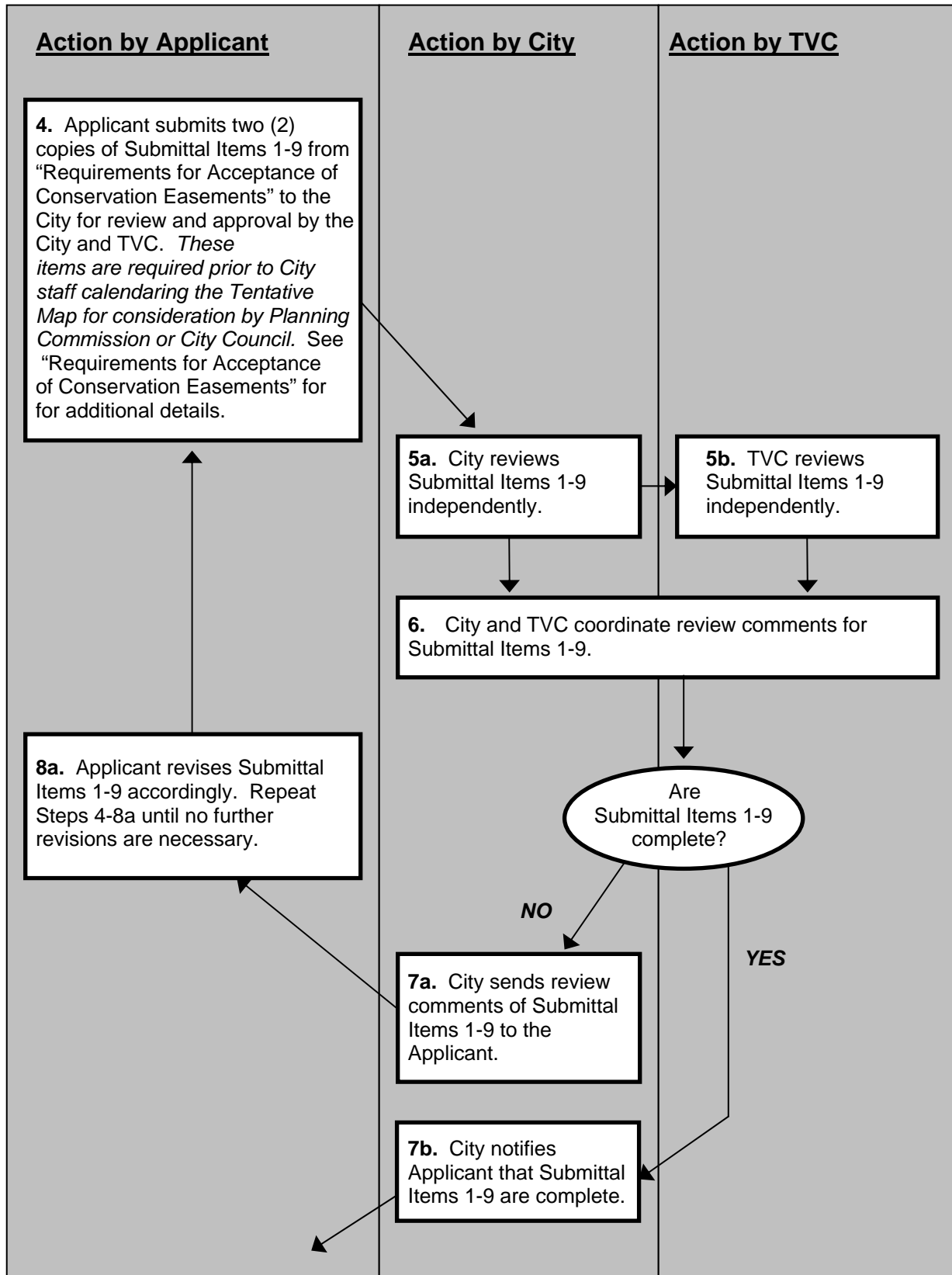
The Applicant is responsible for the processing costs incurred by TVC during Conservation Easement review and approval, including but not limited to recording fees and copying costs. A fee schedule is available from the Trust.

The following flowchart describes the process of Conservation Easement submittal, review, and approval.



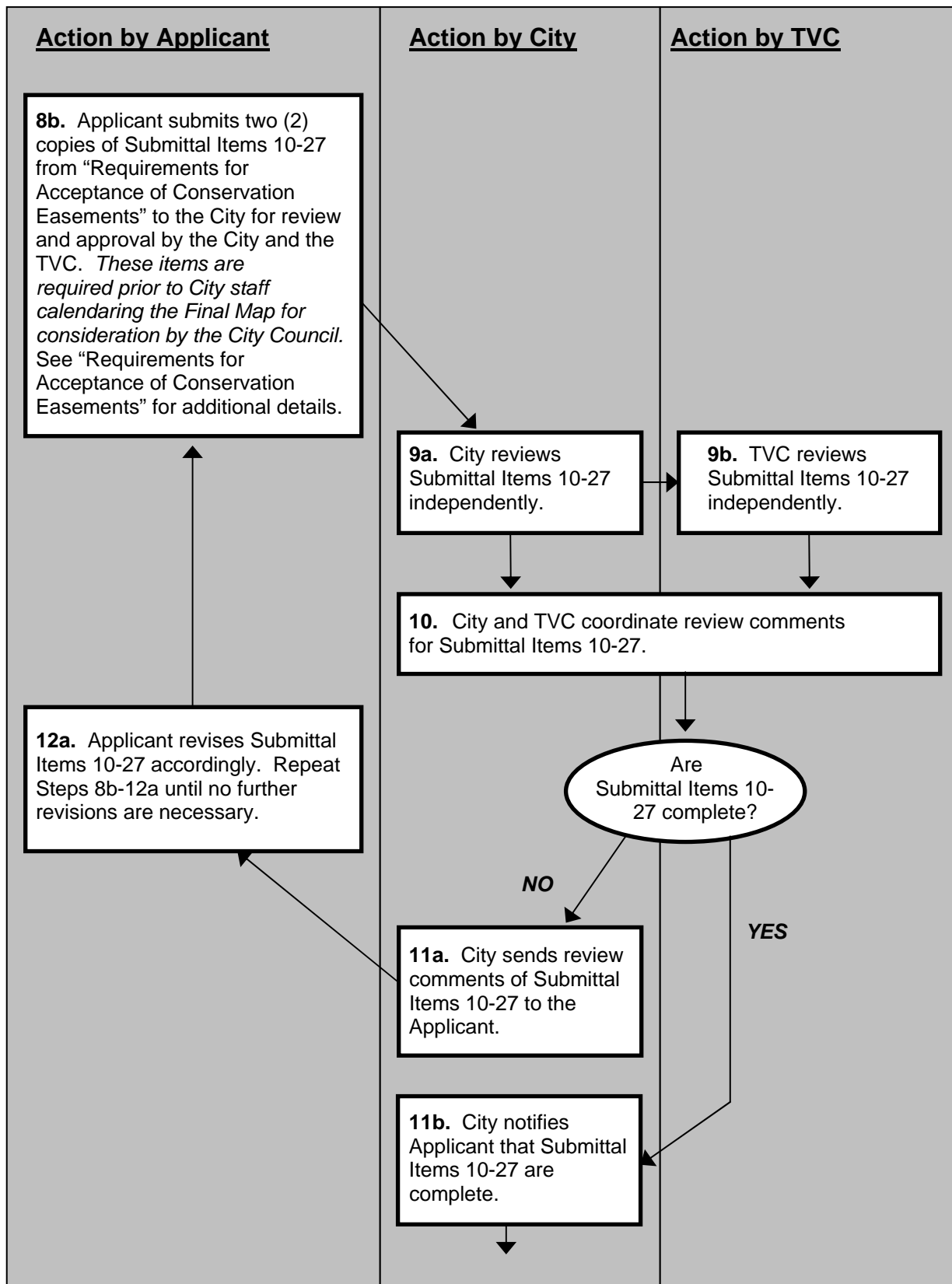
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## PART I: PROCESS FOR ACCEPTANCE OF CONSERVATION EASEMENTS



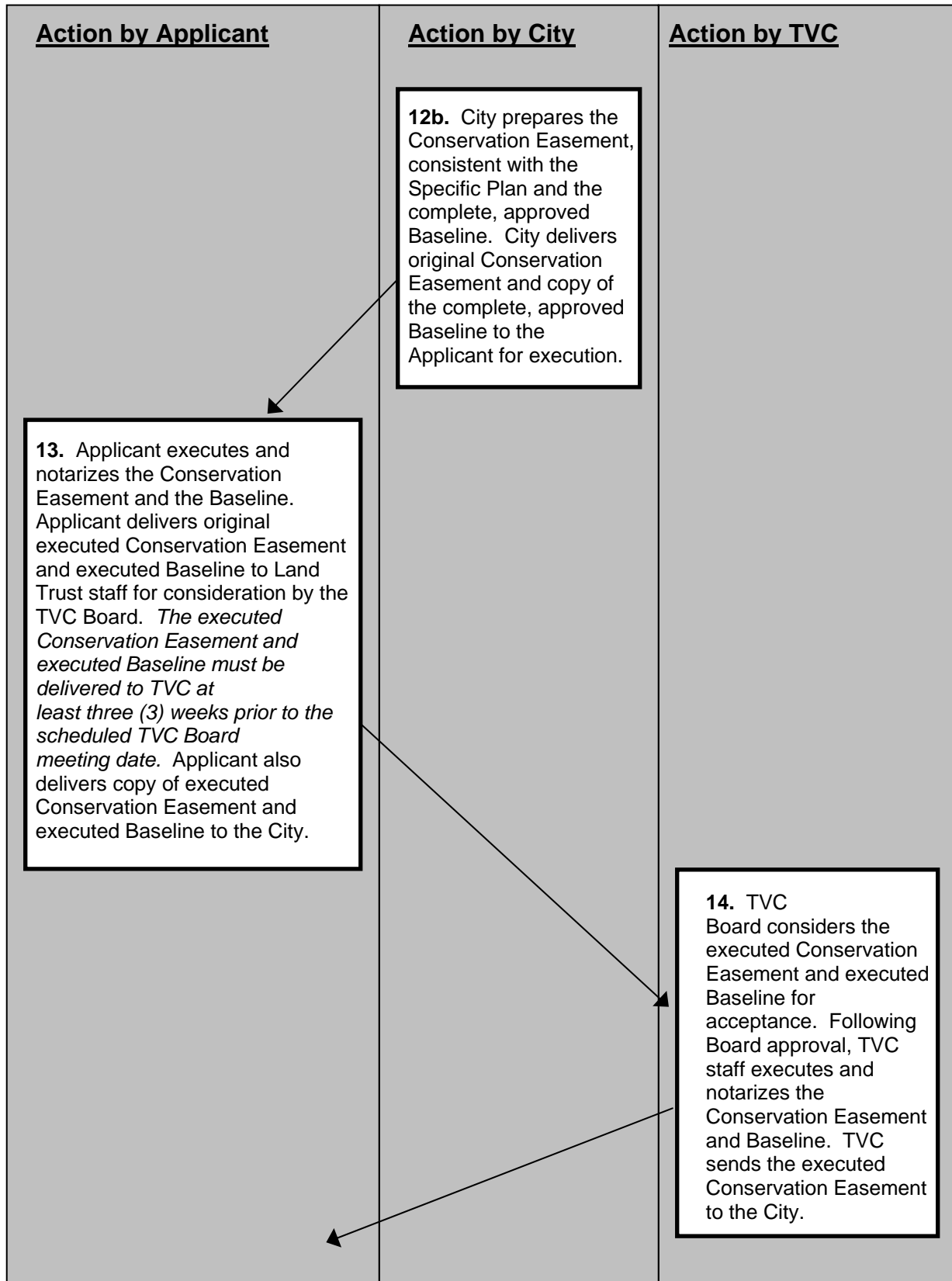
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## PART I: PROCESS FOR ACCEPTANCE OF CONSERVATION EASEMENTS



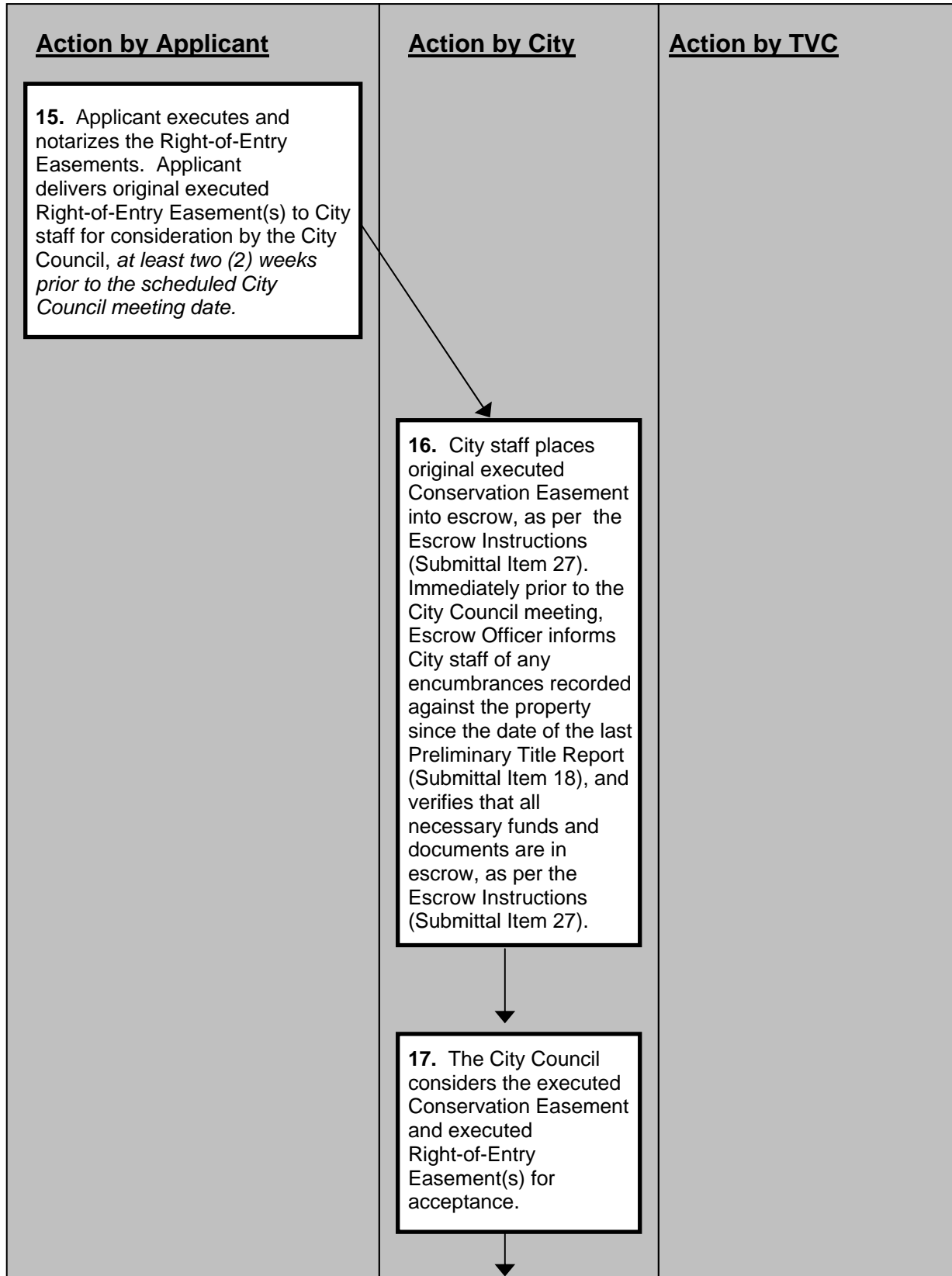
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<u>Action by Applicant</u>	<u>Action by City</u>	<u>Action by TVC</u>
	<div data-bbox="699 443 1013 737" style="border: 1px solid black; padding: 5px;"><p><b>18.</b> Following City Council approval, City staff places the executed Rights-of-Entry Easement(s) into escrow, as per the Escrow Instructions (Submittal Item 27).</p></div> <div data-bbox="829 737 846 831" style="text-align: center;">↓</div>	
<p><b>19.</b> The executed Conservation Easement and Right-of-Entry Easement(s) are recorded with the County Recorder's Office, as per the Escrow Instructions (Submittal Item 27). The City, TVC, and the property owner(s) receive copies of the recorded documents from the Escrow Officer.</p>		

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### PART II: REQUIREMENTS FOR ACCEPTANCE OF CONSERVATION EASEMENTS

The City of Livermore (“City”) and the Tri-Valley Conservancy (“TVC”) require submittal of documents and materials for lands that are to be considered for agricultural mitigation under the South Livermore Valley Specific Plan (“Specific Plan”). These documents and materials are described below.

The Applicant is responsible for submitting two (2) copies of all Conservation Easement Baseline (“Baseline”) documents and materials (Submittal Items 1-7 and 10-19) in the format required by TVC. Baseline documents and materials must be labeled, indexed, and organized in three-ring binders, and the Applicant should update the binders with each subsequent submittal until complete. Sample completed Baselines are available from TVC and should be used as the model for preparing Baseline submittals. The completed Baseline constitutes Exhibit C to the approved Conservation Easement.

In addition to the Baseline submittals, the Applicant is responsible for submitting two (2) copies of all remaining Conservation Easement documents and materials required for review by the City and TVC (Submittal Items 8-9 and 20-27). These Conservation Easement documents and materials must be labeled and organized separately from Baseline submittals. Samples of these Conservation Easement documents and materials are available from the City and should be used as templates for preparing the submittals.

The following checklist describes the documents and materials required for submittal for Conservation Easement review and approval. The City and TVC may require additional documents and materials in order to verify compliance with the Specific Plan. Once all the required documents and materials are submitted, reviewed, and approved by City staff and TVC staff, the Conservation Easement may be calendared for consideration.

#### Tentative Map Approval

*Prior to the City calendaring a Tentative Map application for consideration by the Planning Commission or City Council, the Applicant is required to submit two (2) copies of the following Conservation Easement Baseline Report documents and materials for review and approval by the City and TVC:*

- (1) Contact Information.** Name, address, telephone, fax, and any e-mail of the property owner or property owner’s representative for the proposed Conservation Easement.

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- (2) **Preliminary Title Report** (dated within 30 days of submittal) for the proposed Conservation Easement property, and evidence that the applicant controls the proposed Conservation Easement property by agreement with the property owner, grant deed, or other means. Also, identify all individuals and/or entities that vest to (i.e., have or will have an ownership interest at the time of execution of the proposed Conservation Easement) the proposed Conservation Easement property.
- (3) **Regional Map** (city-scale) showing the location and boundaries of the proposed Conservation Easement within the South Livermore Valley, in relation to the City of Livermore.
- (4) **Location Map** (neighborhood-scale) showing the location and boundaries of the proposed Conservation Easement in relation to surrounding properties and streets.
- (5) **Reference Map** (parcel-scale) of the proposed Conservation Easement, prepared by a licensed civil engineer or land surveyor, showing:
  - (a) Property and parcel boundaries;
  - (b) Existing structures, improvements and uses;
  - (c) Existing easements and rights-of-way;
  - (d) Boundaries of any proposed building site envelope (if permitted by the Specific Plan and the South Livermore Valley Area Plan);
  - (e) Total acreage (measured to two decimal places);
  - (f) Topography;
  - (g) Delineated areas of slope greater than 25 percent;
  - (h) Proposed LARPD trail easements (if required by the Specific Plan).
- (6) **Hydrological Survey** for any proposed Conservation Easement outside the Specific Plan area (and for any proposed Conservation Easement within the Specific Plan area if additional hydrological surveys are required by the Specific Plan), prepared by a City-approved hydrologist, delineating any sensitive hydrological areas, including:

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- (a) Wetlands, including vernal pools;
- (b) Riparian corridors, including blue-line streams.

The Hydrological Survey should be in the form of a transparent overlay to the Reference Map.

- (7) Biological Survey** for any proposed Conservation Easement outside the Specific Plan area (and for any proposed Conservation Easement within the Specific Plan area if additional biological surveys are required by the Specific Plan), prepared by a City-approved biologist, delineating any sensitive habitat areas, including:

- (a) Wetlands, including vernal pools (consistent with the Hydrological Survey);
- (b) Riparian corridors, including blue-line streams (consistent with the Hydrological Survey);
- (c) Woodlands, including individual Oaks and Ancestral Trees;
- (d) Other habitat for any endangered or protected plant or animal species.

The Biological Survey should be in the form of a transparent overlay to the Reference Map.

- (8) Planting Plan** for existing planted lands in the proposed Conservation Easement planted after October 11, 1993, demonstrating that the planting and maintenance occurred in accordance with accepted industry standards. Documentation should address:

- (a) Type of crop for each planted area;
- (b) Month and year of planting;
- (c) Spacing of vines or trees;
- (d) Amount of land set aside for equipment operation;

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- (e) Design of irrigation systems and the amount of water required for planting and maintenance, including drip irrigation and other water-conserving best management practices.

For existing planted lands in the proposed Conservation Easement planted after November 17, 1997, also provide the following:

- (f) Verification that a Planting Plan was approved by the City of Livermore;
- (g) Documentation that planting occurred in compliance with the Planting Plan and the Specific Plan;
- (h) Documentation that planting followed all environmental survey work required by State or Federal law and following receipt of all necessary State and Federal government approvals, if there are any sensitive species or habitats in the proposed Conservation Easement.

Please note that lands planted before October 11, 1993, are not eligible for mitigation credit.

*Prior to the City calendaring a Tentative Map application for consideration by the Planning Commission or City Council, the Applicant is required to submit two (2) copies of the following Conservation Easement documents and materials for review and approval by the City and TVC:*

- (9) Viable Agricultural Unit Map**, if the proposed Conservation Easement is located outside a Specific Plan subarea and is less than ten (10) acres in area. Show the location and boundaries of the proposed Conservation Easement, as well as surrounding lands that are planted or are proposed for planting. Provide any other evidence that the proposed Conservation Easement is of sufficient size to form a viable agricultural unit or is part of a block of contiguous lands that have been or will be planted and thus together will form a viable agricultural unit.

**Final Map Approval**

*Prior to the City calendaring a Final Map application for consideration by the City Council, the Applicant is required to submit two (2) copies of the following*

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*Conservation Easement Baseline Report documents and materials for review and approval by the City and TVC:*

- (10)** Any changes to any information regarding the proposed Conservation Easement previously submitted for the Tentative Map application, including changes to boundaries, acreages, planted lands, building envelopes, or any other parcels, easements, or rights-of-way.
- (11) Legal Description** of the proposed Conservation Easement, including:
- (a) Assessor's Parcel Number(s);
  - (b) Metes and bounds description;
  - (c) Accompanying plat map;
  - (d) Closure calculation documentation;
  - (e) Total acreage calculation (measured to two decimal places).

Separate legal descriptions should be also submitted for any proposed building site envelopes (if permitted by the Specific Plan and the South Livermore Valley Area Plan) located within the proposed Conservation Easement.

- (12) Property Summary.** Brief written descriptions of the characteristics of the proposed Conservation Easement, including:
- (a) Existing improvements and land uses;
  - (b) Potential future land uses within any proposed building envelope (if permitted by the Specific Plan and the South Livermore Valley Area Plan);
  - (c) Utilities and utility easements;
  - (d) Non-utility easements and rights-of-way;
  - (e) Topography and vegetation;
  - (f) Williamson Act contract status;

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- (g) Current zoning;
  - (h) Surrounding land uses;
  - (i) Acknowledgement of Condition signed by property owner.
- (13) Conservation Values.** Brief written descriptions of the conservation values of the proposed Conservation Easement, including:
- (a) Agricultural value;
  - (b) Historic value;
  - (c) Scenic and Open Space values;
  - (d) Biological value;
  - (e) Recreational value.
- (14) Aerial Photograph** with acetate overlay showing the location and boundaries of the proposed Conservation Easement and any proposed building envelope (if permitted by the Specific Plan and the South Livermore Valley Area Plan).
- (15) General Soil Map** showing the location and boundaries of the proposed Conservation Easement, and “Summary of Important Qualities of the Soils” Table for relevant soil types on the subject property. The map and table are found in *Soil Survey, Alameda Area, California* (United States Department of Agriculture, issued March, 1966), which is available from TVC.
- (16) Alameda County Important Farmland Map** showing the location and boundaries of the proposed Conservation Easement. A copy of this map is available from TVC.
- (17) Property Photograph Log** to document the current condition and boundaries of the proposed Conservation Easement, including:
- (a) Property photographs and negatives, labeled and assembled in numeric order in a photograph binder, with negatives at the rear;

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- (b) Photographic Record Table to document the position (location and direction) of each photograph;
- (c) Photographic Station Locations, as established by TVC at least 21 days prior to taking photographs.

Please coordinate with TVC to complete the Property Photograph Log.

- (18) Preliminary Title Report** (updated) for the proposed Conservation Easement property, if there have been any changes in title or encumbrances recorded against the proposed Conservation Easement property since the date of the title report previously provided. Also, identify all individuals and/or entities that vest to (i.e., have or will have an ownership interest at the time of execution of the proposed Conservation Easement) the proposed Conservation Easement property.
- (19) Contact Information** (updated). Name, address, telephone, fax, and any e-mail of the property owner or property owner's representative for the proposed Conservation Easement that will receive any communication regarding the Conservation Easement after the Conservation Easement has been executed and recorded.

*Prior to the City calendaring a Final Map application for consideration by the City Council, the Applicant is required to submit two (2) copies of the following Conservation Easement documents and materials for review and approval by the City and TVC:*

- (20) Planting Plan** for lands not yet planted in the proposed Conservation Easement, demonstrating that the planting and maintenance will occur in accordance with accepted industry standards. Documentation should include:
  - (a) Type of crop for each planted area;
  - (b) Spacing of vines or trees;
  - (c) Amount of land set aside for equipment operation;

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- (d) Design of irrigation systems and the amount of water required for planting and maintenance, including drip irrigation and other water-conserving best management practices;
- (e) Documentation that all environmental survey work required by State or Federal law has been performed and that all necessary State and Federal government approvals have been obtained, if there are any sensitive species or habitats in the proposed Conservation Easement;
- (f) Planting that avoids slopes greater than 25 percent and sensitive hydrological and habitat areas, as defined in the Reference Map, Hydrological Survey, and Biological Survey.

For lands in the proposed Conservation Easement that will not be planted at the time of execution of the proposed Conservation Easement, the Planting Plan shall include a commitment from the property owner that revisions to the Baseline satisfactory to the City and TVC will be prepared within 60 days of the completion of planting to document that the proposed Conservation Easement lands have been planted.

**(21) Exhibits** for the proposed Conservation Easement. The City and TVC will prepare the actual Conservation Easement document. The Applicant is required to submit the following documents, which constitute Exhibits to the Conservation Easement:

- (a) Legal Description of the proposed Conservation Easement, including metes and bounds and total acreage calculation (measured to two decimal places), labeled as “Legal Description of Conservation Easement,” and identified at bottom of page as “Exhibit A” followed by the page number (i.e., 1 of 2);
- (b) Plat Map to accompany the Legal Description, identifying boundaries of the proposed Conservation Easement, and including metes and bounds along boundaries. If necessary for identification purposes, include line and curve table. Clearly indicate that the proposed Conservation Easement does not include rights-of-way, and indicate whether the proposed Conservation Easement includes an LARPD trail. Label as “Plat to Accompany Legal Description of Conservation Easement,” and identify at bottom of page as “Exhibit A” followed by the page number (i.e., 2 of 2);

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- (c) Location and Area Map for the proposed Conservation Easement, with the boundaries of the proposed Conservation Easement identified. The Location and Area Map should show and label surrounding streets and landmarks, and should show the proposed Conservation Easement at the center of the Location and Area Map. Label as “Location and Area Map for Conservation Easement,” and identify at bottom of page as “Exhibit B – 1 of 1”;
- (d) Legal Descriptions of any authorized building site envelopes, agricultural maintenance areas, and any other requested delineated areas, including metes and bounds and total acreage calculation (measured to two decimal places). Label as “Legal Description of Building Site Envelope for Conservation Easement,” or “Legal Description of Agricultural Maintenance Area for Conservation Easement,” or other label as appropriate, and identify at bottom of page as “Exhibit F” followed by the page number (i.e., 1 of 2). If more than one delineated area is proposed, contact the City for instructions on labeling these Exhibits;
- (e) Plat Maps to accompany the Legal Descriptions of any authorized building site envelopes, agricultural maintenance areas, and any other requested delineated area, identifying boundaries of the proposed Conservation Easement, and including metes and bounds along boundaries. If necessary for identification purposes, include line and curve table. Label as “Plat to Accompany Legal Description of Building Site Envelope for Conservation Easement,” or “Plat to Accompany Legal Description of Agricultural Maintenance Area for Conservation Easement,” or other label as appropriate, and identify at bottom of page as “Exhibit F” followed by the page number (i.e., 2 of 2). If more than one delineated area is proposed, contact the City for labeling instructions. Note that if improvements already exist within the building site envelope, monuments must be installed to document the boundaries of the building site envelope prior to TVC’s consideration of the Conservation Easement. The Conservation Easement will require installation and maintenance of monuments upon development of unimproved building site envelopes.

Sample Exhibits to Conservation Easements are available from TVC.

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In addition to the Exhibits listed above, provide closure calculation documentation. Closure calculations will not be included as an Exhibit to the Conservation Easement. However, closure calculations are required to assist in plan checking the Exhibit documents.

- (22) Planting and Maintenance Agreement** (executed contract) between the property owner for the proposed Conservation Easement and a contractor qualified to plant the proposed Conservation Easement lands pursuant to the Planting Plan, ensuring the proposed Conservation Easement lands will be planted within 12 months of approval of the related Final Map, and will be maintained in irrigated agriculture for at least eight years, and naming the City as a third party beneficiary. A sample Planting and Maintenance Agreement is available from the City. If the property owner for the proposed Conservation Easement will act as contractor for the planting, a letter from the property owner to the City committing to plant the proposed Conservation Easement lands pursuant to the Planting Plan within 12 months of approval of the Final Map and to maintain the Conservation Easement lands for at least 8 years is required in lieu of the Planting and Maintenance Agreement.
- (23) Maintenance Right-of-Entry Easement** for the proposed Conservation Easement property (or portion of the proposed Conservation Easement property to be used as mitigation for a particular Final Map) to allow City entry upon the proposed Conservation Easement property if necessary to ensure proper maintenance during the eight-year maintenance period. A sample Maintenance Right-of-Entry Easement is available from the City. In addition to the Maintenance Right-of-Entry Easement, the Applicant is required to submit the following documents, which constitute Exhibits to the Maintenance Right-of-Entry Easement:
- (a) Legal Description of the proposed Maintenance Right-of-Entry Easement, including metes and bounds and total acreage calculation (measured to two decimal places), labeled as "Legal Description of Maintenance Right-of-Entry Easement," and identified at bottom of page as "Exhibit A" followed by the page number (i.e., 1 of 2);
  - (b) Plat Map to accompany the Legal Description, identifying boundaries of the proposed Maintenance Right-of-Entry Easement, and including metes and bounds along boundaries. If necessary for identification purposes, include line and curve table. The

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Maintenance Right-of-Entry Easement should exclude any building site envelopes or other non-agricultural-related portion of the proposed Conservation Easement. Label as "Plat to Accompany Legal Description of Maintenance Right-of-Entry Easement," and identify at bottom of page as "Exhibit A" followed by the page number (i.e., 2 of 2);

- (c) Location and Area Map for the proposed Maintenance Right-of-Entry Easement, with the boundaries of the proposed Maintenance Right-of-Entry Easement identified. The Location and Area Map should show and label surrounding streets and landmarks, and should show the Maintenance Right-of-Entry Easement at the center of the Location and Area Map. Label as "Location and Area Map for Maintenance Right-of-Entry Easement," and identify at bottom of page as "Exhibit B – 1 of 1";

**(24) Planting Right-of-Entry Easement** for the proposed Conservation Easement property (or portion of the proposed Conservation Easement property to be used as mitigation for a particular Final Map) for lands on the proposed Conservation Easement that have not been planted at the time of Final Map approval, to allow City entry upon the Conservation Easement property if necessary to perform planting in the event the planting does not occur. A sample Planting Right-of-Entry Easement is available from the City. In addition to the Planting Right-of-Entry Easement, the Applicant is required to submit the following documents, which constitute Exhibits to the Planting Right-of-Entry Easement:

- (a) Legal Description of the proposed Planting Right-of-Entry Easement, including metes and bounds and total acreage calculation (measured to two decimal places), labeled as "Legal Description of Planting Right-of-Entry Easement," and identified at bottom of page as "Exhibit A" followed by the page number (i.e., 1 of 2);
- (b) Plat Map to accompany the Legal Description, identifying boundaries of the proposed Planting Right-of-Entry Easement, and including metes and bounds along boundaries. If necessary for identification purposes, include line and curve table. The Planting Right-of-Entry Easement should exclude any building site envelopes or other non-agricultural-related portion of the proposed Conservation Easement. Label as "Plat to Accompany Legal

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Description of Planting Right-of-Entry Easement,” and identify at bottom of page as “Exhibit A” followed by the page number (i.e., 2 of 2);

- (c) Location and Area Map for the proposed Planting Right-of-Entry Easement, with the boundaries of the proposed Planting Right-of-Entry Easement identified. The Location and Area Map should show and label surrounding streets and landmarks, and should show the proposed Planting Right-of-Entry Easement at the center of the Location and Area Map. Label as “Location and Area Map for Planting Right-of-Entry Easement,” and identify at bottom of page as “Exhibit B – 1 of 1”.
- (25) Letter of Credit**, or a Bond in favor of the City in an amount sufficient to ensure planting and maintenance, for lands in the proposed Conservation Easement that have not been planted at the time of Final Map approval. The City prefers a Letter of Credit. Any Letter of Credit or Bond must conform to the City’s requirements for security as set forth in the City’s Municipal Code section 18.28.070. The City will not calendar the Final Map for consideration by the City Council until it has received the Letter of Credit or Bond. The security shall not be released until the City determines that planting has occurred consistent with the Planting Plan, and the City and TVC determine that the Baseline has been revised to document the planting.
- (26) Water Supply Verification**, documenting that the proposed Conservation Easement is served by a secure water supply sufficient to satisfy the proposed Conservation Easement’s historic water requirements (for lands planted prior to November 17, 1997) or the water requirements specified in the Planting Plan (for lands planted after November 17, 1997) for at least eight (8) years. Such evidence may be supplied by a contract with or a written commitment from Zone 7, or by pump tests indicating on-site well capacity, or by other appropriate documentation as determined by the City and TVC.
- (27) Escrow Instructions**, including:
- (a) Provision for recordation of the Final Map, Conservation Easement, and Right-of-Entry Easement(s);

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- (b) Provision for issuance of title insurance for the proposed Conservation Easement in favor of TVC, and naming the City as an additional insured;
- (c) Provision for recordation of a Subordination Agreement if any encumbrances are recorded against the proposed Conservation Easement property;
- (d) Provision authorizing and requiring the Escrow Officer to contact City staff on the Thursday or Friday before the City Council is scheduled to consider the Conservation Easement. The Escrow Officer will inform City staff if any encumbrances have been recorded against the proposed Conservation Easement property since the updated Preliminary Title Report (Submittal Item 18), and will verify that all necessary funds and documents are in escrow;
- (e) Provision directing the Escrow Officer to record documents placed in escrow only when all the following are completed: all required documents are in escrow; all escrow fees, title insurance fees, and TVC processing fees have been paid; and Escrow Officer has received verbal authorization from City staff to proceed with recordation;
- (f) Provision directing the Escrow Officer to send copies of recorded documents to the City and TVC.