



OVERSIGHT BOARD TO THE CITY OF WINTERS SUCCESSOR AGENCY TO
THE WINTERS COMMUNITY DEVELOPMENT AGENCY

City Council Chambers
318 First Street
Monday, August 24, 2015

2:00 p.m. – Regular Meeting

AGENDA

Members of the Oversight Board

Harold Anderson- City of Winters
Sarah Chapman- Solano College District
Diane Cirolini- Yolo County Office of Education
Larry Justus- Winters Cemetery District
Nanci Mills- City of Winters CDA Employees
Jiley Romney- Yolo County Public Appointee
Don Saylor- Yolo County

Staff to Oversight Board

John W. Donlevy, Jr., City Manager
Shelly Gunby, Director of Financial Management
Dan Maguire, Housing Programs Manager
Tracy Jensen, Management Analyst

PLEASE NOTE – The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon request of the Chairman of other Board Members. Public comments time may be limited and speakers will be asked to state their name.

Roll Call

Pledge of Allegiance

Approval of Agenda

BOARD COMMENTS

PUBLIC COMMENTS

At this time, any member of the public may address the Oversight Board on matters, which are not listed on this agenda. Citizens should reserve their comments for matter listed on this agenda at the time the item is considered by the Board. An exception is made for members of the public for whom it would

create a hardship to stay until their item is heard. Those individuals may address the item after the public has spoken on issues that are not listed on the agenda. Presentations may be limited to accommodate all speakers within the time available. Public comments may also be continued to later in the meeting should the time allotted for public comment expire.

CONSENT CALENDAR

All matters listed under the consent calendar are considered routine and non-controversial, require no discussion and are expected to have unanimous Board support and may be enacted by the Oversight Board in one motion in the form listed below. There will be no separate discussion of these items. However, before the Oversight Board votes on the motion to adopt, members of the Oversight Board, staff, or the public may request that specific items be removed from the Consent Calendar for separate discussion and action. Items(s) removed will be discussed later in the meeting as time permits.

- A. Minutes of the May 18, 2015 meeting of the Oversight Board to the City of Winters Successor Agency to the Winters Community Development Agency (pp. 4-7)

PRESENTATIONS

None at this meeting.

DISCUSSION ITEMS

1. Adoption of Resolution OB-2015-08, a Resolution of the Successor Agency for the Dissolved Winters Community Development Agency for Consideration of a Successor Agency/Winters Healthcare Foundation Purchase & Sale Agreement (pp. 8-54)

STAFF REPORT

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the August 24, 2015 meeting of the Winters Oversight Board was delivered to each Board member by electronic mail and posted on the outside public bulletin board at City Hall, 318 First Street on August 21, 2015, and made available to the public during normal business hours.



Tracy Jensen, Management Analyst

Questions about this agenda – Please call the City Manager’s office at (530) 795-4910 ext. 110. Agendas and staff reports are available on the city web page www.cityofwinters.org

General Notes: Meeting facilities are accessible to persons with disabilities. To arrange aid or services to modify or accommodate persons with disability to participate in a public meeting, contact the City Clerk.

Staff recommendations are guidelines to the Oversight Board. On any item, the Board may take action, which varies from that recommended by staff.

The city does not transcribe its proceedings. Anyone who desires a verbatim record of this meeting should arrange for attendance by a court reporter or for other acceptable means of recordation. Such arrangements will be at the sole expense of the individual requesting the recordation.

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MINUTES FOR THE MEETING OF THE OVERSIGHT BOARD TO THE CITY
OF WINTERS SUCCESSOR AGENCY TO THE WINTERS COMMUNITY
DEVELOPMENT AGENCY
Monday, May 18, 2015

Board Chairman Larry Justus called the meeting to order at 2:08 p.m.

Present: Board Members Harold Anderson, Diane Cirolini, Nanci Mills, Jiley Romney, Don Saylor and Board Chairman Larry Justus.
Absent: Board Member Sarah Chapman.
Staff: City Manager John Donlevy, Director of Financial Management Shelly Gunby, Housing Programs Manager Dan Maguire, and Management Analyst Tracy Jensen.

Dan Maguire led the Pledge of Allegiance.

Approval of Agenda: Motion by Board Member Romney, second by Board Member Saylor to approve the agenda with no changes. Motion carried with the following vote:

AYES: Board Members Anderson, Cirolini, Mills, Romney, Saylor and Board Chairman Justus.
NOES: None
ABSENT: Board Member Chapman
ABSTAIN: None

BOARD COMMENTS: None at this meeting.

PUBLIC COMMENTS: Chairman Justus opened public comment period at 2:10 p.m. and closed the public comment period at 2:10 p.m. with no public input.

CONSENT CALENDAR

- A. Minutes of the March 23, 2015 meeting of the Oversight Board to the City of Winters Successor Agency to the Winters Community Development Agency

Motion by Board Member Romney, second by Board Member Mills to approve the Consent Calendar. Motion carried with the following vote:

AYES: Board Members Anderson, Cirolini, Mills, Romney, Saylor and Board Chairman Justus.
NOES: None
ABSENT: Board Member Chapman
ABSTAIN: None

PRESENTATIONS: None at this meeting.

DISCUSSION ITEMS

- 1. Resolution OB-2015-05, Transfer of Former Community Development Agency Property from the Successor Agency to the Community Development Agency of the City of Winters to the City of Winters as the Successor Housing Entity

Director of Financial Management Shelly Gunby gave an overview and requested the Oversight Board authorize the transfer of property at 110 E. Baker St. to the housing entity, which was originally omitted from the Housing Asset Form and was originally paid for out of housing funds.

Motion by Board Member Romney, second by Board Member Anderson to approve staff recommendation and transfer the former Community Development Agency property from the Successor Agency to the Community Development Agency of the City of Winters to the City of Winters as the Successor Housing Entity. Board Member Cirolini requested the resolution reflect the correct public hearing notice date. Motion carried with the following vote:

AYES: Board Members Anderson, Cirolini, Mills, Romney, Saylor and Board Chairman Justus.
NOES: None
ABSENT: Board Member Chapman
ABSTAIN: None

2. Resolution OB-2015-06, Transfer of Former Community Development Agency Property from the Successor Agency to the Community Development Agency of the City of Winters to the City of Winters for Governmental Use

Board Member Anderson recused himself due to a possible conflict of interest.

Director of Financial Management Shelly Gunby gave an overview, requesting the Oversight Board authorize and direct conveyance of property at 23 Main Street to the City for continued use as a mini park.

Motion by Board Member Saylor, second by Board Member Mills to approve Resolution OB-2015-06 to transfer of former Community Development Agency property from the Successor Agency to the Community Development Agency of the City of Winters to the City of Winters for Governmental use. Board Member Cirolini requested the resolution reflect the correct public hearing notice date. Motion carried with the following vote:

AYES: Board Members Cirolini, Mills, Romney, Saylor and Board Chairman Justus
NOES: None
ABSENT: Board Members Anderson and Chapman
ABSTAIN: None

3. Resolution OB-2015-07, Approving and Adopting a Revised Long Range Property Management Plan

While Board Member Anderson remained recused, Board Member Romney also recused herself due to a possible conflict of interest.

Director of Financial Management Shelly Gunby gave an overview and said the revision to the Grant Avenue parcel, Site #5, is necessary to allow the Domas Affordable Senior Housing to proceed with their project. Domas wanted to purchase approximately 1.6 acres with the remaining 1.2 approximate acres made available for future development. The LRPMP currently states the property can be sold to Domas only. The LRPMP must be amended to enable the property to be sold to someone else. Board Member Cirolini asked if this amendment is continuous to the redevelopment plan. City Manager Donlevy replied yes, this property is zoned for mixed use.

Motion by Board Member Mills, second by Board Member Saylor to approve Resolution OB-2015-07, approving and adopting a revised Long Range Property Management Plan. Motion carried with the following vote:

AYES: Board Members Cirolini, Mills, Saylor and Board Chairman Justus
NOES: None
ABSENT: Board Members Anderson, Chapman, and Romney
ABSTAIN: None

Board Members Anderson and Romney returned to the dais.

STAFF REPORT: In 2016, all Oversight Boards within the County will be combined into a single Oversight Board. Met with the City and County Redevelopment Dissolution Group, including Howard Newens with Yolo County and discussed the mechanics of the dissolutionments. The City of Winters is one property way from wrapping up the Winters Oversight Board.

ADJOURNMENT: Board Chairman Justus adjourned the meeting at 2:29 p.m.

Larry Justus, Oversight Board Chairman

ATTEST:

John W. Donlevy Jr.
Oversight Board Secretary



**OVERSIGHT BOARD TO THE DISSOLVED WINTERS COMMUNITY
DEVELOPMENT AGENCY
STAFF REPORT**

TO: Honorable Chair and Members of the Oversight Board to the Dissolved
Winters Community Development Agency

DATE: August 24, 2015

THROUGH: John W. Donlevy, Jr., City Manager, Acting as Executive Director of the
Successor Agency

FROM: Dan Maguire, Economic Development and Housing Manager *DM*

SUBJECT: Consideration of Resolution OB-2015-08 Approving the Winters
Healthcare Foundation Purchase and Sale Agreement

RECOMMENDATIONS:

It is recommended that the Oversight Board take the following actions: 1) Hold a Public Hearing regarding Approval of Successor Agency Sale of Portions of the Real Property commonly referred to as the Grant Avenue Commercial Property (APN #s 003-370-028, 003-370-029, 2) Approve the Sale of Portions of the Grant Avenue Commercial Property to Winters Healthcare Foundation, 3) Adopt Resolution OB-2015-08, and 4) authorize the Executive Director to execute the Purchase and Sale Agreement with Winters Healthcare Foundation.

BACKGROUND:

In May 2009, the Winters CDA ("Redevelopment Agency") purchased the Grant Avenue lot on the south side of Grant Avenue between East Street and Morgan Street formerly known as Granite Bay Commercial. The CDA subsequently authorized the issuance of an RFP for potential developers to offer proposals for development of the site. Although the CDA did enter into an Exclusive Negotiation Agreement ("ENA") with the Yackzan Group, that ENA did not result in any development on the property.

In March 2011, the City Council adopted Resolution 2011-15 approving a Purchase and Sale Agreement with the Winters CDA with respect to the property. The Resolution laid out the findings for the transfer of this property in consideration of the debt owed to the

City by the Winters CDA, and authorized staff to contract with Bartholomew and Associates to have the property appraised to determine fair market value. The appraised value for the 4.5 acre property was determined to be \$980,000 as of the date of the appraisal. This appraised value calculates to approximately \$4.97 per square foot. The Department of Finance subsequently advised the City and Successor Agency the property transfer was not approved or allowed; so the City transferred ownership to the Successor Agency.

The City and Successor Agency have continued to pursue mixed use development on the property, consistent with the original intent of the acquisition. The offer price from WHF of \$5.00 per square foot is more than the original acquisition price, and also greater than the most recent appraisal price. It is the same price per square foot as the Successor Agency approved for the Domus project (Senior Affordable Multi-family housing) when the SA approved the Domus P&S Agreement. The property is being purchased for the development of a Federally Qualified Health Center. The City Council, acting as Successor Agency, approved an Exclusive Negotiation Rights Agreement ("ENA") with WHF at the June 17, 2014 City Council meeting. At the April 7, 2015 Council meeting, the City Council authorized the City Manager to extend the ENA for an additional two months to allow WHF to evaluate an alternative site. At the May 11, 2015 WHF board meeting, the board selected the City's Successor Agency property and instructed staff to proceed with a Purchase & Sale agreement with the Successor Agency. They also decided to proceed with a grant application under the 2015 HRSA NOFA. Approval of the Purchase and Sale agreement is necessary to convey Site Control to the developer. Site control is a requirement for the project to be considered for a HRSA grant under the 2015 HRSA NOFA. The Winters Healthcare Foundation board approved the Purchase & Sale Agreement at their July 30, 2015 Board meeting. The Winters City Council, acting in their capacity as Successor Agency to the Dissolved Redevelopment Agency, approved the Purchase & Sale Agreement at the August 18 City Council meeting.

FISCAL IMPACTS:

The City's and Successor Agency's costs associated with selling the properties are to-be-determined; however, at the proposed sales price, the Successor Agency stands to realize approximately \$261,366 from the transaction, with the proceeds to be allocated to the local taxing agencies as prescribed by law.

ATTACHMENTS:

Purchase and Sale Agreement with Domus Development
Resolution OB-2015-08

**REAL PROPERTY PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS
(Portion of Grant Avenue Commercial Property – Winters Healthcare Foundation)**

by and between the

CITY OF WINTERS, a municipal corporation,

**acting as SUCCESSOR AGENCY TO THE DISSOLVED COMMUNITY
DEVELOPMENT AGENCY**

and

WINTERS HEALTHCARE FOUNDATION

[Dated as of August ___, 2015, for reference purposes only]

**REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS**

(Portion of Grant Avenue Commercial Property – Winters Healthcare Foundation)

This REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (Portion of Grant Avenue Commercial Property) (“**Agreement**”) is dated as of August __, 2015, for reference purposes only, and is entered into by and between the CITY OF WINTERS, a municipal corporation acting as SUCCESSOR AGENCY TO THE DISSOLVED WINTERS COMMUNITY DEVELOPMENT AGENCY (“**Seller**” or “**Successor Agency**”), and WINTERS HEALTHCARE FOUNDATION, a California Non-Profit Corporation (“**Buyer**”). Seller and Buyer enter into this Agreement with reference to the following recitals of fact (each, a “**Recital**”):

RECITALS

A. The Successor Agency of the City of Winters (“**Successor Agency**”) owns that certain real property constituting approximately 4.522 acres of real property located on East Grant Avenue between Morgan Street and East Street (APNs 003-370-028, -029, 030) (the “**Property**”).

B. Buyer is a reputable and highly successful local provider of health care services, with an emphasis on providing services to the underserved population in the Winters area. Buyer desires to acquire the northern-most portion of the Property, as more particularly described below (the “**Site**”), for development of a Federally Qualified Health Center in support of the community.

C. Seller and Buyer desire to enter into this Agreement to provide for Buyer’s acquisition of the Site at its “as is” fair market value of the fee simple estate.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND COVENANTS OF SELLER AND BUYER SET FORTH IN THIS AGREEMENT AND OTHER GOOD AND VALUABLE CONSIDERATION, SELLER AND BUYER AGREE, AS FOLLOWS:

TERMS AND CONDITIONS

1. DEFINITIONS

1.1 **Definitions.** The following words, terms and phrases are used in this Agreement with the following meanings, unless the particular context or usage of a word, term or phrase requires another interpretation:

1.1.1 **Agreement.** This Real Property Purchase and Sale Agreement and Joint Escrow Instructions (Portion of Grant Avenue Commercial Property) by and between Seller and Buyer, including all of the attached exhibits.

1.1.2 **Approval.** Any approval, consent, certificate, ruling, authorization or amendment to any of the foregoing, as shall be necessary or appropriate under any Law to complete the purchase and sale of the Site.

1.1.3 **Business Day.** Any weekday on which the Seller is open to conduct regular governmental functions.

1.1.4 **Buyer.** Winters Healthcare Foundation, a California non-profit corporation, and any assignee of or successor to the rights, powers or responsibilities of Winters Healthcare Foundation under this Agreement.

1.1.5 **Buyer Title Policy.** A CLTA or ALTA owner's policy of title insurance issued by the Title Company, with coverage in the amount of the Purchase Price, showing title to the Site vested in Buyer, subject to Permitted Exceptions.

1.1.6 **CEQA.** The California Environmental Quality Act, Public Resources Code Section 21000, *et seq.* and implementing regulations contained in Title 14, Chapter 3, Section 15000, *et seq.* of the California Code of Regulations.

1.1.7 **CEQA Documents.** Any exemption determination, any Negative Declaration (mitigated or otherwise) or any Environmental Impact Report (including any addendum or amendment to, or subsequent or supplemental Environmental Impact Report) required or permitted by any Government Agency, pursuant to CEQA, to issue any discretionary Approval required to approve this Agreement.

1.1.8 **City.** The City of Winters, a California municipal corporation.

1.1.9 **City Manager.** The City Manager of Seller or his or her designee or successor in function.

1.1.10 **Claim.** Any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity or otherwise), charge, award, assessment, fine or penalty of any kind (including consultant and expert fees and expenses and investigation costs of whatever kind or nature, and, if an Indemnitor improperly fails to provide a defense for an Indemnitee, then Legal Costs of the Indemnitee) and any judgment.

1.1.11 **Close of Escrow.** The first date on which the Escrow Agent has filed the Seller Deed with the County for recording in the official records of the County.

1.1.12 **County.** The County of Yolo, California.

1.1.13 **Default.** An Escrow Default, a Monetary Default or a Non-Monetary Default.

1.1.14 **Deposit.** Ten Thousand Dollars and No Cents (\$10,000.00).

1.1.15 **Due Diligence Completion Notice.** A written notice from Buyer delivered to both Seller and Escrow Agent, prior to the end of the Due Diligence Period, indicating Buyer's unconditional acceptance of the condition of the Site or indicating Buyer's rejection of the condition of the Site and refusal to accept a conveyance of title to the Site, describing in reasonable detail the actions that Buyer reasonably believes are indicated to allow Buyer to unconditionally accept the condition of the Site.

1.1.16 **Due Diligence Investigations.** Buyer's due diligence investigations of the Site to determine the suitability of the Site, including investigation of the environmental and geotechnical suitability of the Site, as deemed appropriate in the discretion of Buyer, all at the sole cost and expense of Buyer.

1.1.17 **Due Diligence Period.** The time period of one hundred fifty (150) continuous days commencing on the day immediately following the Escrow Opening Date; provided such time period may be extended by an additional thirty (30) days at the option of Buyer, upon Buyer's delivery of written notice to Seller regarding such extension prior to expiration of the initial Due Diligence Period.

1.1.18 **Environmental Claim.** Any and all claims, demands, damages, losses, liabilities, obligations, penalties, fines, actions, causes of action, judgments, suits, proceedings, costs, disbursements or expenses, including Legal Costs and fees and costs of environmental consultants and other experts, and all foreseeable and unforeseeable damages or costs of any kind or of any nature whatsoever, directly or indirectly, relating to or arising from any actual or alleged violation of any Environmental Law or Hazardous Substance Discharge.

1.1.19 **Environmental Laws.** All Federal, State, local (including City) laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any government authority, now in effect or enacted after the Effective Date, regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance, the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use or pertaining to occupational health or industrial hygiene or occupational or environmental conditions on, under or about the Site, as now or may at any later time be in effect, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") [42 USC Section 9601 *et seq.*]; the Resource Conservation and Recovery Act of 1976 ("RCRA") [42 USC Section 6901 *et seq.*]; the Clean Water Act, also known as the Federal Water Pollution Control Act ("FWPCA") [33 USC Section 1251 *et seq.*]; the Toxic Substances Control Act ("TSCA") [15 USC Section 2601 *et seq.*]; the Hazardous Materials Transportation Act ("HMTA") [49 USC Section 1801 *et seq.*]; the Insecticide, Fungicide, Rodenticide Act [7 USC Section 6901 *et seq.*]; the Clean Air Act [42 USC Section 7401 *et seq.*]; the Safe Drinking Water Act [42 USC Section 300f *et seq.*]; the Solid Waste Disposal Act [42 USC Section 6901 *et seq.*]; the Surface Mining Control and Reclamation Act [30 USC Section 101 *et seq.*]; the Emergency Planning and Community Right to Know Act [42 USC Section 11001 *et seq.*]; the Occupational Safety and Health Act [29 USC Section 655 and 657]; the California Underground Storage of Hazardous Substances Act [California Health & Safety Code Section 25288 *et seq.*]; the California Hazardous Substances Account Act [California Health & Safety Code Section 25300 *et seq.*]; the California Safe Drinking Water and Toxic Enforcement Act [California Health & Safety Code Section 24249.5 *et seq.*]; or the Porter-Cologne Water

Quality Act [California Water Code Section 13000 *et seq.*]; together with any regulations promulgated under the authorities referenced in this Section 1.1.25.

1.1.20 **Escrow.** An escrow, as defined in Civil Code Section 1057 and Financial Code Section 17003(a), that is conducted by the Escrow Agent with respect to the sale of the Site from Seller to Buyer pursuant to this Agreement.

1.1.21 **Escrow Agent.** Placer Title Company, Davis, CA, or such other Person mutually agreed upon in writing by both Seller and Buyer.

1.1.22 **Escrow Closing Date.** The date that is not later than thirty (30) days following Buyer's receipt of a building permit for construction of the Project on the Site (or evidence that City is ready to issue a building permit for development of the Project on the Site upon final payment of all fees required for issuance of such building permit), or such other date mutually agreed upon in writing between the Parties for the Close of Escrow, but in any event not later than December 31, 2016.

1.1.23 **Escrow Closing Statement.** A statement prepared by the Escrow Agent indicating, among other things, the Escrow Agent's estimate of all funds to be deposited or received by Seller or Buyer, respectively, and all charges to be paid by Seller or Buyer, respectively, through the Escrow.

1.1.24 **Escrow Default.** The unexcused failure to submit any document or funds to the Escrow Agent as reasonably necessary to close the Escrow, pursuant to the terms and conditions of this Agreement.

1.1.25 **Escrow Opening Date.** The first date on which a copy of this Agreement, signed by both Seller and Buyer, is deposited with the Escrow Agent, as provided in Section 4.1.

1.1.26 **Event of Default.** The occurrence of any one or more of the following:

(a) *Monetary Default.* A Monetary Default that continues for fifteen (15) calendar days after Notice to the Party in Default, specifying in reasonable detail the amount of money not paid and the nature and calculation of each such amount or the bond, surety or insurance not provided;

(b) *Escrow Closing Default.* An Escrow Default that continues for seven (7) calendar days after Notice to the Party in Default, specifying in reasonable detail the document or funds not submitted;

(c) *Non-Monetary Default.* Any Non-Monetary Default that is not cured within fifteen (15) days after Notice to the Party in Default describing the Non-Monetary Default in reasonable detail. In the case of such a Non-Monetary Default that cannot with reasonable diligence be cured within fifteen (15) days after the effective date of such Notice, an Event of Default shall occur, if the Party in Default does not do all of the following: (a) within fifteen (15) days after Notice of such Non-Monetary Default, advise the other Party of the intention of the Party in Default to take all reasonable steps to cure such Non-Monetary Default;

(b) duly commence such cure within such fifteen (15) day period; and (c) diligently prosecute such cure to completion within a reasonable time under the circumstances.

1.1.27 **FIRPTA Affidavit.** A certification that Seller is not a “foreign person” within the meaning of such term under Section 1445 of the United States Internal Revenue Code.

1.1.28 **Form 593.** A California Franchise Tax Board Form 593-C.

1.1.29 **Government Agency.** Any and all courts, boards, agencies, commissions, offices, or authorities of any nature whatsoever of any governmental unit (Federal, State, County, district, municipal, City or otherwise) whether now or later in existence.

1.1.30 **Hazardous Substance.** Any flammable substance, explosive, radioactive material, asbestos, asbestos-containing material, polychlorinated biphenyl, chemical known to cause cancer or reproductive toxicity, pollutant, contaminant, hazardous waste, medical waste, toxic substance or related material, petroleum, petroleum product and any “hazardous” or “toxic” material, substance or waste that is defined by those or similar terms or is regulated as such under any Law, including any material, substance or waste that is: (a) defined as a “hazardous substance” under Section 311 of the Water Pollution Control Act (33 U.S.C. § 1317), as amended; (b) designated as “hazardous substances” pursuant to 33 U.S.C. § 1321; (c) defined as a “hazardous waste” under Section 1004 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*, as amended; (d) defined as a “hazardous substance” or “hazardous waste” under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Reauthorization Act of 1986, 42 U.S.C. § 9601, *et seq.*, or any so-called “superfund” or “superlien” law; (e) defined as a “pollutant” or “contaminant” under 42 U.S.C. § 9601(33); (f) defined as “hazardous waste” under 40 C.F.R. Part 260; (g) defined as a “hazardous chemical” under 29 C.F.R. Part 1910; (h) any matter within the definition of “hazardous substance” set forth in 15 U.S.C. § 1262; (i) any matter, waste or substance regulated under the Toxic Substances Control Act (“TSCA”) [15 U.S.C. Sections 2601, *et seq.*]; (j) any matter, waste or substance regulated under the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, *et seq.*; (k) those substances listed in the United States Department of Transportation (DOT) Table [49 C.F.R. 172.101]; (l) any matter, waste or substances designated by the EPA, or any successor authority, as a hazardous substance [40 C.F.R. Part 302]; (m) defined as “hazardous waste” in Section 25117 of the California Health and Safety Code; (n) defined as a “hazardous substance” in Section 25316 of the California Health and Safety Code; (o) subject to any other Law regulating, relating to or imposing obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor or any form of energy from whatever source; or (p) that is or becomes regulated or classified as hazardous or toxic under Law or in the regulations adopted pursuant to Law.

1.1.31 **Hazardous Substance Discharge.** Any deposit, discharge, generation, release or spill of a Hazardous Substance that occurs at, on, under, into or from the Site, or during transportation of any Hazardous Substance to or from the Site, whether or not caused by a Party.

1.1.32 **Indemnify.** Where this Agreement states that any Indemnitor shall “indemnify” any Indemnitee from, against, or for a particular Claim, that the Indemnitor shall indemnify the Indemnitee and defend and hold the Indemnitee harmless from and against such Claim (alleged or otherwise). “**Indemnified**” shall have the correlative meaning.

1.1.33 **Indemnitee.** Any Person entitled to be Indemnified under the terms of this Agreement.

1.1.34 **Indemnitor.** A Party that agrees to Indemnify any other Person under the terms of this Agreement.

1.1.35 **Law.** Every law, ordinance, requirement, order, proclamation, directive, rule or regulation of any Government Agency applicable to the Site, in any way, including relating to any development, construction, use, maintenance, taxation, operation, occupancy of or environmental conditions affecting the Site or otherwise relating to this Agreement or any Party’s rights, obligations or remedies under this Agreement, or any Transfer of any of the foregoing, whether in force on the Effective Date or passed, enacted, modified, amended or imposed at some later time, subject in all cases, however, to any applicable waiver, variance or exemption.

1.1.36 **Legal Costs.** In reference to any Person, all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys’ fees, court costs and expenses and consultant and expert witness fees and expenses.

1.1.37 **Monetary Default.** Any failure by either Party to pay or deposit, when and as this Agreement requires, any amount of money, bond, surety or evidence of any insurance coverage required to be provided under this Agreement, whether to or with a Party or a Third Person.

1.1.38 **Non-Monetary Default.** The occurrence of any of the following, except to the extent constituting a Monetary Default or an Escrow Default: (a) any failure of a Party to perform any of such Party’s obligations under this Agreement; (b) any failure of a Party to comply with any material restriction or prohibition in this Agreement; or (c) any other event or circumstance that, with passage of time or giving of Notice, or both, would constitute a breach of this Agreement by a Party.

1.1.39 **Notice.** Any consent, demand, designation, election, notice, or request relating to this Agreement, including any Notice of Default. All Notices must be in writing.

1.1.40 **Notice of Default.** Any Notice claiming or giving Notice of a Default.

1.1.41 **Notify.** To give a Notice.

1.1.42 **Parties.** Collectively, Seller and Buyer.

1.1.43 **Party.** Individually, either Seller or Buyer, as applicable.

1.1.44 **Permitted Exception.** All of the following: (a) all items shown in the Preliminary Report as exceptions to coverage under the proposed Buyer Title Policy that are approved by Buyer pursuant to Section 3.4; (b) any lien for non-delinquent property taxes or assessments; (c) any Laws applicable to the Site; (d) this Agreement; (e) any existing improvements on the Site, if any; (f) any Approval; (g) any other document or encumbrance expressly required or allowed to be recorded against the Site pursuant to the terms of this Agreement; and (h) all unrecorded covenants, conditions, restrictions, reservations, rights, rights of way, easements, encumbrances, liens and other matters of record or that would be disclosed by an accurate inspection or survey of the Site.

1.1.45 **Person.** Any association, corporation, governmental entity or agency, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization or other entity of any kind.

1.1.46 **Preliminary Report.** A preliminary report issued by the Title Company in contemplation of the issuance of the Buyer Title Policy, accompanied by the best available copies of all documents listed in the preliminary report as exceptions to coverage under the proposed Buyer Title Policy.

1.1.47 **Prohibited Encumbrance.** Any security instrument, mechanic's lien, easement, property interest or other encumbrance recorded or asserted against the Site that is not a Permitted Exception.

1.1.48 **Project.** The Project could include development of a commercial/retail building or healthcare center on the Site, in conformance with all Approvals, which shall include, among other things, construction at the sole cost of the Buyer of all street, curb, gutter, sidewalk and other public improvements along Grant Avenue and any public utility or other easements that may be required by the City, all in conformance with the Grant Avenue Design Guidelines.

1.1.49 **Purchase Price.** An amount equal to Five Dollars (\$5.00) per square foot of land area included within the Site.

1.1.50 **Seller.** The City of Winters, a California municipal corporation, acting as Successor Agency to the Dissolved Community Development Agency and any assignee of or successor to the rights, powers or responsibilities of the Seller.

1.1.51 **Seller Deed.** A grant deed conveying Seller's interest in the Site from Seller to Buyer, at the Close of Escrow, substantially in the form of **Exhibit B** attached to this Agreement.

1.1.52 **Seller Parties.** Collectively, the Seller, the Seller's governing body, and the Seller's elected officials, employees, agents and attorneys.

1.1.53 **Site.** That portion of the Property, generally shown on the Map of the Site attached hereto as **Exhibit A**, to be conveyed by the Seller to Buyer. The final size and configuration of the Site shall be determined and mutually approved by the Seller and Buyer, following the Lot Line Adjustment provided for in Section 3.1, prior to conveyance of the Site to the Buyer.

1.1.54 **Third Person.** Any Person that is not a Party, an affiliate of a Party or an elected official, officer, director, manager, shareholder, member, principal, partner, employee or agent of a Party.

1.1.55 **Title Company.** Placer Title Company or such other Person mutually agreed upon in writing by both Seller and Buyer.

1.1.56 **Title Notice.** A written notice from Buyer to Seller indicating Buyer's acceptance of the state of the title to the Site, as described in the Preliminary Report for the proposed Buyer Title Policy, or Buyer's disapproval or conditional approval of specific matters shown in Schedule B of such Preliminary Report as exceptions to coverage under the proposed Buyer Title Policy for the Site, describing in suitable detail the actions that Buyer reasonably believes are indicated to obtain Buyer's unconditional approval of the state of the title to the Site.

1.1.57 **Title Notice Response.** The written response of Seller to the Title Notice, in which Seller either elects to: (a) cause the removal from the Preliminary Report of any matters disapproved or conditionally approved in the Title Notice; (b) obtain title or other insurance or endorsement in a form reasonably satisfactory to Buyer insuring against any matters disapproved or conditionally approved in the Title Notice; or (c) not take either action described in clause "(a)" or "(b)" of this Section 1.1.57.

1.1.58 **Title Notice Waiver.** A written notice from Buyer to Seller waiving Buyer's previous disapproval or conditional approval in the Title Notice of specific matters shown in the Preliminary Report as exceptions to coverage under the proposed Buyer Title Policy.

1.1.59 **Unavoidable Delay.** A delay in either Party performing any obligation under this Agreement arising from or on account of any cause whatsoever beyond the Party's reasonable control, including strikes, labor troubles or other union activities, casualty, war, acts of terrorism, riots, litigation, governmental action or inaction, regional natural disasters or inability to obtain required materials. Unavoidable Delay shall not include delay caused by a Party's financial condition or insolvency.

2. **EFFECTIVE DATE.** This Agreement shall become effective on the first date on which all of the following have occurred: ("**Effective Date**"): (a) Seller has received three (3) counterpart originals of this Agreement signed by the authorized representative(s) of Buyer; and (b) this Agreement has been approved and executed by Seller's governing body.

3. **PURCHASE AND SALE OF SITE**

3.1 **Lot Line Adjustment.** Buyer desires to purchase a portion of the Property consisting of approximately 53,011 square feet of land area, located on the northern-most boundary of the Property, extending generally from the western border of the Dollar General site to the eastern border of the parcel owned by Yolo Federal Credit Union, as generally shown on Exhibit A. Following the Effective Date of this Agreement, the City, at its sole cost, shall use good faith efforts to prepare such documents, complete a survey, and take such actions as are necessary to obtain Approvals for a lot line adjustment or lot split ("**Lot Line Adjustment**") to create a legal parcel suitable to the Buyer, constituting the Site. Upon obtaining final Approvals

for and recordation of such Lot Line Adjustment, a formal legal description of the Site acceptable to both Parties shall be attached to the Seller Deed (**Exhibit B**) and used for purposes of conveyance of the Site to Buyer. Further, the size and actual Purchase Price for the Site shall be established based on the actual square footage of the Site following such Lot Line Adjustment.

3.2 Escrow. Following such Lot Line Adjustment, Seller shall sell and convey fee title to the Site to Buyer and Buyer shall purchase and acquire fee title to the Site from Seller, subject to the Permitted Exceptions and the terms and conditions of this Agreement. For the purposes of exchanging funds and documents to complete the sale of the Site from Seller to Buyer and the purchase of the Site by Buyer from Seller, pursuant to the terms and conditions of this Agreement, Seller and Buyer agree to open the Escrow with the Escrow Agent. The provisions of Section 4 are the joint escrow instructions of the Parties to the Escrow Agent for conducting the Escrow.

3.3 Consideration. Buyer shall purchase the Site from Seller for the Purchase Price to be determined based on the final configuration and size of the Site following the Lot Line Adjustment, subject to the terms and conditions of this Agreement. Buyer shall deposit the Purchase Price into the Escrow, as follows:

3.3.1 **Deposit**. Within three (3) days after the Escrow Opening Date, Buyer shall deposit the Deposit into the Escrow. If requested by Buyer, the Deposit shall be placed in an interest-bearing account, and all fees associated with such interest-bearing account shall be the responsibility of the Buyer. Any interest earned on the Deposit shall become part of the Deposit. Prior to the expiration of the Due Diligence Period, the Deposit shall be refundable to the Buyer in the event of the failure of a Buyer's condition to Close of Escrow, a termination of this Agreement not due to Buyer's default, or as otherwise expressly provided in this Agreement. Following expiration of the Due Diligence Period, the Deposit shall be non-refundable unless this Agreement is thereafter terminated due to a Seller default or the Deposit is refundable under another provision of this Agreement. If this Agreement has not been earlier terminated, the Deposit shall be held in Escrow until the Close of Escrow and shall be applied to the Purchase Price.

3.3.2 **At Close of Escrow**. At least two (2) business days preceding the Escrow Closing Date, Buyer shall deposit into the Escrow the amount of the Purchase Price, less the amount of the Deposit then held by the Escrow Agent.

3.4 Buyer's Approval of Title to Site.

3.4.1 **Title Notice**. Within thirty (30) days after the Escrow Opening Date, Seller shall request the Preliminary Report from the Title Company and that the Title Company deliver a copy of the Preliminary Report to Buyer. Within thirty (30) days following Buyer's receipt of the Preliminary Report, Buyer shall send the Title Notice to both Seller and Escrow Agent.

3.4.2 **Failure to Deliver Title Notice**. If Buyer fails to send the Title Notice to both Seller and Escrow Agent within the time period provided in Section 3.4.1, Buyer will be

deemed to disapprove the status of title to the Site and refuse to accept conveyance of the Site and either Buyer or Seller shall have the right to cancel the Escrow and terminate this Agreement by Notice, in their respective sole and absolute discretion.

3.4.3 Title Notice Response. Within thirty (30) days following Seller's receipt of the Title Notice (if any), Seller shall send the Title Notice Response to both Buyer and Escrow Agent. If the Title Notice does not disapprove or conditionally approve any matter in the Preliminary Report for the proposed Buyer Title Policy or Buyer fails to deliver the Title Notice, Seller shall not be required to send the Title Notice Response. If Seller does not send the Title Notice Response, if necessary, within the time period provided in this Section 3.4.3, Seller shall be deemed to elect not to take any action in reference to the Title Notice. If Seller elects in the Title Notice Response to take any action in reference to the Title Notice, Seller shall complete such action, prior to the Escrow Closing Date or as otherwise specified in the Title Notice Response.

3.4.4 Title Notice Waiver. If Seller elects or is deemed to have elected not to address one or more matters set forth in the Title Notice to Buyer's reasonable satisfaction, then within thirty (30) days after the earlier of: (a) Buyer's receipt of Seller's Title Notice Response; or (b) the last date for Seller to deliver its Title Notice Response pursuant to Section 3.4.3, Buyer shall either: (i) refuse to accept the title to and conveyance of the Site, or (ii) waive Buyer's disapproval or conditional approval of all such matters set forth in the Title Notice by sending the Title Notice Waiver to both Seller and Escrow Agent. Failure by Buyer to timely send the Title Notice Waiver, where the Title Notice Response or Seller's failure to deliver the Title Notice Response results in Seller's election not to address one or more matters set forth in the Title Notice to Buyer's reasonable satisfaction, will be deemed Buyer's continued refusal to accept the title to and conveyance of the Site, in which case either Buyer or Seller shall have the right to cancel the Escrow and terminate this Agreement by Notice, in their respective sole and absolute discretion.

3.4.5 Disapproval of Encumbrances Securing Seller Obligations. Notwithstanding any other provision of this Agreement, Buyer disapproves any and all encumbrances against the Site securing monetary (other than non-delinquent property taxes and assessments) obligations of Seller.

3.4.6 No Termination Liability. Any termination of this Agreement or cancellation of the Escrow pursuant to this Section 3.4.6 shall be without liability to the other Party or any other Person. Termination shall be accomplished by delivery of a Notice of termination to both the other Party and the Escrow Agent. Following issuance of a Notice of termination of this Agreement pursuant to a right provided under this Agreement, the Parties and the Escrow Agent shall proceed pursuant to Section 4.12. Once a Notice of termination is given pursuant to this Section 3.4.6, delivery of a Title Notice or Title Notice Waiver shall have no force or effect and this Agreement shall terminate in accordance with the Notice of termination.

3.5 Due Diligence Investigations.

3.5.1 **Time and Expense.** Buyer shall complete all Due Diligence Investigations within the Due Diligence Period and shall conduct all Due Diligence Investigations at Buyer's sole cost and expense.

3.5.2 **Right to Enter.** Seller hereby grants a license to Buyer and Buyer's consultants, contractors and agents to enter the Property for the sole purpose of conducting the Due Diligence Investigations at Buyer's sole cost and expense, subject to all of the terms and conditions of this Agreement. The license given in this Section 3.5 to enter the Property to conduct Due Diligence Investigations shall terminate regarding Buyer on the earlier of: (i) termination of this Agreement; or (ii) the Close of Escrow. Any Due Diligence Investigations by Buyer shall not unreasonably disrupt any existing use or occupancy of the Site. Buyer's exercise of any license provided pursuant to this Section 3.5 after expiration of the Due Diligence Period shall not extend the Due Diligence Period.

3.5.3 **Limitations.** Buyer shall not conduct any intrusive or destructive testing of any portion of the Property, other than low volume soil samples, without Seller's prior written consent, which shall not be unreasonably withheld. Buyer shall pay all of Buyer's vendors, inspectors, surveyors, consultants or agents engaged in any inspection or testing of the Property, such that no mechanics liens or similar liens for work performed are imposed upon the Property by any such Persons. Following the conduct of any Due Diligence Investigations on the Property, Buyer shall restore the Property to substantially the Property's condition prior to the conduct of such Due Diligence Investigations. Buyer shall Indemnify Seller against any and all costs or damages arising from or relating to Buyer's Due Diligence Investigations regarding the Property. Buyer shall provide Seller with evidence of liability insurance reasonably acceptable to Seller and naming Seller as an additional insured under such policy of insurance by endorsement prior to the commencement of any Due Diligence Investigations on the Property.

3.5.4 **Due Diligence Completion Notice.** Buyer shall deliver a Due Diligence Completion Notice to both Seller and Escrow Agent prior to the end of the Due Diligence Period. If Buyer does not unconditionally accept the condition of the Site by delivery of its Due Diligence Completion Notice indicating such acceptance, prior to the end of the Due Diligence Period, Buyer shall be deemed to have rejected the condition of the Site and refused to accept conveyance of title to the Site. If the condition of the Site is rejected or deemed rejected by Buyer, then either Seller or Buyer shall have the right to cancel the Escrow and terminate this Agreement, in their respective sole and absolute discretion, without liability to the other Party or any other Person, by delivery of a Notice of termination to the other Party and Escrow Agent, in which case the Parties and Escrow Agent shall proceed pursuant to Section 4.12.

3.6 **"AS-IS" Acquisition.** The Close of Escrow shall evidence Buyer's unconditional and irrevocable acceptance of the Site in the Site's AS IS, WHERE IS, SUBJECT TO ALL FAULTS CONDITION, AS OF THE CLOSE OF ESCROW, WITHOUT WARRANTY as to character, quality, performance, condition, title, physical condition, soil conditions, the presence or absence of fill, shoring or bluff stability or support, subsurface or lateral support, zoning, land use restrictions, the availability or location of utilities or services, the location of any public infrastructure on or off of the Site (active, inactive or abandoned), the suitability of the Site or

the existence or absence of Hazardous Substances affecting the Site and with full knowledge of the physical condition of the Site, the nature of Seller's interest in and use of the Site, all laws applicable to the Site and any and all conditions, covenants, restrictions, encumbrances and all matters of record relating to the Site. The Close of Escrow shall further constitute Buyer's representation and warranty to Seller that: (a) Buyer has had ample opportunity to inspect and evaluate the Site and the feasibility of the uses and activities Buyer is entitled to conduct on the Site; (b) Buyer is relying entirely on Buyer's experience, expertise and Buyer's own inspection of the Site in the Site's current state in proceeding with acquisition of the Site; (c) Buyer accepts the Site in the Site's present condition; (d) to the extent that Buyer's own expertise with respect to any matter regarding the Site is insufficient to enable Buyer to reach an informed conclusion regarding such matter, Buyer has engaged the services of Persons qualified to advise Buyer with respect to such matters; (e) Buyer has received assurances acceptable to Buyer by means independent of Seller or Seller's agents of the truth of all facts material to Buyer's acquisition of the Site pursuant to this Agreement; and (f) the Site is being acquired by Buyer as a result of Buyer's own knowledge, inspection and investigation of the Site and not as a result of any representation made by Seller or Seller's agents relating to the condition of the Site, unless such statement or representation is expressly and specifically set forth in this Agreement. Seller hereby expressly and specifically disclaims any express or implied warranties regarding the Site.

3.7 Reservations. The approval of this Agreement by the Seller shall not be binding on the City Council of the City or any other commission, committee, board or body of the City regarding any other Approvals required by such bodies. No action by the Seller with reference to this Agreement or any related documents shall be deemed to constitute issuance or waiver of any required Approvals regarding the Site or Buyer.

4. **JOINT ESCROW INSTRUCTIONS**

4.1 Opening of Escrow; Escrow Instructions. The purchase and sale of the Site shall take place through the Escrow to be conducted by Escrow Agent. Escrow shall be deemed opened when a fully signed copy of this Agreement has been delivered to Escrow Agent. Escrow Agent shall confirm the Escrow Opening Date in writing to each of the Parties, with a copy of the Escrow Agent Consent signed by the authorized representative(s) of the Escrow Agent.

4.2 Escrow Instructions. This Section 4 constitutes the joint escrow instructions of the Parties to Escrow Agent for conduct of the Escrow for the purchase and sale of the Site, as contemplated by this Agreement. Buyer and Seller shall sign such further escrow instructions consistent with the provisions of this Agreement as may be reasonably requested by Escrow Agent. In the event of any conflict between the provisions of this Agreement and any further escrow instructions requested by Escrow Agent, the provisions of this Agreement shall control.

4.3 Escrow Agent. Seller and Buyer authorize Escrow Agent to:

4.3.1 **Charges**. Pay and charge Seller and Buyer for their respective shares of the applicable fees, taxes, charges and costs payable by either Seller or Buyer regarding the Escrow;

4.3.2 **Settlement/Closing Statements.** Release each Party's Escrow Closing Statement to the other Party;

4.3.3 **Document Recording.** File any documents delivered for recording through the Escrow with the office of the Recorder of the County for recordation in the official records of the County, pursuant to the joint instructions of the Parties; and

4.3.4 **Counterpart Documents.** Utilize documents signed by Seller or Buyer in counterparts, including attaching separate signature pages to one version of the same document.

4.4 **Buyer's Conditions Precedent to Close of Escrow.** Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by Buyer, Buyer's obligation to purchase the Site from Seller on or before the Escrow Closing Date shall be conditioned upon the satisfaction or waiver (waivers must be in writing and signed by Buyer) of each of the following conditions precedent on or before the Escrow Closing Date:

4.4.1 **Title Policy.** Title Company has agreed to issue the Buyer Title Policy to Buyer upon payment of Title Company's premium for such policy;

4.4.2 **CEQA Documents.** Adoption, approval or certification of the CEQA Documents by each applicable Government Agency;

4.4.3 **Seller Escrow Deposits.** Seller deposits all of the items into Escrow required by Section 4.7;

4.4.4 **Settlement/Closing Statement.** Buyer approves Buyer's Escrow Closing Statement;

4.4.5 **Seller Pre-Closing Obligations.** Seller performs all of Seller's material obligations required to be performed by Seller pursuant to this Agreement prior to the Close of Escrow;

4.4.6 **Lot Line Adjustment.** Seller obtains all Approvals for a Lot Line Adjustment to create a legal parcel constituting the Site, in accordance with Section 3.1;

4.4.7 **Title.** Buyer accepts the state of the title of the Site, in accordance with Section 3.4;

4.4.8 **Due Diligence.** Buyer timely delivers its Due Diligence Completion Notice to both Seller and Escrow Agent stating Buyer's unconditional acceptance of the condition of the Site, in accordance with Section 3.5;

4.4.9 **Building Permit, Approvals.** Buyer obtains, at its sole cost, all Approvals, including through the City's normal plan check, review and development approval process, as necessary for issuance of a final building permit by the City, subject only to final

payment of all fees required for issuance of such building permit, for development of the Project on the Site; and

4.4.10 **Seller's Representations.** Seller's representations and warranties as contained in the Addendum attached hereto and incorporated herein as **Exhibit C**, are correct as of the date of this Agreement and as of the Close of Escrow.

4.5 **Seller's Conditions Precedent to Close of Escrow.** Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by Seller, Seller's obligation to sell the Site to Buyer on the Escrow Closing Date shall be conditioned upon the satisfaction or waiver (waivers must be in writing and signed by Seller) of each of the following conditions precedent on or before the Escrow Closing Date:

4.5.1 **Lot Line Adjustment.** Seller obtains all Approvals for a Lot Line Adjustment to create a legal parcel constituting the Site, in accordance with Section 3.1;

4.5.2 **Title.** Buyer accepts the state of the title of the Site, in accordance with Section 3.4;

4.5.3 **Due Diligence.** Buyer timely delivers its Due Diligence Completion Notice to both Seller and Escrow Agent stating Buyer's unconditional acceptance of the condition of the Site, in accordance with Section 3.5;

4.5.4 **CEQA Documents.** Adoption, approval or certification of the CEQA Documents by each applicable Government Agency;

4.5.5 **Building Permit, Approvals.** Buyer obtains, at its sole cost, all Approvals, including through the City's normal plan check, review and development approval process, as necessary for issuance of a final building permit by the City, subject only to final payment of all fees required for issuance of such building permit, for development of the Project on the Site;

4.5.6 **Buyer Financing.** Buyer has demonstrated to the satisfaction of Seller that Buyer has secured financing in an amount sufficient to develop the Project as a commercial/retail building or healthcare center.

4.5.7 **Buyer Escrow Deposits.** Buyer deposits all of the items into Escrow required by Section 4.6;

4.5.8 **Settlement/Closing Statement.** Seller approves the Seller's Escrow Closing Statement;

4.5.9 **Title Policy.** Title Company has agreed to issue the Buyer Title Policy to Buyer upon payment of Title Company's premium for such policy;

4.5.10 **Consistency Finding.** The Planning Commission of the City has determined that the disposition of the Site to the Buyer pursuant to this Agreement is consistent with the City's General Plan, in accordance with Government Code Section 65402;

4.5.11 **Buyer Pre-Closing Obligations.** Buyer performs all of Buyer's material obligations required to be performed by Buyer pursuant to this Agreement prior to the Close of Escrow; and

4.5.12 **Buyer's Representations.** Buyer's representations and warranties as contained in the Addendum attached hereto and incorporated herein as **Exhibit C**, are correct as of the date of this Agreement and as of the Close of Escrow.

4.6 **Buyer's Escrow Deposits.** Buyer shall deposit the following items into Escrow and, concurrently, provide a copy of each document submitted into Escrow to Seller, at least one (1) Business Day prior to the Escrow Closing Date:

4.6.1 **Closing Funds.** All amounts required to be deposited into Escrow by Buyer under the terms of this Agreement to close the Escrow;

4.6.2 **Certificate of Seller Deed Acceptance.** The Certificate of Acceptance attached to the Seller Deed signed by Buyer in recordable form;

4.6.3 **Escrow Closing Statement.** The Buyer's Escrow Closing Statement signed by the authorized representative(s) of Buyer;

4.6.4 **Other Reasonable Items.** Any other documents or funds required to be delivered by Buyer under the terms of this Agreement or as otherwise reasonably requested by Escrow Agent or Title Company in order to close the Escrow or comply with applicable Law that have not previously been delivered by Buyer.

4.7 **Seller's Escrow Deposits.** Seller shall deposit the following documents into Escrow and, concurrently, provide a copy of each document deposited into Escrow to Buyer, at least one (1) Business Day prior to the Escrow Closing Date:

4.7.1 **Seller Deed.** The Seller Deed signed by the authorized representative(s) of Seller in recordable form;

4.7.2 **Escrow Closing Statement.** The Seller's Escrow Closing Statement signed by the authorized representative(s) of Seller;

4.7.3 **FIRPTA Affidavit.** A FIRPTA affidavit signed by the authorized representative(s) of Seller, in the form provided by the Escrow Agent;

4.7.4 **Form 593.** A Form 593 signed by the authorized representative(s) of Seller; and

4.7.5 **Other Reasonable Items.** Any other documents or funds required to be delivered by Seller under the terms of this Agreement or as otherwise reasonably requested by Escrow Agent or Title Company in order to close the Escrow or comply with applicable Law that have not been previously delivered by Seller.

4.8 Closing Procedure. When each of Buyer's Escrow deposits, as set forth in Section 4.6, and each of Seller's Escrow deposits, as set forth in Section 4.7, are deposited into Escrow, Escrow Agent shall request confirmation in writing from both Buyer and Seller that each of their respective conditions precedent to the Close of Escrow, as set forth in Sections 4.4 or 4.5, respectively, are satisfied or waived. Upon Escrow Agent's receipt of written confirmation from both Buyer and Seller that each of their respective conditions precedent to the Close of Escrow are satisfied or waived, Escrow Agent shall close the Escrow by doing all of the following:

4.8.1 **Recording and Distribution of Documents**. Escrow Agent shall cause the Seller Deed to be filed with the Recorder of the County for recording in the official records of the County regarding the Site. At Close of Escrow, Escrow Agent shall deliver conformed copies of the Seller Deed filed for recording in the official records of the County through the Escrow to Seller, Buyer and any other Person designated in the written joint escrow instructions of the Parties to receive an original or conformed copy of such document. Each conformed copy of a document filed for recording by Escrow Agent pursuant to this Agreement shall show all recording information;

4.8.2 **Funds**. Distribute all funds held by Escrow Agent pursuant to the Escrow Closing Statements approved in writing by Seller and Buyer;

4.8.3 **FIRPTA Affidavit**. File the FIRPTA Affidavit with the United States Internal Revenue Service;

4.8.4 **Form 593**. File the Form 593 with the California Franchise Tax Board; and

4.8.5 **Title Policy**. Obtain from the Title Company and deliver to Buyer, with a copy to the Seller, the Buyer Title Policy issued by the Title Company.

4.9 Close of Escrow. The Close of Escrow shall occur on or before the Escrow Closing Date. The Parties may mutually agree to change the Escrow Closing Date by joint written instruction to Escrow Agent. The City Manager, acting on behalf of the Seller, is authorized to agree to one or more extensions of the Escrow Closing Date on behalf of Seller up to a maximum time period extension of two (2) months in the aggregate, in the City Manager's sole and absolute discretion. If for any reason (other than a Default or Event of Default by such Party) the Close of Escrow has not occurred on or before the Escrow Closing Date, then any Party not then in Default under this Agreement may cancel the Escrow and terminate this Agreement, without liability to the other Party or any other Person for such cancellation and termination, by delivering Notice of termination to both the other Party and Escrow Agent. Following any such Notice of termination of this Agreement and cancellation of the Escrow, the Parties and Escrow Agent shall proceed pursuant to Section 4.12. Without limiting the right of either Party to cancel the Escrow and terminate this Agreement, pursuant to this Section 4.9, if the Escrow does not close on or before the Escrow Closing Date and neither Party has exercised its contractual right to cancel the Escrow and terminate this Agreement under this Section 4.9 before the first date on which Escrow Agent Notifies both Parties that Escrow is in a position to close in accordance with the terms and conditions of this Agreement, then the Escrow shall close

as soon as reasonably possible following the first date on which Escrow Agent Notifies both Parties that Escrow is in a position to close in accordance with the terms and conditions of this Agreement.

4.10 Escrow Costs. Escrow Agent shall notify Buyer and Seller of the costs to be borne by each of them at the Close of Escrow by delivering an Escrow Closing Statement to both Seller and Buyer at least four (4) Business Days prior to the Escrow Closing Date. Seller shall pay one-half (1/2) of the Escrow Agent charges for the conduct of the Escrow, all documentary transfer taxes regarding the conveyance of the Site through the Escrow and the full amount of the premium charged by the Title Company for a standard CLTA owner's title insurance policy towards the cost of the premium for the Buyer Title Policy, exclusive of any endorsements or other supplements to the coverage of the Buyer Title Policy that may be requested by Buyer. Buyer shall pay one-half (1/2) of the Escrow Agent charges for the conduct of the Escrow, the amount of the ALTA premium for the Buyer Title Policy exceeding the amount paid by Seller toward the cost of the Buyer Title Policy, the premium costs of any and all endorsements to the Buyer Title Policy requested by Buyer, all recording fees and the full amount of any and all other charges, fees and taxes levied by each and every Government Agency relative to the conveyance of the Site through the Escrow.

4.11 Escrow Cancellation Charges. If the Escrow fails to close due to Seller's Default under this Agreement, Seller shall pay all ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively. If the Escrow fails to close due to Buyer's Default under this Agreement, Buyer shall pay all ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively. If the Escrow fails to close for any reason other than the Default of either Buyer or Seller, Buyer and Seller shall each pay one-half (1/2) of any ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively.

4.12 Escrow Cancellation. If this Agreement is terminated pursuant to a contractual right granted to a Party in this Agreement to terminate this Agreement (other than due to an Event of Default by the other Party), the Parties shall do all of the following:

4.12.1 **Cancellation Instructions.** The Parties shall, within three (3) Business Days following Escrow Agent's written request, sign any reasonable Escrow cancellation instructions requested by Escrow Agent;

4.12.2 **Return of Funds and Documents.** Within ten (10) Business Days following receipt by the Parties of a settlement statement of Escrow and title order cancellation charges from Escrow Agent (if any) or within twenty (20) days following Notice of termination, whichever is earlier: (a) Buyer or Escrow Agent shall return to Seller all documents previously delivered by Seller to Buyer or Escrow Agent, respectively, regarding the Site or the Escrow; (b) Seller or Escrow Agent shall return to Buyer all documents previously delivered by Buyer to Seller or Escrow Agent, respectively, regarding the Site or the Escrow; (c) Escrow Agent shall, unless otherwise expressly provided in this Agreement, return to Buyer all funds deposited by Buyer in Escrow, less Buyer's share of customary and reasonable Escrow and title order cancellation charges (if any) in accordance with Section 4.11; and (d) Escrow Agent shall, unless

otherwise expressly provided in this Agreement, return to Seller all funds deposited in Escrow by Seller, less Seller's share of customary and reasonable Escrow and title order cancellation charges (if any) in accordance with Section 4.11.

4.13 Report to IRS. After the Close of Escrow and prior to the last date on which such report is required to be filed with the Internal Revenue Service under applicable Federal law, if such report is required pursuant to Internal Revenue Code Section 6045(e), Escrow Agent shall report the gross proceeds of the purchase and sale of the Site to the Internal Revenue Service on Form 1099-B, W-9 or such other form(s) as may be specified by the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e). Concurrently with the filing of such reporting form with the Internal Revenue Service, Escrow Agent shall deliver a copy of the filed form to both Seller and Buyer.

4.14 Condemnation. If any material portion of the Site, or any interest in any portion of the Site, is taken by condemnation prior to Close of Escrow by any condemning authority other than Seller, including, without limitation, the filing of any notice of intended condemnation or proceedings in the nature of eminent domain, commenced by any governmental authority, other than Seller, Seller shall immediately give Buyer notice of such occurrence, and Buyer shall have the option, exercisable within ten (10) business days after receipt of such notice from Seller, to either: (i) terminate this Agreement; or (ii) continue with this Agreement in accordance with its terms, in which event Seller shall assign to Buyer any right of Seller to receive any condemnation award attributable to the Site.

5. **REMEDIES AND INDEMNITY**

5.1 Legal Actions. Either Party may institute legal action, at law or in equity, to enforce or interpret the rights or obligations of the Parties under this Agreement or recover damages.

5.2 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties set forth in this Agreement are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by such Party, at the same or different times, of any other rights or remedies for the same Default or the same rights or remedies for any other Default by the other Party.

5.3 Indemnification.

5.3.1 **Seller Indemnity Obligations.** Seller shall Indemnify Buyer against any Claim to the extent such Claim arises from any wrongful intentional act or negligence of the Seller Parties related to this Agreement, but only to the extent that Seller may be held liable under applicable law for such wrongful intentional act or negligence and exclusive of any violation of law (including the State Constitution) relating to Seller's approval, entry into or performance of this Agreement. Nothing in this Agreement is intended nor shall be interpreted to waive any limitation on Seller's liability, any exemption from liability in favor of Seller, any claim presentment requirement for bringing an action regarding any liability of Seller or any limitations period applicable to liability of Seller, all as set forth in Government Code Section

800 *et seq.*, Section 900 *et seq.*, or in any other law, or require Seller to Indemnify any Person beyond such limitations on Seller's liability.

5.3.2 Buyer Indemnity Obligations. Buyer shall Indemnify the Seller Parties against any Claim related to this Agreement to the extent such Claim arises from: (a) any act, omission or negligence of the Buyer; or (b) any Environmental Claim attributable to any action or omission by Buyer.

5.3.3 Independent of Insurance Obligations. Buyer's indemnification obligations under this Agreement shall not be construed or interpreted as in any way restricting, limiting, or modifying Buyer's insurance or other obligations under this Agreement. Buyer's obligation to Indemnify the Seller Parties under this Agreement is independent of Buyer's insurance and other obligations under this Agreement. Buyer's compliance with Buyer's insurance obligations and other obligations under this Agreement shall not in any way restrict, limit or modify Buyer's indemnification obligations under this Agreement and are independent of Buyer's indemnification and other obligations under this Agreement.

5.3.4 Survival of Indemnification and Defense Obligations. The indemnity and defense obligations of the Parties under this Agreement shall survive the expiration or earlier termination of this Agreement, until any and all actual or prospective Claims regarding any matter subject to an indemnity obligation under this Agreement are fully, finally, absolutely and completely barred by applicable statutes of limitations.

5.3.5 Indemnification Procedures. Wherever this Agreement requires any Indemnitor to Indemnify any Indemnitee:

(a) *Prompt Notice.* The Indemnitee shall promptly Notify the Indemnitor of any Claim.

(b) *Selection of Counsel.* The Indemnitor shall select counsel reasonably acceptable to the Indemnitee. Counsel to Indemnitor's insurance carrier that is providing coverage for a Claim shall be deemed reasonably satisfactory, except in the event of a potential or actual conflict of interest for such counsel regarding such representation or such counsel is reasonably determined by Indemnitee to be incompetent regarding such representation. Even though the Indemnitor shall defend the Claim, Indemnitee may, at Indemnitee's option and Indemnitee's own expense (except where Indemnitor provides a defense to Indemnitee under a reservation of rights, a conflict of interest between Indemnitor and Indemnitee exists that requires them to be represented by separate legal counsel or Indemnitor's legal counsel is reasonably determined by Indemnitee to be incompetent regarding such representation, in any such case, Indemnitor shall pay the Legal Costs of Indemnitee's separate legal counsel), engage separate counsel to advise Indemnitee regarding the Claim and Indemnitee's defense. The Indemnitee's separate counsel may attend all proceedings and meetings. The Indemnitor's counsel shall actively consult with the Indemnitee's separate counsel.

(c) *Cooperation.* The Indemnitee shall reasonably cooperate with the Indemnitor's defense of the Indemnitee.

6.4 Warranty Against Payment of Consideration for Agreement. Buyer represents and warrants to Seller that: (a) Buyer has not employed or retained any Person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees of Buyer and Third Persons to whom fees are paid for professional services related to the documentation of this Agreement; and (b) no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by Buyer or any of Buyer's agents, employees or representatives to any elected or appointed official or employee of the Seller in an attempt to secure this Agreement or favorable terms or conditions for this Agreement. Breach of the representations or warranties of this Section 6.4 shall entitle Seller to terminate this Agreement and cancel the Escrow (if open) upon seven (7) days Notice to Buyer and, if the Escrow is open, to Escrow Agent. Upon any such termination of this Agreement, Buyer shall immediately refund any payments made to or on behalf of Buyer by Seller pursuant to this Agreement or otherwise related to the Site, any Approval or any CEQA Document, prior to the date of such termination.

6.5 Calculation of Time Periods. Unless otherwise specified, all references to time periods in this Agreement measured in days shall be to consecutive calendar days, all references to time periods in this Agreement measured in months shall be to consecutive calendar months and all references to time periods in this Agreement measured in years shall be to consecutive calendar years. Any reference to Business Days in this Agreement shall mean consecutive Business Days.

6.6 Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words "include" and "including" in this Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Agreement, refers to such document, as modified from time to time (excepting any modification that violates this Agreement), and includes all exhibits, schedules, addenda and riders to such document. The word "or" in this Agreement includes the word "and." Every reference to a law, statute, regulation, order, form or similar governmental requirement refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time.

6.7 Governing Law. The procedural and substantive laws of the State of California shall govern the interpretation and enforcement of this Agreement, without application of conflicts or choice of laws principles or statutes. The Parties acknowledge and agree that this Agreement is entered into, is to be fully performed in and relates to real property located in the County of Yolo, State of California. All legal actions arising from this Agreement shall be filed in the Superior Court of the State in and for the County or in the United States District Court with jurisdiction in the County.

6.8 Unavoidable Delay; Extension of Time of Performance.

6.8.1 **Notice.** Subject to any specific provisions of this Agreement stating that they are not subject to Unavoidable Delay or otherwise limiting or restricting the effects of an Unavoidable Delay, performance by either Party under this Agreement shall not be deemed or considered to be in Default, where any such Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party: (a) within three (3) days after such Party knows of any such Unavoidable Delay; and (b) within three (3) days after such Unavoidable Delay ceases to exist. To be effective, any Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise commercially reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time.

6.8.2 **Assumption of Economic Risks.** EACH PARTY EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, OF EITHER PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMAND OR CHANGES IN THE ECONOMIC ASSUMPTIONS OF EITHER PARTY THAT MAY HAVE PROVIDED A BASIS FOR ENTERING INTO THIS AGREEMENT SHALL NOT OPERATE TO EXCUSE OR DELAY THE PERFORMANCE OF EACH AND EVERY ONE OF EACH PARTY'S OBLIGATIONS AND COVENANTS ARISING UNDER THIS AGREEMENT. ANYTHING IN THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, THE PARTIES EXPRESSLY ASSUME THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES OR MARKET DEMAND OR CONDITIONS AND WAIVE, TO THE GREATEST EXTENT ALLOWED BY LAW, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, CHANGED ECONOMIC CIRCUMSTANCES, FRUSTRATION OF PURPOSE, OR SIMILAR THEORIES. THE PARTIES AGREE THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF THE PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY ONE OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS AGREEMENT. THE PARTIES EXPRESSLY ASSUME THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF THE EFFECTIVE DATE.

Initials of Authorized
Seller Representative(s)

Initials of Buyer

6.9 Tax Consequences. Buyer acknowledges and agrees that Buyer shall bear any and all responsibility, liability, costs or expenses connected in any way with any tax consequences experienced by Buyer related to this Agreement.

6.10 Real Estate Commissions.

6.10.1 **Seller Warranty.** Seller: (a) represents and warrants that Seller did not engage or deal with any broker or finder in connection with this Agreement, and no Person is entitled to any commission or finder's fee regarding this Agreement on account of any agreement or arrangement made by Seller; and (b) shall Indemnify Buyer against any breach of the representation and warranty set forth in clause "(a)" of this Section 6.10.1.

6.10.2 **Buyer Warranty.** Buyer represents and warrants that (a) Buyer did not engage or deal with any broker or finder in connection with this Agreement, and no other Person is entitled to any commission or finder's fee regarding this Agreement on account of any agreement or arrangement made by Buyer; and (b) shall Indemnify Seller against any breach of the representation and warranty set forth in clause "(a)" of this Section 6.10.2.

6.11 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Person other than the Parties and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any Third Person to any Party or give any Third Person any right of subrogation or action over or against any Party.

6.12 Buyer Assumption of Risks of Legal Challenges. Buyer assumes the risk of delays or damages that may result to Buyer from each and every Third Person legal action related to Seller's approval of this Agreement or any associated Approvals, even in the event that an error, omission or abuse of discretion by Seller is determined to have occurred. If a Third Person files a legal action regarding Seller's approval of this Agreement or any associated Approval (exclusive of legal actions alleging violation of Government Code Section 1090 by officials of Seller), Buyer shall have the option to either: (1) cancel the Escrow and terminate this Agreement, in which case the Parties and the Escrow Agent shall proceed in accordance with Section 4.12; or (2) Indemnify Seller against such Third Person legal action, including all Legal Costs, monetary awards, sanctions and the expenses of any and all financial or performance obligations resulting from the disposition of the legal action; provided, however, that option "(1)" under this Section 6.12 shall only be available to Buyer prior to the Close of Escrow. Should Buyer fail to Notify Seller of Buyer's election pursuant to this Section 6.12 at least fifteen (15) days before response to the legal action is required by Seller, prior to the Close of Escrow, Buyer shall be deemed to have elected to cancel the Escrow and terminate this Agreement pursuant to this Section 6.12 and, following the Close of Escrow, Buyer shall be deemed to have elected to Indemnify Seller against such Third Person legal action pursuant to this Section 6.12, all without further Notice to or action by either Party. Seller shall reasonably cooperate with Buyer in defense of Seller in any legal action subject to this Section 6.12, subject to Buyer completely performing Buyer's indemnity obligations for such legal action. Should Buyer elect or be deemed to elect to Indemnify Seller regarding a legal action subject to this Section 6.12, but fail to or stop providing such indemnification of Seller, then Seller shall have the right to terminate this Agreement or cancel the Escrow (or both) by Notice to Buyer and, if the Escrow is open, to the Escrow Agent. Nothing contained in this Section 6.12 is intended to be nor shall be deemed or construed to be an express or implied admission that Seller may be liable to Buyer or any other Person for damages or other relief regarding any alleged or established failure of Seller to comply with any law. Any legal action that is subject to this

Section 6.12 (including any appeal periods and the pendency of any appeals) shall constitute an Unavoidable Delay and the time periods for performance by either Party under this Agreement may be extended pursuant to the provisions of this Agreement regarding Unavoidable Delay.

6.13 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

6.14 Time Declared to be of the Essence. As to the performance of any material obligation under this Agreement of which time is a component, the performance of such material obligation within the time specified is of the essence.

6.15 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned in this Agreement or incidental to this Agreement, and supersedes all prior or contemporaneous negotiations or previous agreements between the Parties, whether written or oral, with respect to all or any portion of the Site.

6.16 Waivers and Amendments. All waivers of the provisions of this Agreement must be in writing and signed by the authorized representative(s) of the Party making the waiver. All amendments to this Agreement must be in writing and signed by the authorized representative(s) of both Seller and Buyer.

6.17 No Implied Waiver. Failure to insist on any one occasion upon strict compliance with any term, covenant, condition, restriction or agreement contained in this Agreement shall not be deemed a waiver of such term, covenant, condition, restriction or agreement, nor shall any waiver or relinquishment of any rights or powers under this Agreement, at any one time or more times, be deemed a waiver or relinquishment of such right or power at any other time or times.

6.18 City Manager Implementation. Seller shall implement this Agreement through the City Manager, acting on behalf of the Seller. The City Manager or his/her designee is hereby authorized by Seller to enter into agreements and sign documents referenced in this Agreement or reasonably required to implement this Agreement on behalf of Seller, issue approvals, interpretations or waivers and enter into certain amendments to this Agreement on behalf of Seller, to the extent that any such action(s) does/do not increase the monetary obligations of Seller. All other actions shall require the consideration and approval of the Seller's governing body, unless expressly provided otherwise by action of the Seller's governing body. Nothing in this Section 6.18 shall restrict the submission to the Seller's governing body of any matter within the City Manager's authority under this Section 6.18, in the City Manager's sole and absolute discretion, to obtain the Seller's governing body's express and specific authorization on such matter. The specific intent of this Section 6.18 is to authorize certain actions on behalf of Seller by the City Manager, but not to require that such actions be taken by the City Manager including, without limitation, any extension(s) granted pursuant to Section 4.9, without consideration by the Seller's governing body.

6.19 Survival of Agreement. All of the provisions of this Agreement shall be applicable to any dispute between the Parties arising from this Agreement, whether prior to or following expiration or termination of this Agreement, until any such dispute is finally and

completely resolved between the Parties, either by written settlement, entry of a non-appealable judgment or expiration of all applicable statutory limitations periods and all terms and conditions of this Agreement relating to dispute resolution, indemnity or limitations on damages or remedies shall survive any expiration or termination of this Agreement.

6.20 Counterparts. This Agreement shall be signed in three (3) triplicate originals, each of which is deemed to be an original. This Agreement includes twenty-seven (27) pages and three (3) exhibits (each exhibit is incorporated into this Agreement by reference) that constitute the entire understanding and Agreement of the Parties regarding the subject matter of this Agreement.

6.21 Facsimile or Electronic Signatures. Signatures delivered by facsimile or electronic mail shall be binding as originals upon the Party so signing and delivering; provided, however, that original signature(s) of each Party shall be required for each document to be recorded.

[Signatures on following page]

**SIGNATURE PAGE
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS
(Portion of Grant Avenue Commercial Property)**

IN WITNESS WHEREOF, the Parties have signed and entered into this Agreement by and through the signatures of their respective authorized representative(s) as follow:

SELLER:

BUYER:

CITY OF WINTERS, a California municipal corporation, acting as SUCCESSOR AGENCY TO THE DISOLVED COMMUNITY DEVELOPMENT AGENCY

WINTERS HEALTHCARE FOUNDATION, a California non-profit corporation

By: _____
John W. Donlevy, Jr.
Executive Director

By: _____
Erik Brunkal,
President, WHF Board of Directors

ESCROW AGENT CONSENT

PLACER TITLE COMPANY accepts that certain Real Property Purchase and Sale Agreement and Joint Escrow Instructions (Portion of Grant Avenue Commercial Property) dated August ____, 2015, by and between the City of Winters, a California municipal corporation, acting as Successor Agency to the Dissolved Community Development Agency, and Winters Healthcare Foundation, a California non-profit corporation, and agrees to act as "Escrow Agent" pursuant to such agreement and agrees to be bound by all provisions of such agreement applicable to it as the Escrow Agent.

ESCROW AGENT:

PLACER TITLE COMPANY

By: _____

Name: _____

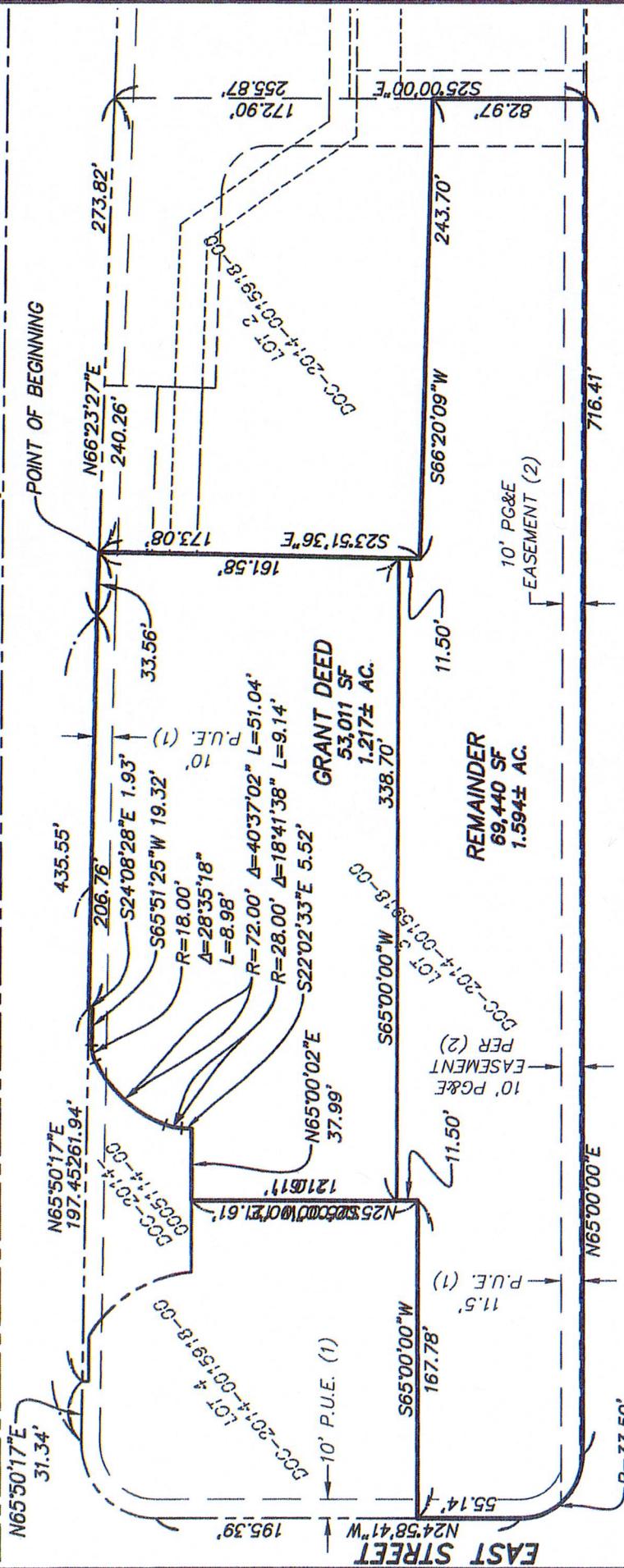
Its: _____

Dated: _____

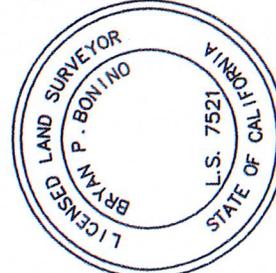
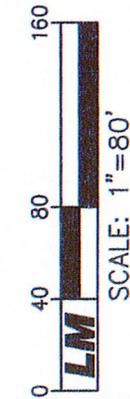
**EXHIBIT A
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS
(Portion of Grant Avenue Commercial Property)**

Map of the Site

GRANT AVENUE (STATE HIGHWAY 128)



BAKER STREET



Bryan P. Bonino
BRYAN P. BONINO **5/7/15**
 DATE

THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY DIRECTION IN ACCORDANCE WITH SECTION 8761 OF THE PROFESSIONAL LAND SURVEYORS' ACT.

RECORD DATA:

- (1) BOOK 11, PARCEL MAPS, PAGE 30
- (2) BOOK 1516, OFFICIAL RECORDS, PAGE 202

NOTE:
 EASEMENTS OR OTHER ENCUMBRANCES MAY AFFECT SUBJECT PROPERTY WHICH ARE NOT SHOWN HEREON.

EXHIBIT

FOR

CITY OF WINTERS

BEING A PORTION OF LOT 3 OF DOC-2014-0015918-00 LOCATED IN A PORTION OF RANCHO RIO DE LOS PUTOS, BEING LOCATED IN PROJECTED SECTION 22, TOWNSHIP 8 NORTH, RANGE 1 WEST, MOUNT DIABLO MERIDIAN, CITY OF WINTERS, YOLO COUNTY, CALIFORNIA

LM LAUGENOUR AND MEKLE
 CIVIL ENGINEERING - LAND SURVEYING - PLANNING
 808 COURT STREET, WOODLAND, CALIFORNIA 95695 · PHONE: (530) 662-1755
 P.O. BOX 828, WOODLAND, CALIFORNIA 95776 · FAX: (530) 662-4602

SHEET 1 OF 1

MAY 7, 2015

X:\Land Projects\780-49\dwg\780-49_Exhibit_City

**EXHIBIT B
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS
(Portion of Grant Avenue Commercial Property)**

Seller Deed

[Attached behind this cover page]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

SPACE ABOVE FOR RECORDER'S USE ONLY
EXEMPT FROM RECORDING FEES – GOVT. CODE § 27383

APN: _____

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

CITY OF WINTERS, a California municipal corporation ("**Transferor**"), does hereby grant to **WINTERS HEALTHCARE FOUNDATION**, a California non-profit corporation ("**Transferee**"), all right, title and interest of Transferor in that certain real property in the City of Winters, County of Yolo, State of California, specifically described in Exhibit "1" attached to this Grant Deed ("**Site**") and made a part of this Grant Deed by this reference.

Transferee covenants and agrees for itself, its successors, its assigns and every successor-in-interest to all or any portion of the Site, that there shall be no discrimination against or segregation of any person, or group of persons, on account of gender, sexual orientation, marital status, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site nor shall Transferee, itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of purchasers, tenants, lessees, sub-tenants, sub-lessees or vendees of the Site. The covenant shall be a covenant running with the land and binding on successive owners of all or any portion of the Site, in perpetuity

The covenants contained herein shall run with the land and shall inure to the benefit of and be binding upon the Transferor and Transferee and their respective assigns, heirs and voluntary and involuntary successors in interest.

Dated: _____

CITY OF WINTERS, a California municipal corporation

By: _____

John W. Donlevy, Jr.
City Manager

**EXHIBIT "1"
TO
GRANT DEED**

Site Legal Description

That certain property situated in the City of Winters, County of Yolo, State of California described as follows:

EXHIBIT A
GRANT DEED
for the
CITY OF WINTERS

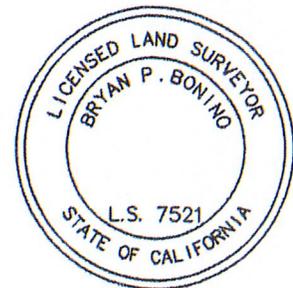
All that real property situate in the City of Winters, County of Yolo, State of California, and being a portion of projected Section 22, Township 8 North, Range 1 West, Mount Diablo Base and Meridian, and being a portion of Lot 3 as described in that Certificate of Compliance for Lot Line adjustment recorded as DOC-2014-0015918-00, Official Records of Yolo County, and being more particularly described as follows:

BEGINNING at a point on the Southeast line of State Highway 128 (Grant Avenue), said point being the most Northerly corner of said Lot 3; thence, from said POINT OF BEGINNING, leaving said Southeast line and along the Northeast line of said Lot 3, South 23°51'36" East 161.58 feet; thence, leaving said Northeast line, South 65°00'00" West 338.70 feet to a point on the Southwest line of said Lot 3; thence, along said Southwest line, the following eight (8) courses: (1) North 25°00'00" West 110.11 feet; (2) North 65°00'02" East 37.99 feet; (3) North 22°02'33" West 5.52 feet; (4) along a tangent curve to the right having a radius bearing North 67°57'27" East 28.00 feet, a central angle of 18°41'38", and an arc length 9.14 feet to a point of compound curvature; (5) along a curve to the right having a radius bearing North 86°39'05" East 72.00 feet, a central angle of 40°37'02", and an arc length of 51.04 feet to a point of compound curvature; (6) along a curve to the right having a radius bearing South 52°43'53" East 18.00 feet, a central angle of 28°35'18", and an arc length 8.98 feet; (7) North 65°51'25" East 19.32 feet; and (8) North 24°08'28" West 1.93 feet to a point on the Southeast line of State Highway 128; thence, along said Southeast line, said line being the Northwest line of said Lot 3, the following two (2) courses: (1) North 65°50'17" East 206.76 feet; and (2) North 66°23'27" East 33.56 feet to the POINT OF BEGINNING.

Containing 53,011 square feet (1.217 acres) of land, more or less.

The Basis of Bearings for this description is the centerline of State Highway 128, shown as North 65°00'00" East in Book 11 of Parcel Maps, at Page 30.

End of description.



Bryan P. Bonino
Bryan P. Bonino, L.S.

5/7/15
Date

CERTIFICATE OF ACCEPTANCE OF GRANT DEED

This is to certify that the interest in real property conveyed by the foregoing Grant Deed from the CITY OF WINTERS, a California municipal corporation, to WINTERS HEALTHCARE FOUNDATION, a California non-profit corporation, is hereby accepted by the undersigned officer on behalf of Grantee, through his signature below, and Grantee consents to recordation thereof by its duly authorized officer.

By: _____
Name: _____
Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ACKNOWLEDGEMENT

STATE OF CALIFORNIA
COUNTY OF _____

On _____ before me, _____ (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ACKNOWLEDGEMENT

STATE OF CALIFORNIA
COUNTY OF _____

On _____ before me, _____ (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

**EXHIBIT C
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS
(Portion of Grant Avenue Commercial Property)**

Addendum

[Attached behind this cover page]

**ADDENDUM TO REAL PROPERTY PURCHASE AND SALE AGREEMENT AND
JOINT ESCROW INSTRUCTIONS
(Portion of Grant Avenue Commercial Property – Winters Healthcare Foundation)**

This Addendum (this “**Addendum**”) is incorporated into the REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (Portion of Grant Avenue Commercial Property) (“**Agreement**”) by and between the CITY OF WINTERS, a municipal corporation acting as SUCCESSOR AGENCY TO THE DISSOLVED WINTERS COMMUNITY DEVELOPMENT AGENCY (“**Seller**” or “**Successor Agency**”), and WINTERS HEALTHCARE FOUNDATION, a California Non-Profit Corporation (“**Buyer**”).

1. Property Documents. Within three (3) days after the Escrow Opening Date, Seller shall provide Buyer copies of all documents relating to the Site that are in its possession or under its control, including, without limitation, the following: (i) relevant studies, documents, land surveys, soils reports, licenses, permits, maintenance contracts, utility contracts, management contracts, service contracts, warranties, ADA compliance, Field Act compliance, approvals, and other documents and/or contracts pertaining to the Site, together with any amendments or modifications; (ii) any and all information that Seller has regarding environmental matters affecting the Site and regarding the condition of the Site, including but not limited to, Phase I and/or Phase II Environmental Assessments, wetlands, structural, mechanical and soils conditions, the presence and location of asbestos, PCB transformers, other toxic, hazardous or contaminated substances, and underground storage tanks in, on, or about the Site; (iii) any other documents materially relative to the to the condition of the Site and the Parties' rights and duties under the Agreement (collectively, “Property Documents”). Notwithstanding the foregoing, Seller shall have no obligation to cause any of the Property Documents to be created or produced if such document does not already exist, and except as expressly set forth herein, Seller does not warrant the accuracy of any Property Documents.

2. Entitlements. If Buyer does not terminate the Agreement in accordance with Section 3.5.4, then on or before sixty (60) days following expiration of the Due Diligence Period, Buyer shall tender its complete entitlement application for design review and approval, with all applicable fees, to the City of Winters. Seller shall reasonably cooperate with Buyer’s entitlement processing efforts and shall promptly respond to any inquiries or requests in connection with such processing. If, despite Buyer's diligence and good faith efforts, the City of Winters does not approve Buyer's proposed development and design plans and is prepared to issue a building permit by November 30, 2016 ("Outside Approval Date"), Buyer may terminate this Agreement upon written notice to Seller and Escrow Agent prior to expiration of the Outside Approval Date, in which case the Parties and Escrow Agent shall proceed pursuant to Section 4.12.

3. Seller Representations and Warranties and Covenants. Seller hereby represents and warrants to Buyer and covenants that:

3.1 Seller has the authority to own and convey the Site. This Agreement and all documents executed by Seller which are to be delivered to Buyer at the Close of Escrow are, or

at the time of Close of Escrow, will be duly authorized, executed and delivered by Seller, and do not, and at the time of Close of Escrow, will not, violate any provisions of any agreement or judicial order to which Seller is a party or to which Seller or the Site is subject.

3.2 This Agreement constitutes a valid and binding agreement of Seller, enforceable in accordance with its terms.

3.3 Except for the rights of Buyer under this Agreement, Seller has not granted any options or rights of first refusal to purchase the Site to any person or entity.

3.4 To the best of Seller's knowledge, there is no litigation, suit, action, arbitration, legal, administrative or other proceeding or inquiry pending against the Site, or any portion thereof, including eminent domain or condemnation proceedings.

3.5 There are no leases executed by Seller, or other rights of occupancy or use granted by Seller, for all or any portion of the Site.

3.6 To the best of Seller's actual knowledge, (i) except as otherwise as may be disclosed by the Property Documents, there has been no production, storage or disposal at the Site of any Hazardous Materials by Seller or, to the best of Seller's actual knowledge, by any previous owner or tenant of the Site; (ii) Hazardous Materials have not been dumped, buried, leaked, or otherwise released upon, in, or under the Site or allowed to pass on, under or through the Site at any time during or prior to Seller's ownership of the Site; (iii) Seller has not violated any laws, regulations, and ordinances relating to the use of all Hazardous Materials used on the Site; and (iv) there is no proceeding or inquiry by any federal, state or local governmental agency with respect to any Hazardous Materials on the Site. For purposes of this Agreement, the term "**Hazardous Materials**" means any hazardous or toxic substance, material or waste that is: (i) regulated by any local governmental authority, the State of California or the United States Government; (ii) defined as an "acutely hazardous waste," "extremely hazardous waste," "hazardous waste," or "waste" under Sections 25110.02, 25115, 25117 or 25124 or listed pursuant to Sections 25141 and 25141.5 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control); (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) asbestos; (vii) listed under Chapter 10 of Division 4.5 of Title 22 or defined as "hazardous" or "extremely hazardous" pursuant to Division 21.5 of Title 26 of the California Code of Regulations; (viii) designated as a "hazardous waste" pursuant to Section 6903 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. section 6901, et seq.; (ix) defined as a "hazardous substance" pursuant to Section 9601 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. section 9601, et seq.; (x) any flammable substances or explosive; or (xi) any radioactive material.

3.7 Seller Covenants. Seller shall continue to maintain the Site in such condition so that the Site shall be in substantially the same condition as of the Closing Date as it is as of the Effective Date, reasonable wear and tear and casualty excepted. Seller shall maintain all existing insurance policies in connection with the Site and shall maintain and not alter any existing entitlements or governmental approvals related to the Site without Buyer's prior written approval. Seller shall not make any material alterations to the Site without the prior written approval of Buyer. Seller shall not voluntarily execute any documents or otherwise take any action which will have the result of conveying, transferring or encumbering the Site or any portion thereof in any fashion whatsoever; Seller will not enter into any leases or occupancy agreements for the Site without the prior written approval of Buyer. Seller shall not use, produce, process, manufacture, generate, treat, handle, store or dispose of any Hazardous Materials in, on or under the Site or release any Hazardous Materials into the air, soil, surface water or ground water comprising the Site.

4. Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller that:

4.1 Buyer's Authority. Seller is a corporation duly organized and validly existing and in good standing under the laws of the State of California and has the authority to own and convey the Site. This Agreement and all documents executed by Buyer which are to be delivered to Seller at the Close of Escrow are, or at the time of Close of Escrow, will be duly authorized, executed and delivered by Seller, and do not, and at the time of Close of Escrow, will not, violate any provisions of any agreement or judicial order to which Seller is a party or to which Seller or the Site is subject.

4.2 Enforceability. This Agreement and all documents required to be executed by Buyer are and shall be valid, legally binding obligations of and enforceable against Buyer in accordance with their terms.

5. Remedies Upon Default. Section 5.1 of the Agreement is deleted in its entirety and replaced with the following:

5.1 Remedies Upon Default.

5.1.1 Meet and Confer and Mediation. Upon the occurrence of an uncured Event of Default by either Party, the Parties agree to meet and confer in good faith to resolve the dispute. If the Parties cannot resolve the dispute within ten (10) days following notice by the non-defaulting Party of the uncured Event of Default, the Parties agree to submit the matter to non-binding mediation upon written notice thereof by either Party. In such event, the parties shall (i) select a mediator from qualified individuals in the Winters area ("Mediator"), or, if the parties cannot agree on a Mediator within ten (10) days after the initiation of mediation, the parties shall request that the Mediator be appointed by JAMS in the office closest to Winters, California. Within ten (10) days after selecting a Mediator, both parties shall meet with the Mediator and submit to the Mediator all written, documentary, oral testimony and other evidence as is necessary for a proper resolution of the dispute. The parties shall bear the cost of any and all mediation fees in equal parts; provided, however, each party shall bear the cost of its own

attorneys' fees. The parties shall meet promptly when requested by the Mediator, and shall use good faith efforts to resolve the dispute. Such non-binding mediation shall be completed within thirty (30) days following the appointment of the Mediator. If, upon the completion of such mediation, the dispute is not resolved to the mutual satisfaction of both parties, then Sections 5.1.2 and/or 5.1.3 shall apply.

5.1.2 Default by Seller. Upon the occurrence of an Event of Default by Seller, Buyer shall, in addition to any and all other remedies provided in this Agreement (including without limitation the right to receive a return of its Deposits) or by law or equity, have the right of specific performance against Seller.

5.1.3 Default by Buyer; Liquidated Damages. IN THE EVENT ESCROW FAILS TO CLOSE DUE TO AN EVENT OF DEFAULT BY BUYER UNDER THIS AGREEMENT, SELLER SHALL BE ENTITLED, AS SELLER'S SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT, TO TERMINATE THIS AGREEMENT AND RETAIN THE DEPOSIT MADE BY BUYER. THE PARTIES HAVE AGREED THAT SELLER'S ACTUAL DAMAGES, IN THE EVENT ESCROW FAILS TO CLOSE DUE TO A DEFAULT BY BUYER, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE AMOUNT OF THE DEPOSIT MADE BY BUYER HEREUNDER HAVE BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES AND AS SELLER'S EXCLUSIVE REMEDY AGAINST BUYER.

Seller's Initials

Buyer's Initials

6. Memorandum of Agreement. Upon the Escrow Opening Date, Escrow Agent shall record in the Official Records of Yolo County a Memorandum of Agreement of this Agreement in a form approved by both Parties. In the event of termination of this Agreement, upon return of Deposit due to be returned to Buyer under this Agreement, if any, Buyer shall execute and acknowledge a quitclaim releasing Buyer's interest in the Site for Escrow Agent to record in the Official Records of Yolo County.

7. Survey. Seller and Buyer to work with together in good faith with a mutually agreed civil engineering firm to create an Alta survey for the new Site parcel and remainder parcel, as well as a related parcel map if necessary. The costs for Alta survey shall be split equally between Buyer and Seller, and costs for the related parcel map, if required, shall be paid for by the City.

8. Improvements and Utilities. Seller agrees to work with Buyer in good faith to develop information on any costs associated with making any road improvements, including curbs, gutters and sidewalks, and the Seller will stub all utilities including, including sewer, water, storm drain, high speed internet cabling, gas and electric to the Site. During the due diligence period the parties will work together with a mutually agreed to engineer to delineate the standards for development of the Site and to estimate the costs of construction of the Site.

RESOLUTION No. OB-2015-08

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE DISSOLVED WINTERS COMMUNITY DEVELOPMENT AGENCY APPROVING A REAL PROPERTY PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY OF WINTERS, SUCCESSOR AGENCY TO THE WINTERS COMMUNITY DEVELOPMENT AGENCY, AND WINTERS HEALTHCARE FOUNDATION

WHEREAS, pursuant to the Community Development Law (the “CRL”) (Health and Safety Code Sections 33000 et seq.), the City Council of the City of Winters (“City”) created the Winters Community Development Agency (“Redevelopment Agency”); and

WHEREAS, in May 2009, the Winters CDA (“Redevelopment Agency”) purchased the Grant Avenue lot on the south side of Grant Avenue between East Street and Morgan Street formerly known as Granite Bay Commercial (APNs: 003-370-028, 029 and 030). The CDA subsequently authorized the issuance of an RFP for potential developers to offer proposals for development of the site. Although the CDA did enter into an Exclusive Negotiation Agreement (“ENA”) with the Yackzan Group, that ENA did not result in any development on the property; and

WHEREAS, as part of the Fiscal Year 2011-2012 State budget bill, the California state legislature enacted, and the Governor signed, Assembly Bill X1 26 (“AB 26”), which added Parts 1.8 and 1.85 to the CRL, and which laws caused the dissolution and winding down of all redevelopment agencies in California (the “Dissolution Act”); and

WHEREAS, on December 29, 2011, in the case of California Redevelopment Association v. Matosantos, Case No. S194861, the California Supreme Court upheld the Dissolution Act and thereby all redevelopment agencies in California were dissolved as of February 1, 2012 under the dates in the Dissolution Act that were reformed and extended thereby; and

WHEREAS, by Resolution considered and approved by the City Council in 2012, the City elected to become and serve as the successor agency to the Redevelopment Agency (the “Successor Agency”), with the responsibility to wind down the affairs of the Redevelopment Agency and dispose of its assets under the direction of an oversight board (the “Oversight Board”); and

WHEREAS, as of February 1, 2012, the Redevelopment Agency dissolved and the Successor Agency became operational; and

WHEREAS, AB 26 was amended by the State Legislature in June, 2012, pursuant to Assembly Bill 1484 (“AB 1484”) to provide new requirements and clarification of prior requirements to wind down the affairs of the dissolved Redevelopment Agency; and

WHEREAS, the Successor Agency has authority to sell assets of the former Redevelopment Agency pursuant to the requirements of AB 26 and AB 1484; and

WHEREAS, on August 18, 2015, the City Council, acting as Successor Agency, adopted Resolution SA 2015-05 approving a Purchase and Sale Agreement with Winters Healthcare Foundation with respect to the property; and

WHEREAS, on August 18, 2015 City Council meeting, the City Council, acting as Successor Agency, authorized the City Manager, acting as Executive Director of the Successor Agency, to execute a Purchase and Sale Agreement with Winters Healthcare Foundation for development of a Federally Qualified Health Center on a portion of the property (the "Site"), consistent with the original intent of the acquisition; and

WHEREAS, Health and Safety Code Section 34191.5(b) requires the Successor Agency to submit the Property Management Plan to the Successor Agency's oversight board and the Department of Finance for approval no later than six months following the issuance to the Successor Agency of the finding of completion pursuant to Health and Safety Code Section 34179.7; and

WHEREAS, the Successor Agency has received a Finding of Completion from the Department of Finance and its revised Property Management Plan has been approved by the Oversight Board and by the Department of Finance; and

WHEREAS, the Property Management Plan contemplates that the property be sold to for the development of a Federally Qualified Health Center development; and

WHEREAS, at the June 17, 2014 City Council meeting, the City Council authorized the City Manager to execute a Exclusive Negotiation Agreement ("ENA") with Winters Healthcare Foundation for development of a Federally Qualified Health Center (FQHC) on a portion of the property, consistent with the original intent of the acquisition. The Agreement and subsequent extension allowed for up to 8 months for Winters Healthcare Foundation to complete their due diligence review, with the ENA to result in an agreement for the development of a FQHC; and

WHEREAS, in furtherance of its Property Management Plan, the Successor Agency desires to enter into a Purchase and Sale Agreement with Winters Healthcare Foundation to allow for the development of an Federally Qualified Health Center on the property; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE FORMER WINTERS COMMUNITY DEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. CEQA Compliance. The Oversight Board of the Successor Agency to the dissolved Winters Community Development Agency determines that the proposed Purchase and Sale Contract qualifies as a governmental funding mechanism pursuant to 14 CCR section 15378 which does not involve a commitment to any specific project which may result in a potentially significant environmental impact. As such the Purchase and Sale Agreement does not qualify as a project for purposes of the California Environmental Quality Act. The City Clerk is authorized and directed to file a Notice of Exemption with the appropriate official of the County of Yolo, California, within five (5) days following the date of adoption of this Resolution.

Section 3. Approval of Purchase and Sale Agreement. The Oversight Board of the Successor Agency hereby approves the Real Property Purchase And Sale Agreement and Joint Escrow Instructions by and between the City of Winters and Winters Healthcare Foundation, in substantially the form currently on file with the City Clerk. The City Manager, acting as Executive Director of the Successor Agency, is authorized to make revisions to the form of the Agreement, with concurrence from Successor Agency Counsel, provided that the price and terms of payment for the property do not change.

Section 4. Effectiveness. Pursuant to Health and Safety Code section 34179(h), all actions taken by the Oversight Board may be reviewed by DOF and, therefore, this Resolution shall become effective five (5) business days after the date of its adoption, except to the extent that a request for review of the actions taken in this Resolution is made by DOF, in which case this Resolution shall be effective when approved by DOF within the time frames for approval required by law.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Oversight Board of the Successor Agency to the dissolved Winters Community Development Agency on the 24th day of August, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Larry Justus, Chair

Secretary