



Winters City Council Meeting
City Council Chambers

*** REVISED**

318 First Street

***REVISED**

Tuesday, June 5, 2007

7:30 p.m.

AGENDA

Members of the City Council
Woody Fridae, Mayor
Mike Martin, Mayor Pro Tempore
Harold Anderson
Cecilia Curry
Tom Stone

John W. Donlevy, Jr., City Manager
John Wallace, City Attorney
Nanci Mills, Clerk

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 Mayor or Councilmembers. Public comments time may be limited and speakers will be asked to state their name.

Roll Call

Pledge of Allegiance

Approval of Agenda

PUBLIC COMMENTS

At this time, any member of the public may address the City Council 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 Council. 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 Council support and may be enacted by the City Council in one motion in the form listed below. There will be no separate discussion of these items. However, before the City Council votes on the motion to adopt, members of the City Council, staff, or the public may request that specific items be removed from

5. Resolution 2007-24, Purchase of Two New Brush Aerators for the Wastewater Treatment Facility for \$60,250 (pp 78-89)
6. Update on Monticello Redevelopment Project (Requested by Council Member Stone) (No Backup)
7. Update on Rear Yard Setback of Non-Permitted Addition Constructed to Residence at 308 Peach Place (APN 003-271-28) (Requested by Council Member Stone) (No Backup)
8. Establish Cesar Chavez Day as a City Holiday, Commencing in 2008, to be celebrated on March 31 (Requested by Council Member Stone) (No Backup)

COMMUNITY DEVELOPMENT AGENCY

1.

CITY MANAGER REPORT

COUNCIL/STAFF COMMENTS

INFORMATION ONLY

EXECUTIVE SESSION

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the June 5, 2007, regular meeting of the Winters City Council was personally delivered to each Councilmember's mail boxes in City Hall and posted on the outside public bulletin board at City Hall, 318 First Street on May 31, 2007, and made available to the public during normal business hours.

Nancy Jenst, Records Clerk, for Nanci Mills, City Clerk
Nanci G. Mills, City Clerk

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

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Wednesday at 10:00 a.m.

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Minutes of the Regular Meeting of the
Winters City Council
Held on Tuesday, May 15, 2007

Mayor Fridae called the meeting to order at 5:30 p.m.

Present were Council Members Anderson, Aguiar-Curry, Martin, Stone and Mayor Fridae. Also present were City Manager John Donlevy, Grant Writer Dawn Van Dyke, Management Analyst Carol Scianna, Police Chief Bruce Muramoto, Sergeant Sergio Gutierrez, Sergeant Terry Van Houten, Community Development Director Dan Sokolow, Contract Planner Heidi Tschudin, City Engineer Nick Ponticello, Project Manager Alan Mitchell, City Attorney John Wallace, and City Clerk Nanci Mills.

Approval of Agenda: The swearing in of Reserve Police Officer Jose Munoz was moved to the beginning of the meeting, and Discussion Item #7, Update on the Hispanic Community Needs Forum, was moved to Discussion Item #4.

Mayor Fridae convened the joint meeting of the City Council, Community Development Agency, and the Public Finance Authority at 5:40 p.m.

DISCUSSION ITEMS

1. Resolution 2007-13, Approving the Sale of Tax Allocation Bonds for the Winters Community Development Project Area

City Manager John Donlevy gave an overview. Eric Scriven of De La Rosa & Company Urban Futures gave a power point presentation. City Council and Community Development Agency Member Aguiar-Curry made a motion to adopt Resolution 2007-13, Community Development Agency Resolution 2007-14, and Public Finance Authority Resolution 2007-15, approving the forms and authorizing the Execution of a First Supplemental Indenture of Trust, A bond Purchase Agreement, Continuing Disclosure Agreement and an Official Statement Relating to the Issuance of the Agency's Tax Allocation Bonds and Approving Certain Actions in Connection Therewith. The Community Development Agency recognizes that Bonded Indebtedness (both the existing 2004 Tax Allocation Bonds, and the proposed 2007 Tax Allocation Bonds) will be senior to the existing contracted indebtedness for the Water Distribution Facility Improvements. Seconded by City Council and Community Development Agency Member Anderson. Motion carried unanimously.

2. Appointment of Financing Team for the issuance of Water and Sewer Revenue Bonds

Mayor Fridae recused himself temporarily due to a prior engagement, turning the meeting over to Mayor Pro Tem Martin. City Manager John Donlevy gave an overview. Council Member Anderson made a motion to authorize staff recommendation by appointing a Financing Team for the issuance of Water and Sewer Revenue Bonds. Seconded by Council Member Aguiar-Curry. Mayor Pro Tem Martin asked if fees would pay for these bonds. City Manager Donlevy replied that a fee structure is already established and in place, which was approved in 2005. The current fee structure is enough to pay back these bonds. Motion carried with the following roll call:

AYES: City Council and Community Development Agency Members
Aguiar-Curry, Anderson, and Martin, Stone
NOES: None
ABSTAIN: None
ABSENT: Mayor and Community Development Agency Member Fridae

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, May 1, 2007
- B. Approve Project Budget Sheet for 2007 Annual W/SS Improvements, Project No. 06-16
- C. RESOLUTION 2007-18 A Resolution of the City Council of the City of Winters Authorizing the Application for a CALFED Watershed Program Grant Entitled Lower Putah Creek Winters Area Riparian Restoration Projects.
- D. RESOLUTION 2007-19 A Resolution of the City Council of the City of Winters Authorizing Submittal of an Application to the California Integrated Waste Management Board for the Used Oil Recycling Block Grant, FY 2007/08
- E. RESOLUTION 2007-20 A Resolution of the City Council of the City of Winters Authorizing a Budget Adjustment for Expenditures for Hydrological Services through June 30, 2007
- F. I-505 NB Ramps/Grant Avenue Traffic Signal Improvements
- G. Joint Use Pool Agreement – City of Winters & WJUSD
- H. Jackson/McArthur Road Reconstruction, Utility Phase Project No. 06-01
- I. RESOLUTION 2007-23, A Resolution authorizing the City of Winters to be the Applicant and Lead Jurisdiction for Used Oil Recycling Block Grant for Fiscal Year 2007-2008 on Behalf of Itself and the Participating Jurisdictions as Shown by the Attached Authorizing Letters

City Manager Donlevy gave an overview. Council Member Anderson requested that two letters be entered into record regarding the CALFED Watershed Grant Application, received from Mary Kimball, Director at Center for Land-Based Learning and from Dawn Calciano, Executive Director of the Lower Putah Creek Coordinating Committee. Mayor Fridae returned to the dais at this time. Council Member Stone made a motion to approve the consent items as presented. Seconded by Council Member Anderson. Motion carried unanimously.

PRESENTATIONS:

Presentations were made to: Jeanne Ritchie in appreciation of her service to the City of Winters as a community center attendant; Jessica Jordan in recognition of her outstanding senior project; and a ceremony was held to honor community members that had recently become U.S. citizens.

DISCUSSION ITEMS – Cont'd

3. Status Report and Direction on Storm Drain Master Plan Project

Contract Planner (CP) Heidi Tschudin gave an overview. Wes May, General Manager @ Pavestone, 27600 County Road 90, indicated their interest in developing the back half of their property, approximately 6.7 acres, and asked for guidance and direction. Jim Corbett, 49167 Greenview Drive, El Macero, spoke regarding Policy I.A.9.2.

The addition of Policy I.A.6.1 to this agenda item was requested, which reads "No new residential development may occur within the General Plan flood overlay zone until the citywide jobs/housing balance has significantly improved as determined by the City Council. This shall require demonstration of an acceptable match between housing prices and job wages, as well as a balance between the number of jobs and the number of houses. Licensed home occupations may be included." CP Tschudin also specified a correction to be made on Page 24 of the agenda packet as follows: 2,181 dus should read 2,489 dus.

Council Member Stone asked if this late breaking policy was specific to the Flood Overlay Zone, and CP Tschudin replied that it is in respect to this project. Council Member Martin asked if commercial industry was being encouraged v.s. residential and CP Tschudin responded affirmatively.

City Manager Donlevy indicated a timetable is important, and that non-adoption could be another hurdle in catching up on the jobs and housing

balance. Council Member Anderson inquired about the Waste Water Discharge System. CP Tschudin responded that she would research, although City Engineer (CE) Ponticello indicated the discharge would flow to Putah Creek and/or Dry Creek.

Council Member Aguiar-Curry made a motion to direct staff to proceed with the preparation of a negative declaration pursuant to CEQA for the update of the Winters Storm Drainage Master Plan, to confirm that the fee nexus study to establish impact fees for improvements addressed in the Storm Drainage Master Plan will not move forward until the update of the Storm Drainage Master Plan is revised and brought forward for separate consideration, and to direct staff to include proposed adoption of the new General Plan policies as part of the Storm Drainage Master Plan project. Council Member Anderson requested that mixed use development be incorporated into the motion, which was amended to reflect this. Motion was seconded by Council Member Martin. Motion carried unanimously as corrected.

7:30 Public Hearings (Published)

4. Update on the Hispanic Community Needs Forum (Moved from Item #7 to Item #4)

Humberto Izquierdo, member of the Hispanic Advisory Committee gave an overview of the Community Needs Forum held on March 16, 2007.

It was noted there will be a public hearing and a Special City Council meeting to be held on Tuesday, May 29 regarding proposed changes in YOLOBUS service in Winters.

5. Hold Public Hearing and Adoption of Resolution 2007-22 Amending and/or Approving the Annual Levy Report, and Ordering the Levy and Collection of Assessments Within the City of Winters City-Wide Maintenance Assessment District, Fiscal Year 2007/2008 (Moved from Item #4 to Item #5)

City Manager John Donlevy gave an overview. Mayor Fridae opened the public hearing at 8:16 p.m. and closed the public hearing at 8:16 p.m. Council Member Martin made a motion to adopt Resolution 2007-22, amending and/or approving the annual Levy Report, and Ordering the Levy and Collection of Assessments within the City of Winters City-Wide Maintenance Assessment District, Fiscal Year 2007/2008. Seconded by Council Member Stone. Motion carried with the following roll call vote:

AYES: Council Members Aguiar-Curry, Anderson, Martin, Stone
and Mayor Fridae
NOES: None
ABSTAIN: None
ABSENT: None

6. Public Hearing and Adoption of Resolution 2007-21 Designating Certain Parking Restrictions on Grant Avenue between Second Street to Railroad Avenue (Moved from Item #5 to Item #6)

Project Manager (PM) Alan Mitchell gave an overview of the safety concerns regarding the on-street parking on Grant Avenue between Railroad and First streets. The City Standard curb-to-curb width for a 2-lane roadway with on-street parking is 44-feet. This segment of Grant Avenue is only 37-feet. PM Mitchell indicated that letters were sent to the residents regarding the proposed restrictions. In response to Council Member Aguiar-Curry, PM Mitchell indicated he had not received any responses from the residents. Council Member Martin indicated he had spoken with one of the property owners along Grant Avenue, who was upset that the speed of the cars have increased and that he will be losing the parking space in front of his residence. Would it be possible to move the center line? Council Member Anderson felt the proposed recommendations would make matters worse and asked about the possibility of installing a median and striped crosswalks. PM Mitchell indicated he would check with Cal Trans regarding these matters.

Mayor Fridae opened the public hearing at 8:37 p.m. and closed the public hearing at 8:37 p.m.

Council Member Stone made a motion to approve staff recommendation by adopting Resolution No. 2007-21, designating certain parking restrictions on Grant Avenue (Hwy. 128) between Railroad Avenue and Second Street. Seconded by Mayor Fridae. Council Member Anderson thought it would be a mistake to deprive the residents of parking in front of their homes. The motion was not carried by the following roll call vote:

AYES: Council Member Stone and Mayor Fridae
NOES: Council Members Aguiar-Curry, Anderson and Martin
ABSTAIN: None
ABSENT: None

Council Member Stone then made a revised motion to approve staff recommendation to proceed with the proposed restrictions only on the north side of Grant Avenue between Railroad Avenue and Second Street.

Seconded by Council Member Aguiar-Curry. Motion carried by the following roll call vote:

AYES: Council Members Aguiar-Curry, Anderson, Martin, Stone
and Mayor Fridae
NOES: None
ABSTAIN: None
ABSENT: None

7. Public Hearing and First Reading of Ordinance 2007-04 Pertaining to Stopping, Standing and Parking (Moved from Item #6 to Item #7)

City Manager Donlevy gave an overview. Upon passage of this ordinance, Section 10.16.050 of the City of Winters Municipal Code will reduce the amount of time a vehicle, unattached trailer or recreational vehicle can be parked upon any street or alley from 120 consecutive hours to 72 consecutive hours.

Mayor Fridae opened the public hearing at 9:10 p.m. Resident Wade Cowan, 106 Third Street, wanted to verify that visitors can remain in a recreational vehicle for the duration of their visit. The only restriction is the 72 consecutive hour time limit. Mayor Fridae closed the public hearing at 9:13 p.m.

Council Member Stone made a motion to introduce and proceed with the first reading of Ordinance No. 2007-04, an Ordinance of the City of Winters amending Chapter 10.16 of the Municipal Code Pertaining to Stopping, Standing and Parking. Seconded by Council Member Anderson. Motion carried with the following roll call vote:

AYES: Council Members Aguiar-Curry, Anderson, Martin, Stone
and Mayor Fridae
NOES: None
ABSTAIN: None
ABSENT: None

8. Request from Venita D. O'Brien to accept application for annexation of Assessor Parcel Numbers 030-190-26 and 29

Community Development Director Dan Sokolow gave an overview of the staff report and the request for annexation re-submitted by Venita O'Brien regarding approximately 60 acres located at Moody Slough Road and County Road 88. It was requested that this item be brought back to a future City Council meeting.

9. **Continued public hearing and consideration of Development Agreement for the Mary Rose Gardens Tentative Subdivision Map Project (APN 003-524-19)**

Council Member Stone made a motion to continue this item, #9, as well as Item #10, which follows, to the June 5, 2007 City Council meeting. Seconded by Council Member Anderson. Motion carried unanimously.

10. **Continued public hearing and consideration of Development Agreement for the Anderson Place Tentative Subdivision Map Project (APN 003-220-22)**

COMMUNITY DEVELOPMENT AGENCY

Chairman Mike Martin re-opened the meeting of the Community Development Agency at 9:45 p.m. Mayor Fridae recused himself due to a possible conflict of interest.

1. **Resolution 2007-14, Approving the Forms of and Authorizing the Execution of an Indenture of Trust, A Bond Purchase Agreement, Continuing Disclosure Agreement and an Official Statement Relating to the Issuance of the Agency's Tax Allocation Bonds and Approving Certain Actions in Connection Therewith**

This item was approved in conjunction with Discussion Item #1.

2. **Rotary Park Restroom RFP – Award of Bid**

City Manager John Donlevy gave an overview. The base bid from Public Restroom Company was chosen and the site preparation will be done by a local contractor to be determined.

Agency Member Aguiar-Curry made a motion to accept the base bid submitted from Public Restroom Company in the amount of \$73,654 and an upgrade package in the amount of \$5,318 for a total project cost of \$78,972, and to authorize a site preparation budget not to exceed \$6,600, and to authorize the preparation and execution by the Executive Director of an Agreement between the Winters Community Development Agency and the Public Restroom Company for the construction of a Restroom

Facility at Rotary Park. Seconded by Agency Member Anderson. Motion carried unanimously, with Agency Member Fridae absent.

Mayor Fridae returned to the dais at this time.

FINANCING AUTHORITY

1. **Financing Authority Resolution 2007-15, Approving the Forms of and Authorizing the Execution of An Indenture of Trust, A Bond Purchase Agreement, Continuing Disclosure Agreement and Official Statement Relating to the Issuance of the Agency's Tax Allocation Bonds and Approving Certain Actions in Connection Therewith**

This item was approved in conjunction with Discussion Item #1.

CITY MANAGER REPORT: City Manager Donlevy reminded everyone of the Joint Workshop between the Yolo County Transportation District, which will be held on Thursday, May 24 @ 7 p.m. regarding shuttle service within city limits and additional transit services. The grand opening for the new Bobbie Greenwood Community Swim Center is scheduled for June 1st @ 6 p.m.

COUNCIL/STAFF COMMENTS: Regarding the shuttle project, Council Member Anderson indicated that SACOG and the YCTD are fine with it, but the approval for funding (approx. \$75,000) by the Yolo-Solano Air Quality Management District is not looking good. It is not their policy to fund operating expenses for projects. Council Member Martin requested a Hudson-Ogando update be placed on the June 5, 2007 agenda. Council Member Aguiar-Curry asked City Manager Donlevy if there was a recycling issue. He indicated he would check with CDD Dan Sokolow. Council Member Stone attended a LAFCO meeting on 5/14/07 where City & County pass-through agreements were discussed. He gave an example of the far-reaching effect by the City of Davis regarding a distant business (Plainfield Station.) He inquired if the General Plan Study area followed the sphere of influence, and it was determined by those present that it does not have to match.

EXECUTIVE SESSION: None

ADJOURNMENT: The meeting was adjourned at 10:05 p.m.

Woody Fridae, Mayor

ATTEST:

Nanci G. Mills, City Clerk



STAFF REPORT

TO: Honorable Mayor and Council Members
DATE: June 5, 2007
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Nick Ponticello, City Engineer *mq7*
SUBJECT: Jackson/McArthur Reconstruction, Roadway Phase
Project No. 06-01.2

RECOMMENDATION: Staff recommends the City Council (1) award the construction contract for the Jackson/McArthur Reconstruction – Roadway Phase, Project No. 06-01.2, to Hutchins Paving and Engineering, Inc., in the amount of Three Hundred Nine Thousand Three Hundred Forty Dollars (\$309,340); (2) authorize expenditures in the amount of Three Hundred Fifty Five Thousand Seven-Hundred Forty-One Dollars (\$355,741) for construction; and (3) authorize the City Manager to execute the Contract on the City's behalf.

BACKGROUND: Street conditions within the Major Vista Subdivision have been the subject of many complaints over the last few years. The City was able to address roadway and drainage concerns throughout most of the subdivision, with the Road Rehabilitation Project in 2000, but unfortunately, funding constraints did not allow the City to reconstruct Jackson Street and McArthur Avenue. Jackson Street and McArthur Avenue are badly deteriorated. The Jackson/McArthur Reconstruction, Project No. 06-01 was developed to address the street conditions, as well as drainage and water system deficiencies.

On September 19, 2006 City Council authorized the project budget. The design was broken into a utility phase and a roadwork phase. The utility phase of the project was awarded to West Valley Construction on May 15th. Construction should commence shortly and be completed in mid-July.

The roadway phase includes reconstruction of McArthur Avenue and Jackson Street. ADA-compliant access ramps will be installed and broken curb, gutter, and sidewalk will be replaced within the project area.

In April 2007 the construction documents were advertised for bid. The bid opening was held on May 16, 2007 and three bids were received. The bid tabulation is attached. Based upon the bid results, Hutchins Paving and Engineering, located in Redding, CA, were deemed the lowest responsible/responsive bidder for the roadwork phase, with a bid of \$309,340. The Engineer's estimate was \$400,000. The amount staff requests for construction expenditures (\$355,741) include 15% contingency, which is typical for this type of project.

Construction of the roadwork should commence in July with completion slated for early September. The two projects will be managed and inspected by Ponticello Enterprises.

ALTERNATIVES: None recommended by staff.

FISCAL IMPACT: The project is funded by Community Development Block Grant (CDBG) funds, and City Utility Enterprise funds. The total approved budget is \$1,044,100. The roadwork portion of the project is budgeted at \$548,500. With the low bid, the roadway phase is currently projected to come in under budget.

Attachments: Bid Tabulation

Jackson McArthur Reconstruction - Roadway Phase
Project No. 06-01.2
BID TABULATION

ITEM NO.	DESCRIPTION	UNITS	QUANTITY	Engineer's Estimate		Hutchins Paving and Engineering Inc.		Vaca Valley Excavating & Trucking Inc.		Vintage Paving Co. Inc.		Average Bid	
				UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1	MOBILIZATION	LS	1	\$ 18,263.00	\$ 18,263.00	\$15,000.00	\$ 15,000.00	\$19,000.00	\$ 19,000.00	\$ 9,000.00	\$ 9,000.00	\$14,333.33	\$ 14,333.33
2	CONSTRUCTION STAKING	LS	1	\$ 4,000.00	\$ 4,000.00	\$ 1,000.00	\$ 1,000.00	\$ 8,000.00	\$ 8,000.00	\$ 500.00	\$ 500.00	\$ 3,166.67	\$ 3,166.67
3	TRAFFIC CONTROL	LS	1	\$ 15,000.00	\$ 15,000.00	\$13,000.00	\$ 13,000.00	\$13,000.00	\$ 13,000.00	\$ 2,000.00	\$ 2,000.00	\$ 9,333.33	\$ 9,333.33
4	PREPARE WATER POLLUTION CONTROL PLAN (WPCP)	LS	1	\$ 2,100.00	\$ 2,100.00	\$ 1,000.00	\$ 1,000.00	\$ 3,000.00	\$ 3,000.00	\$ 800.00	\$ 800.00	\$ 1,600.00	\$ 1,600.00
5	TEMPORARY WATER POLLUTION CONTROL WORK	LS	1	\$ 4,000.00	\$ 4,000.00	\$ 1,000.00	\$ 1,000.00	\$ 5,000.00	\$ 5,000.00	\$ 1,200.00	\$ 1,200.00	\$ 2,400.00	\$ 2,400.00
6	ADJUST MANHOLE TO GRADE	EA	2	\$ 650.00	\$ 1,300.00	\$ 350.00	\$ 700.00	\$ 2,000.00	\$ 4,000.00	\$ 800.00	\$ 1,600.00	\$ 1,050.00	\$ 2,100.00
7	ADJUST WATER OR GAS VALVE BOX TO GRADE	EA	6	\$ 600.00	\$ 3,600.00	\$ 250.00	\$ 1,500.00	\$ 700.00	\$ 4,200.00	\$ 600.00	\$ 3,600.00	\$ 516.67	\$ 3,100.02
8	ADJUST MONUMENT BOX TO GRADE	EA	3	\$ 750.00	\$ 2,250.00	\$ 250.00	\$ 750.00	\$ 1,800.00	\$ 5,400.00	\$ 600.00	\$ 1,800.00	\$ 883.33	\$ 2,649.99
9	LOWER MANHOLE COVERS FOR RECONSTRUCTION	EA	2	\$ 2,500.00	\$ 5,000.00	\$ 250.00	\$ 500.00	\$ 1,700.00	\$ 3,400.00	\$ 100.00	\$ 200.00	\$ 683.33	\$ 1,366.66
10	LOWER ACCESS COVERS (OTHER THAN MANHOLES)	EA	6	\$ 1,000.00	\$ 6,000.00	\$ 250.00	\$ 1,500.00	\$ 500.00	\$ 3,000.00	\$ 50.00	\$ 300.00	\$ 266.67	\$ 1,600.02
11	REMOVE & REPLACE CURB & GUTTER	LF	381	\$ 55.00	\$ 20,955.00	\$ 42.00	\$ 16,002.00	\$ 61.00	\$ 23,241.00	\$ 59.00	\$ 22,479.00	\$ 54.00	\$ 20,574.00
12	REMOVE & REPLACE SIDEWALK	SF	1,716	\$ 18.00	\$ 30,888.00	\$ 9.00	\$ 15,444.00	\$ 20.00	\$ 34,320.00	\$ 12.00	\$ 20,592.00	\$ 13.67	\$ 23,457.72
13	REMOVE & REPLACE CG&S W/ CASE C ACCESS RAMP	EA	8	\$ 5,500.00	\$ 44,000.00	\$ 4,000.00	\$ 32,000.00	\$ 5,500.00	\$ 44,000.00	\$ 4,800.00	\$ 38,400.00	\$ 4,766.67	\$ 38,133.36
14	REMOVE & REPLACE VALLEY GUTTER	SF	577	\$ 20.00	\$ 11,540.00	\$ 12.00	\$ 6,924.00	\$ 20.00	\$ 11,540.00	\$ 23.00	\$ 13,271.00	\$ 18.33	\$ 10,576.41
15	ROADWAY EXCAVATION	CY	940	\$ 32.00	\$ 30,080.00	\$ 42.00	\$ 39,480.00	\$ 30.00	\$ 28,200.00	\$ 48.00	\$ 45,120.00	\$ 40.00	\$ 37,600.00
16	LIMETREAT SOIL SUBBASE	SY	6,136	\$ 10.50	\$ 64,428.00	\$ 4.50	\$ 27,612.00	\$ 8.00	\$ 49,088.00	\$ 5.80	\$ 35,588.80	\$ 6.10	\$ 37,429.60
17	ASPHALT CONCRETE BASE (TYPE A, 1" MAX.)	TON	1,070	\$ 76.00	\$ 81,320.00	\$ 75.00	\$ 80,250.00	\$ 72.00	\$ 77,040.00	\$ 74.00	\$ 79,180.00	\$ 73.67	\$ 78,826.90
18	ASPHALT CONCRETE (TYPE A, 1/2" MAX.)	TON	642	\$ 78.00	\$ 50,076.00	\$ 84.00	\$ 53,928.00	\$ 75.00	\$ 48,150.00	\$ 80.00	\$ 51,360.00	\$ 79.67	\$ 51,148.14
19	REFLECTIVE PAVEMENT MARKER at FIRE HYDRANTS	EA	5	\$ 40.00	\$ 200.00	\$ 50.00	\$ 250.00	\$ 15.00	\$ 75.00	\$ 25.00	\$ 125.00	\$ 30.00	\$ 150.00
20	RESTORE ALL DISTURBED LANDSCAPE PLANTINGS AND IRRIGATION SYSTEMS	LS	1	\$ 5,000.00	\$ 5,000.00	\$ 1,500.00	\$ 1,500.00	\$ 7,000.00	\$ 7,000.00	\$ 2,000.00	\$ 2,000.00	\$ 3,500.00	\$ 3,500.00
TOTAL				\$ 400,000.00		TOTAL	\$ 309,340.00	TOTAL	\$ 390,654.00	TOTAL	\$ 329,115.80	TOTAL	\$ 343,046.15



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers

DATE: June 5, 2007

THROUGH: John W. Donlevy, Jr., City Manager

FROM: Shelly Gunby, Director of Financial Management *Shelly*

SUBJECT: Resolution 2007-25, A Resolution of the City Council of the City of Winters Increasing the Capital Improvement Facilities Fees by 3.3% Effective July 1, 2007 in Accordance with Ordinance 92-06.

RECOMMENDATION:

Approve Resolution 2007-25, A Resolution of the City Council of the City of Winters Increasing the Capital Improvement Facilities Fees by 3.3% Effective July 1, 2007 in Accordance with Ordinance 92-06.

BACKGROUND:

In 1992, the City of Winters established a facility fee program (development impact fees) for all new development projected and Ordinance 92-06 established an automatic annual increase each July 1, equal to the percentage change in the Engineering News Record Construction Cost Index. The May 21, 2007 Engineering News Record Construction Cost Index increased 3.3% for the last 12 month period.

FISCAL IMPACT:

Revenues to the impact fee funds would be increased in a manner similar to the increase in construction costs that these funds are to be used on.

RESOLUTION NO. 2007-26
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
INCREASEING THE PROJECT MONITORING FEE BY 3.3% EFFECTIVE
JULY 1, 2007 IN ACCORDANCE WITH ORDINANCE 92-10

WHEREAS, Ordinance 92-10 established a Project Monitoring Fee as related to the 1992 General Plan; and

WHEREAS, Ordinance 92-10 provided that the fee imposed by that Ordinance shall be adjusted automatically on July 1 of each year by a percentage equal to the rise in the Engineering News Record construction cost index for the proceeding year;

NOW, THEREFORE, BE IT RESOLVED , the City Council of the City of Winters that the adopted Project Monitoring Fee shall be increase by 3.3% effective July 1, 2007 according to the construction cost index for the prior year, through May 21, 2006 as published in the Engineering News Record.. Said fee for the period July 1, 2007 through June 30, 2008 is on the attached schedule.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Winters, County of Yolo, State of California, on this 5th Day of June 2007, by the following roll call vote.

AYES:

NOES:

ABSTAIN:

ABSENT:

Woody Fridae, Mayor

ATTEST:

Nanci G. Mills, City Clerk

Exhibit A
 Resolution 2007-25 and Resolution 2007-26
 City of Winters Development Impact Fees
 Effective July 1, 2007

Facility	Residential Fee per Unit					Non-Residential Fee per Building Square Foot								
	Rural	Low Density	Medium Density	Mediym High Density	High Density	NC	Highway Commercial	CBD	Office	Other Commercial	Business Park	Ligh Industrial	Heavy Industrial	Public/Quasi Public
Water System	7,321	5,705	3,804	2,587	1,864	1.84	1.84	0.06	1.34	1.34	1.54	1.08	1.19	1.21
Waste Water System	9,124	7,110	6,320	4,740	3,317	3.35	3.35	1.13	2.40	2.40	2.40	1.67	2.24	2.57
General Storm Drain	97	75	51	0	26	0.03	0.03	0.01	0.02	0.02	0.03	0.02	0.02	
Streets	7,987	7,987	7,987	6,489	4,992	9.72	9.72	6.77	7.29	7.29	2.91	1.69	1.25	
Parks and Rec	4,071	4,071	4,071	3,309	2,544	-	1.00	-	-	1.00	-	-	-	
Public Safety	1,083	1,083	1,083	1,083	2,560	1.36	1.36	2.38	1.36	1.36	0.27	0.27	0.27	
Fire Protection	1,556	1,645	1,645	1,337	1,028	0.95	0.95	1.16	1.23	1.23	0.77	0.62	0.60	
General Capital	2,419	2,419	2,419	1,966	1,511	1.39	1.39	2.07	2.22	2.22	0.90	0.52	0.38	
Storm Drain-Non-Flood	697	233	210	10	56	0.09	0.09	0.06	0.12	0.12	0.20	-	-	
Monitoring Fee	1,136	1,136	1,136	1,136	1,076	0.60	0.60	0.60	0.60	0.60	0.10	0.10	0.10	



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers

DATE: June 5, 2007

THROUGH: John W. Donlevy, Jr., City Manager

FROM: Shelly Gunby, Director of Financial Management *Shelly*

SUBJECT: Resolution 2007-26 A Resolution of the City Council of the City of Winters Increasing the Project Monitoring Fee by 3.3% Effective July 1, 2007 in Accordance with Ordinance 92-10.

RECOMMENDATION:

Approve Resolution 2007-26 A Resolution of the City Council of the City of Winters Increasing the Project Monitoring Fee by 3.3% Effective July 1, 2007 in Accordance with Ordinance 92-10.

BACKGROUND:

When the City Council established the Project Monitoring Fee in 1992, Ordinance 92-10 included a provision that the fees shall be increased automatically annually according to the Engineering News Record Construction Cost Index. The increase is 3.3% based on the May 21, 2007, Engineering News Record and the fees are increased accordingly. The Project Monitoring Fee was established in 1992 to pay for the 1992 General Plan Update to partially pay for the ongoing costs of monitoring the implementation of the General Plan. These fees are currently being used to pay off the General Plan Deficit.

FISCAL IMPACT:

Increased revenues will pay off the General Plan Deficit quicker.

RESOLUTION NO. 2007-25
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
INCREASEING THE CAPITAL IMPROVEMENT FACILITIES FEES 3.3%
EFFECTIVE JULY 1, 2007 IN ACCORDANCE WITH ORDINANCE 92-06

WHEREAS, Ordinance 92-06 established a facility fee program (development impact fees) for all new development projects, and;

WHEREAS, Ordinance 92-06 provides that each fee imposed by this ordinance shall be adjusted automatically on July 1 of each year, by a percentage equal to the rise in the Engineers News Record construction cost index for the preceding twelve (12) months;

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Winters that the adopted Capital Improvement Facilities Fees shall be increase 3.3% effective July 1, 2006 according to the construction cost index for the prior year, through May 21, 2007 as published in the Engineering News Record. Said fee for the period July 1, 2007 through June 30, 2008 is on the attached schedule.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Winters, County of Yolo, State of California, on this 5nd day of June 2007, by the following roll call vote.

AYES:

NOES:

ABSTAIN:

ABSENT:

Woody Fridae, Mayor

ATTEST:

Nanci G. Mills, City Clerk

Exhibit A
 Resolution 2007-25 and Resolution 2007-26
 City of Winters Development Impact Fees
 Effective July 1, 2007

Facility	Residential Fee per Unit					Non-Residential Fee per Building Square Foot								
	Rural	Low Density	Medium Density	Mediym High Density	High Density	NC	Highway Commercial	CBD	Office	Other Commercial	Business Park	Ligh Industrial	Heavy Industiral	Public/Quasi Public
Water System	7,321	5,705	3,804	2,587	1,864	1.84	1.84	0.06	1.34	1.34	1.54	1.08	1.19	1.21
Waste Water System	9,124	7,110	6,320	4,740	3,317	3.35	3.35	1.13	2.40	2.40	2.40	1.67	2.24	2.57
General Storm Drain	97	75	51	0	26	0.03	0.03	0.01	0.02	0.02	0.03	0.02	0.02	
Streets	7,987	7,987	7,987	6,489	4,992	9.72	9.72	6.77	7.29	7.29	2.91	1.69	1.25	
Parks and Rec	4,071	4,071	4,071	3,309	2,544	-	1.00	-	-	1.00	-	-	-	
Public Safety	1,083	1,083	1,083	1,083	2,560	1.36	1.36	2.38	1.36	1.36	0.27	0.27	0.27	
Fire Protection	1,556	1,645	1,645	1,337	1,028	0.95	0.95	1.16	1.23	1.23	0.77	0.62	0.60	
General Capital	2,419	2,419	2,419	1,966	1,511	1.39	1.39	2.07	2.22	2.22	0.90	0.52	0.38	
Storm Drain-Non-Flood	697	233	210	10	56	0.09	0.09	0.06	0.12	0.12	0.20	-	-	
Monitoring Fee	1,136	1,136	1,136	1,136	1,076	0.60	0.60	0.60	0.60	0.60	0.10	0.10	0.10	



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers

DATE : June 5, 2007

THROUGH: John W. Donlevy, Jr., City Manager

FROM: Shelly A. Gunby, Director of Financial Management *Shelly*

SUBJECT: Appropriation Limit for Fiscal Year 2007-2008

RECOMMENDATION:

City Council approve Resolution 2007-27, A Resolution of the City Council of the City of Winters Establishing an Appropriation Limit Pursuant to Article XIII B of the California Constitution for Fiscal Year 2007-2008

BACKGROUND:

Article XIII B of the California Constitution places a limit on the appropriations of all state and local agencies in California. It requires an annual review of the appropriation limit calculation. Resolution 2007-27 establishes the appropriation limit for the City of Winters pursuant to Article XIII B of the California Constitution for the Fiscal Year 2007-2008. This limit will be used when preparing the annual budget for the city to insure that appropriations are within the limit.

FISCAL IMPACT:

None

ATTACHMENTS:

Resolution 2007-27
Attachment A-Appropriation Limit Calculation

RESOLUTION 2007-27
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
WINTERS ESTABLISHING AN APPROPRIATION LIMIT
PURSUANT TO ARTICLE XIII B OF THE CALIFORNIA
CONSTITUTION FOR FISCAL YEAR 2007-2008

WHEREAS, Article XIII B of the Constitution of the State of California provides for the annual appropriations of governmental units to be the subject of limitations, and

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Winters that an appropriation limit for the Fiscal 2007-2008 pursuant to Article XIII B of the Constitution of the State of California be established in the amount of \$4,817,926 and the same is hereby approved.

PASSED AND ADOPTED by the City Council, City of Winters, the 5th day of June 2007 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dan Martinez, Mayor

ATTEST:

Nanci G. Mills, CITY CLERK

**CITY OF WINTERS
APPROPRIATION LIMIT
FOR FISCAL YEAR 2007-2008
YEAR ENDED JUNE 30, 2008**

APPROPRIATION LIMIT, FISCAL YEAR 2006-2007	\$	4,817,926
ADJUSTMENT FACTOR:		
POPULATION GROWTH PERCENT		1.0459
ANNUAL ADJUSTMENT IN DOLLARS		
APPROPRIATION LIMIT FISCAL YEAR 2007-2008	\$	5,038,928

207-2008
APPROPRIATION LIMIT

Per Capita change = 4.42
Population change = 0.16

Per capital converted to a ratio

$$\frac{4.42+100}{100} = 1.0442$$

Population converted to a ratio

$$\frac{.16+100}{100} = 1.0016$$

Calculation Factor for FY 2007-2008

$$1.0442 \times 1.0016 = 1.045871$$



CITY COUNCIL STAFF REPORT
June 5, 2007

TO: Honorable Mayor and Council Members

THROUGH: John W. Donlevy, Jr. – City Manager

FROM: Dan Sokolow – Community Development Director *DS*

SUBJECT: Continued public hearing and consideration of Development Agreement for Mary Rose Gardens Tentative Subdivision Map Project (415 West Grant Avenue, APN 003-524-19); **STAFF RECOMMENDS CONTINUATION TO JUNE 19, 2007 COUNCIL MEETING.**

RECOMMENDATION: Staff recommends that the City Council continue the public hearing and consideration of the Development Agreement for the Mary Rose Gardens Tentative Subdivision Map Project to the June 5, 2007 City Council meeting. Staff is reviewing a reimbursement agreement template that has been prepared by the City's Assistant City Attorney Steve Rudolph for the Grant Avenue (State Route 128) improvements that the Mary Rose Gardens project is required to construct. Staff anticipates that the reimbursement agreement template will be used also for other development projects.

MRG/TM CC Stf Rpt 5Jun07



CITY COUNCIL STAFF REPORT

June 5, 2007

TO: Honorable Mayor and Council Members

THROUGH: John W. Donlevy, Jr. – City Manager

FROM: Dan Sokolow – Community Development Director *DS*

SUBJECT: Continued public hearing and consideration of Development Agreement for the Anderson Place Tentative Subdivision Map Project (723 Railroad Avenue, APN 003-220-22).

SUMMARY OF PROJECT: The project site is located in the north central area of the City of Winters at 723 Railroad Avenue. The project site, which is on the east side of Railroad, totals 2.13 acres comprised of APN 003-220-22 and is north of Grant Avenue (State Route 128), south of Betty Court, east of the existing section of Anderson Avenue, and west of Dutton Street. The project is a proposed rezoning and subdivision of 2.13 acres to create 24 residential lots with a total of 28 residential units and 9 office suites, an internal roadway/parking area ("Lot A"), a pedestrian pathway area ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D").

SUMMARY OF ACTIONS TAKEN BY CITY COUNCIL AT ITS APRIL 3 and 17, 2007 MEETINGS:

1. Adopted Resolution No. 2007-09 approving CEQA findings of fact, adopting a mitigation monitoring plan, and certifying the final mitigated negative declaration for the Anderson Place Project.
2. Adopted Resolution No. 2007-10 approving the project.
3. Waived the first reading of Ordinance No. 2007-03 to approve a rezoning (Planned Development Overlay) and adopted Ordinance No. 2007-03 (at the April 17, 2007 meeting) and Planned Development (PD) Permit No. 2007-02 (at the April 17, 2007 meeting).

DEVELOPMENT AGREEMENT: The proposed DA "public benefit" features are detailed below. It should be noted that there are many other requirements of the project that the City will achieve through the mitigation measures and conditions of approval. The items below are the items that would be gained to the community's "net benefit", in addition to the requirements of the mitigation measures and conditions of approval.

- School Funding – Payment of Level Three School Impact Fees (low- and very low- income units exempt).
- Fiscal Neutrality – Pay an annuity in the amount of \$7,350 for each residential unit to offset any cost increase to the City general fund.
- Parks – Fund new parks at seven acres per thousand through in-lieu fees.
- Energy – All of the units to be constructed as EPA Energy Star units. Photovoltaic solar energy systems capable of producing 2.4 peak rated direct current (DC) kilowatts to be installed on seven of the proposed buildings. (Note: Because of the small roof sizes and non-standard roof designs, a number of the buildings proposed for the project cannot accommodate photovoltaic solar energy systems capable of producing 2.4 peak rated direct current). The market rate units without photovoltaic solar energy systems to be pre-wired for such systems and these systems to be offered as an option to prospective buyers of the pre-wired units.
- Public Safety Facility – Contribute \$25,000 towards construction of the facility.
- Library Fund – Contribute \$20,000 towards the library project.
- Water Impact Fees Advance Payment – Pay the City impact fees for Water at Final Map.

It should be noted that the Fiscal Neutrality and Parks items are General Plan requirements and therefore are not true “net benefit” items, but they have been detailed here for clarity purposes.

Section 4.7 (Affordable Housing) has been added to the DA to provide the developer with \$200,000 in redevelopment agency low and moderate income housing funds funding towards the affordable housing units required for the project provided that the developer applies for and receives the first building permit for a residential structure within 18 months of the City Council’s approval of the project development agreement. Assuming that the City Council is supportive of the affordable housing assistance, the City’s bond counsel will prepare a separate resolution of the Community Development Agency to approve the funding.

RAILROAD AVENUE AND ANDERSON AVENUE INTERSECTION: The City Engineer will provide an oral report at the City Council meeting regarding pedestrian use of the Railroad and Anderson intersection.

RECOMMENDED ACTIONS:

If the Council supports the Planning Commission and staff recommendation then the following actions should be taken:

A) Assuming the applicant indicates their acceptance of the final terms of the DA, the staff recommends that the City Council take the following action:

- 1) Introduce and waive the first reading of Ordinance No. 2007-05 (Attachment 1 to this report) approving and authorizing execution of the Anderson Place Development Agreement. (Note: The ordinance must return for second reading and adoption. It must be signed by the applicant prior to the second reading and adoption.)

ATTACHMENTS:

- 1) Final Development Agreement and Ordinance

Anderson Place/TM CC Stf Rpt 5Jun07

A DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF WINTERS AND SAN BERNADINO, LLC
RELATING TO THE DEVELOPMENT OF THE PROPERTY
COMMONLY KNOWN AS THE ANDERSON PLACE PROPERTY

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into between the CITY OF WINTERS, a municipal corporation (the "City"), and San Bernadino, LLC, a California limited liability company (the "Developer"), under the authority of § 65864 *et seq.* of the Government Code of the State of California and Chapter 2 of Title 11 of the Winters Municipal Code. This Agreement is effective on the date it is recorded in the Office of the County Recorder of Yolo County. The City and the Developer are sometimes referred to herein as the Parties.

FACTS AND CIRCUMSTANCES

This Agreement is entered into based on the following facts and circumstances, among others:

1. The City of Winters is a small city in Yolo County which, among other things, prides itself in being a clean, safe, and family-friendly place to live.
2. In order to meet the needs of the City and the Developer, the Parties agree that the best method of planning the residential development of the Property owned by the Developer, commonly known as the Anderson Place Property and further described in Exhibits A and B to this Agreement, is through the use of a Development Agreement as authorized by the Planning and Zoning Law, Division 1, Chapter 4, Article 2.5(commencing with California Government Code § 65864)

[entitled "Development Agreements"] and Title 11, Chapter 2 of the Winters Municipal Code [entitled "Development Agreements"].

3. It is the intent of the Parties in entering into this Agreement to provide a mechanism by which the City's General Plan may be implemented in a manner which provides the Developer certain vested rights to develop the Anderson Place Property in exchange for planning and financial commitments by the Developer which will mitigate the impact of new development on the City's infrastructure and its ability to provide municipal services, while providing the City with sufficient discretionary control and police power authority to protect the health, safety, and general welfare.

THE PARTIES AGREE AS FOLLOWS:

TABLE OF CONTENTS

This Agreement is divided into articles, sections, and subsections as set forth below. The title of an article, section, or sub-section is for the convenience of the Parties only and a title is not intended to alter the content or meaning of any article, section or subsection.

Article 1. Definitions

Article 2. General Provisions

Article 3. Development of the Property

Article 4. Special Development Obligations

Article 5. Default, Remedies, and Dispute Resolution

Article 6. Hold Harmless and Indemnification

ARTICLE 1 DEFINITIONS

The following words and phrases used in this Agreement shall have the meanings set forth in this Article. All words not specifically defined shall be deemed to have their common meaning and/or the meaning generally given to such words in the parlance of the planning and development of real property in the State of California.

Section 1.1 "Agreement" means this Development Agreement.

Section 1.2 "Application fees" means the amount paid by the Developer for the processing of any land use entitlement or for an amendment to this Agreement.

Section 1.3 "Building Permit" means the ministerial permit issued for the construction of a residential housing unit upon the payment of all applicable fees.

Section 1.4 "Anderson Place Property" or "The Property" means the real property which is the subject of this Agreement. It is legally identified as Yolo County Assessor's Parcel No. 003-220-22, and is more specifically shown and described in Exhibits A and B.

Section 1.5 "Anderson Place Tentative Subdivision Map" means the tentative map, and the Conditions of Approval, approved for The Property in accordance with the Subdivision Map Act and the City's Subdivision Ordinance. A copy of the Anderson Place Tentative Subdivision Map #4859 is attached as Exhibit C.

Section 1.6 "Anderson Place Subdivision" means the multi-family residential development created by the Anderson Place Tentative Subdivision Map.

Section 1.7 "City" means the legal entity known as the City of Winters, a municipal corporation of the State of California. It includes the officers, agents, employees, bodies, and agencies of the City as the context may indicate. It also includes each person duly appointed to carry out a specific function as required in this Agreement. (E.g., the term "City Engineer" includes the person holding that title or any other person designated by the City to perform the functions set forth in the Agreement to be performed by the City Engineer.)

Section 1.8 "City of Winters" means the physical boundaries of the City of Winters.

Section 1.9 "Condition of approval" means a requirement placed on a land use entitlement which must be satisfied in order for the entitlement to be effective. Example: a condition that a road be built at the expense of the Developer and dedicated to the City as a public thoroughfare.

Section 1.10 "Conditions of Approval" means the conditions placed on the approval of the Anderson Place Tentative Subdivision Map. A copy of the Conditions of Approval is attached as Exhibit D.

Section 1.11 "Developer" means San Bernadino, LLC, a California limited liability company and/or its successor(s) in interest.

Section 1.12 "Discretionary Approval" means an action which requires the exercise of judgment, deliberation, or discretion on the part of the City in approving or disapproving a particular activity.

Section 1.13 "Final subdivision map" or "final map" means the map submitted to the City which, once approved under the City's Subdivision Ordinance and the Subdivision Map Act, is recorded in the Official Records of Yolo County and legally creates the residential lots, streets, and other land use features shown on it.

Section 1.14 "Impact Fee" means the amount paid by the Developer to mitigate the impacts of development of The Property for such things as traffic circulation, sewer and water conveyance facilities, and similar matters.

Section 1.15 "Land Use Entitlement" means either a Discretionary Approval or Ministerial Approval.

Section 1.16 "Ministerial Approval" means an action by the City given where there has been compliance with applicable regulations and which does not require the exercise of discretion.

Section 1.17 "Mitigation Measures" means the requirements placed on the development of The Property to cure or lessen the environmental impact of a particular physical activity as identified as part of the analysis done for The Property under the California Environmental Quality Act (CEQA). The Mitigation Measures are a part of Exhibit D, Conditions of Approval.

Section 1.18 "Off-site improvement" means a public improvement constructed outside the physical boundaries of The Property.

Section 1.19 "On-site improvement" means a public improvement constructed within the physical boundaries of The Property.

Section 1.20 "Party" means either the City or the Developer, or their successors, as the context may indicate. "Parties" means both the City and the Developer, or

their successors.

Section 1.21 "Public Improvements" or "Infrastructure" means facilities constructed for use in accommodating residential use on The Property.

Section 1.22 "Vesting law" means any state or federal law which gives the owner of real property the right to develop such property in a specified manner, which right cannot be limited or abrogated by the City.

Section 1.23 "Affiliated Entity" means any entity where members of the Developer are officers, shareholders or employees of such entity.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 All Exhibits Deemed Incorporated By Reference.

Unless specifically stated to the contrary, the reference to an exhibit by a designated letter or number shall mean that the exhibit is made a part of this Agreement.

Section 2.2 Property to be Developed.

The Property to be developed under this Agreement is the property commonly known in the City of Winters as the Anderson Place Property, Yolo County Assessor's Parcel No. 003-220-22 (consisting of approximately 2.13 acres). A map showing the location and boundaries of The Property is attached as Exhibit A and a legal description describing The Property is attached as Exhibit B. In this Agreement the Anderson Place Property will, in most instances, be referred to simply as "the Property."

Section 2.3 Agreement to be Recorded; Effective Date; Term.

a. When fully executed, this Agreement will be recorded in the Official Records of Yolo County, pursuant to Government Code section 65868.5.

b. The term of this Agreement is five (5) years, commencing on the date it is recorded. The term may be extended by mutual consent of the Parties. It may be terminated as provided in Article 5.

Section 2.4 Equitable Servitudes and Covenants Running With the Land.

Any successors in interest to the City and the Developer shall be subject to the provisions set forth in Government Code sections 65865.4 and 65868.5. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do, or refrain from doing, some act with regard to the development of The Property: (a) is for the benefit of and is a burden upon The Property; (b) runs with The Property and each portion thereof; and (c) is binding upon each Party and each successor in interest during ownership of The Property or any portion thereof. Nothing herein shall waive or limit the provisions of Section 2.5, and no successor owner of the Property, any portion of it, or any interest in it shall have any rights except those assigned to the successor by the Developer in writing pursuant to Section 2.5. In no event shall an owner or tenant of an individually completed residential unit within the Anderson Place Subdivision have any rights under this Agreement.

Section 2.5 Right to Assign; Non-severable obligations.

a. Except as otherwise provided, the Developer shall have the right to sell, encumber, convey, assign or otherwise transfer (collectively "assign"), in

whole or in part, its rights, interests and obligations under this Agreement to a third party during the term of this Agreement.

b. No assignment shall be effective until the City, by action of its City Council, approves the assignment. Approval shall not be unreasonably withheld provided:

1. The assignee has the financial ability to meet the obligations proposed to be assigned and to undertake and complete the obligations of this Agreement affected by the assignment; and

2. The proposed assignee has adequate experience with residential developments of comparable scope and complexity to that being undertaken on The Property and has successfully completed such developments.

c. The special development conditions set forth in Article 4 are not severable, and any sale of The Property, in whole or in part, or assignment of this Agreement, in whole or in part, which attempts to sever such conditions shall constitute a default under this Agreement and shall entitle the City to terminate this Agreement in its entirety.

Section 2.6 Amendment of the Agreement.

This Agreement may be amended from time to time with the mutual written consent of both Parties as provided by Government Code section 65868 and Title 11, Chapter 2, Article 6 (Amendment or Cancellation by Mutual Consent) of the Winters Municipal Code. The cost by the City in processing a proposed amendment shall be paid by the Developer. The Developer shall pay normal application fees.

Section 2.7 Whole Agreement; Conflict with Municipal Code.

a. This Agreement, together with any subsequent addenda, amendments, or modifications, shall constitute the entire agreement of the Parties as to the development of The Property. All prior agreements of the Parties, whether written or oral, are of no further force or effect.

b. The provisions of Title 11, Chapter 2 of the Winters Municipal Code entitled "Development Agreements" are incorporated by this reference into this Agreement. However, if there is a conflict between a specific provision of the Winters Municipal Code and a specific provision of this Agreement, this Agreement shall prevail.

Section 2.8 Choice of Law; Venue; Attorneys' Fees; Alternative Dispute Resolution.

a. This Agreement shall be interpreted according to the laws of the State of California. Any litigation concerning its meaning shall be venued in the Superior Court of Yolo County. The prevailing Party in such litigation, as determined by the court, shall be awarded reasonable attorneys' fees in addition to statutory costs.

b. Nothing herein shall preclude the Parties from entering into a separate agreement to resolve any matter concerning this Agreement by a method other than litigation in court, including binding arbitration.

Section 2.9 Notices.

a. Formal written notices, demands, correspondence, and communications between the City and the Developer shall be given if sent to the City and the Developer by any one of the following methods:

1. Via certified U.S. Mail, return receipt requested.

2. Via an overnight mail service of the type normally used by the business community, such as Federal Express, UPS Overnight, and California Overnight.

3. By facsimile, provided a "hard" copy is sent at the same time by regular U.S. Mail.

b. The written notices, demands, correspondence, and communications may be directed in the same manner to such other persons and addresses as either Party may from time to time designate. Notices to the City shall be given as follows:

City of Winters
318 First Street
Winters, CA 95694
Attn: City Manager
Telephone (530) 795-4910 x 110
FAX (530) 795-4935

c. Notices to the Developer shall be given as follows:

San Bernadino, LLC
206 A Bulkley Avenue
Sausalito, CA 94965
Attn: Eva Brzeski
Telephone (415) 887-9300
FAX

ARTICLE 3
DEVELOPMENT OF THE PROPERTY

Section 3.1 Land Use Entitlements.

- a. The Property shall be developed under the following land use entitlements, all of which have been adopted or approved by the City Council:
1. Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Resolution No. 2007-09 adopted on April 3, 2007).
 2. This Development Agreement (Ordinance No. 2007-05 adopted June 19, 2007 and effective on July 19, 2007, (the "Enacting Ordinance")).
 3. Zoning Ordinance amendment to rezone 0.71 acres from O-F to O-F PD Overlay and 1.42 acres C-2 to C-2 PD Overlay (Ordinance No. 2007-03 adopted April 17, 2007 and effective on May 18, 2007).
 4. Anderson Place Tentative Subdivision Map, with Findings of Fact and Conditions of Approval, dividing The Property into 24 residential lots to create 28 residential units and 9 office suites, an internal roadway/parking areas ("Lot A"), a pedestrian pathway area ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D"). (Resolution No. 2007-10 adopted on April 3, 2007).
 5. A Planned Development Permit (Ordinance No. 2007-03 adopted April 17, 2007 and effective on May 18, 2007).
 6. Amendment of the Circulation Master Plan (May 19, 1992) and Standard Street Cross Sections (adopted October 2, 2001; City Council

Resolution 2001-61) to allow Anderson Avenue to be constructed to Collector Street improvement standards with a 50-foot right of way, 40-foot face of curb to face of curb roadway section, and 5-foot sidewalks each side to the existing Railroad Avenue roadway and to allow interim Railroad Avenue improvements to include interim landscaping within the future roadway on east side of Railroad Avenue, with a 10-foot concrete pedestrian/bike path from the northern terminus of the development to the southern terminus of the development (Resolution No. 2007-10 adopted on April 3, 2007).

7. Conditional Use Permit to allow the construction of multi-family housing in the O-F and C-2 Zones (Resolution No. 2007-10 adopted on April 3, 2007).

8. A Demolition Permit to remove one existing structure on The Property (Resolution No. 2007-10 adopted on April 3, 2007).

9. Site Plan for the design of the residences and office suites and the conceptual landscaping for the subdivision feature/green space area ("Lot B"), the Railroad Avenue frontage, and internal areas (Resolution No. 2007-10 adopted on April 3, 2007).

b. Under the provisions of Government Code § 66452.6(a), the term of the Anderson Place Subdivision Tentative Subdivision Map is co-terminus with the term of this Agreement.

Section 3.2 Consistency with General Plan.

The City finds that the provisions of this Agreement and the development of the Property are consistent with and conform to the General Plan of the City of Winters, as amended.

Section 3.3 Vested Rights of Developer.

a. Unless otherwise provided in this Agreement, the Developer shall have the vested right to develop the Property in accordance with the land use entitlements described in Section 3.1 above, and in conformity with the City rules, regulations, policies and ordinances in effect on the date of adoption of the Enacting Ordinance, regardless of subsequent amendments to the General Plan, the Zoning Ordinance, the Subdivision Ordinance, or any other ordinance, rule, or regulation adopted by the City. This vested right shall include:

1. The right to the number of residential lots, dwelling units, and the density of development (dwelling units per acre) of those units, as shown on the Anderson Place Tentative Subdivision Map.

2. Exclusion from:

a) Subsequently enacted building moratoria.

3. The right to connect each dwelling unit to sewer and water services, provided all improvements regarding such services are made and all applicable fees are paid.

4. The cross-section of streets (including sidewalks, trails, and other thoroughfares) as established in the Conditions of Approval for the Anderson Place Tentative Subdivision Map.

5. The Mitigation Measures.

b. The vested rights set forth in Subdivision a. do not apply to changes effecting development of the Property as mandated by state and/or federal laws effective after the date this Agreement is recorded. In the event of such changes, the City will permit the development of the Property as originally permitted by this Agreement to the greatest extent reasonably feasible taking into consideration the changes in the law.

Section 3.4 Rights Retained by the City.

a. Except as specifically provided in section 3.2, all regulations of the City as expressly provided by state law, federal law, and/or local ordinance, resolution, or rule shall pertain to the development of the Property. Such regulations include, but are not limited to:

1. Discretionary approvals. (The only discretionary approval contemplated at this time is site plan review (design review) pursuant to the Zoning Code.)

2. Subdivision standards in effect when a final subdivision map is approved.

3. The California Building Code, National Fire Protection Act, and local building code standards in effect at the time a building permit for a specific dwelling unit is issued.

4. Fees (including, but not limited to, fees commonly referred to as "impact fees") and charges, including, but not limited to, fees and charges for

building permits, traffic signalization, sewer infrastructure, water infrastructure, traffic and pedestrian circulation, library services, and police and fire buildings and equipment, which are in effect and collected at the time of the approval of a final subdivision map or the issuance of a building permit, as provided in this Agreement or as generally applicable throughout the City of Winters.

b. The City may make and enforce ordinances, resolutions, and other rules and regulations pertaining to the Property under its general police power, provided they are of general applicability to all developments of a similar nature in the City of Winters.

Section 3.5 Other Vesting Laws Inapplicable.

a. It is the intent of the Parties that the provisions of this Agreement shall supersede any provision of state or federal law pertaining to the vested rights of the Developer to develop the Property, whether those laws are currently in force or become effective after this Agreement is recorded. The laws in effect as referenced in the preceding sentence include, but are not limited to, provisions of the Government Code pertaining to Development Agreements (§ 65864 *et seq.*) and Development Rights [vesting tentative maps] (§ 66498 *et seq.*).

b. Notwithstanding subsection a., however, to the extent that a state and/or federal law becomes effective after this Agreement is recorded shall be made specifically applicable to the vested rights of landowners generally in the development of their properties, such state and/or federal law shall prevail.

c. The Developer shall not make any application to develop the Property, in whole or in part, under any vesting law, unless the right to do so is

specifically granted by state and/or federal law which becomes effective after the date of the recording of this Agreement.

Section 3.6 Commencement of Development.

a. Unless excused by the City for circumstances beyond the control of the Developer, the Developer shall, within 150 days after this Agreement is recorded, submit for review/approval by the City the final map for the Anderson Place Subdivision and accompanying subdivision improvement plans. For purposes of this subsection a., "circumstances beyond the control of the Developer" shall include, but are not limited to, inclement weather, acts of God, natural disasters, acts of the state and/or federal government, a referendum of the ordinance adopting this Agreement, or third party litigation challenging the validity of this Agreement. However, "circumstances beyond the control of the Developer" do not include a change in economic conditions which affect either the Developer individually or the land development/building industry generally.

b. Any time limit prescribed for any action required by this Agreement shall be extended by the number of days during which circumstances beyond the control of the Developer preclude the action from being taken.

Section 3.7 Installation of Public Improvements.

Public improvements (infrastructure) in the nature of roads, sidewalks, trails, sewers, water service, third party utilities, and similar items will be constructed both on-site and off-site during the development of the Anderson Place Subdivision. When the final map for the Anderson Place Subdivision is approved, the Developer shall enter into a separate written agreement with the City by which

it contracts to build and dedicate the public improvements required. Security for the construction of the improvements shall be provided as required by law.

Section 3.8 Property for Public Improvements; Offsite Improvements.

a. The Developer shall, in a timely manner as determined by the City, and consistent with the requirements of the Anderson Place Tentative Subdivision Map, acquire the real property rights necessary to construct or otherwise provide the public improvements contemplated by this Agreement.

b. In any instance where the Developer is required to construct any public improvement on land in which neither the Developer nor City has sufficient title or interest, the Developer shall, at its sole cost and expense, obtain the real property interests necessary for the construction of such public improvements. The Developer shall exercise all reasonable efforts, as determined by the City, to acquire the real property interests necessary for the construction of such public improvements by the time the final subdivision map for the Anderson Place Subdivision is filed with the City.

c. In the event the Developer is unable to acquire the necessary property interest or interests, the City shall either a) negotiate the purchase of the necessary property interests to allow Developer to construct the public improvements as required by this Agreement, or b) if necessary, in accordance with the procedures established by law, use its power of eminent domain to acquire the Property interests. Prior to commencing negotiations, the City may require the Developer to enter into a separate agreement to provide the funding necessary to acquire the Property interests and/or to pay for the cost of any eminent domain action. Such costs include, but are not limited to, the price of the Property

acquired, and for purposes of eminent domain, the City's attorneys' fees, expert witness fees, jury fees, and related matters, and litigation expenses awarded by the court to the Property owner against the City.

Section 3.9 Reimbursement for Oversizing of Public Improvements; Advanced Funding of Certain Improvements; Credit for Improvements Installed.

a. In some instances, the Developer, through the process commonly referred to as "oversizing," will be required to install public improvements to a size and/or capacity greater than that which is required to serve only the residents of the Anderson Place Subdivision. These improvements will benefit other properties. In such an instance, the Developer shall be entitled to reimbursement for such oversizing from fees paid by other properties.

b. There are two sources from which the Developer may be reimbursed for oversizing:

1. By way of a separate agreement between the City and the Developer which will provide that when a particular property benefiting from the oversizing is developed, the City will require the benefiting property to reimburse the Developer its *pro rata* share of the cost of the oversizing. A written agreement under this subsection b. shall have a term of no longer than fifteen (15) years.

2. By way of the payment to the Developer from impact fees for a particular type of infrastructure (e.g., sewers) collected by the City from other properties developed in the City.

c. In any instance in which oversizing is required, the City Engineer shall identify the method of reimbursement the Developer will receive.

1. Where reimbursement involves a benefiting property to reimburse the Developer for oversizing, the City Engineer will determine the total cost of the improvement installed by the Developer, deduct the prorata share to be borne by the Property, and determine what share of the remainder is to be reimbursed by the benefiting property.

2. When the Developer will receive reimbursement from mitigation fees paid by developing properties, the City Engineer shall provide to the Developer a statement of the amount the Developer will receive and the approximate time when that amount will be paid.

d. The Developer understands and agrees that reimbursement for a particular oversized improvement will come only from other developing properties or from mitigation fees as described in subsection b.1. When reimbursement is from mitigation fees, such fees shall come only from the fund into which fees for that type of improvement are made. (Example: If an oversized sewer main is reimbursed through mitigation fees, only those fees collected for sewer improvements, and not fees from any other fund, including, but not limited to, the City's General Fund, will be used.)

1. If mitigation fees paid by others are insufficient to repay the Developer for the full cost of oversizing a particular improvement, the Developer shall have no recourse against the City.

2. If a benefiting property fails to reimburse the Developer for oversizing, the Developer shall have no recourse against the City. However, the Developer retains all rights against the benefiting property and its owners.

e. In some instances, the Developer will have agreed, under the provisions of Article 4, to pay, in advance of the time otherwise payable, certain fees which would normally be collected by the City at the time a building permit is issued. When the Developer pays such fees in advance, the Developer will be given credit against such advance each time a building permit is issued. The amount of credit will be the amount which was paid in advance and which would have otherwise been payable at the time of issuance of the building permit.

f. In the event the Developer installs an improvement for which a fee is normally collected at the time of the issuance of a building permit, the Developer shall be deemed to have paid that fee for the number of building permits which is equal to the cost of the installed improvement as determined by the City Engineer. (Example: If a fee of \$1,000 is normally collected at the time a building permit is issued for improvement X, and the Developer installs improvement X at a cost of \$20,000, then the Developer will be credited with having paid that fee for 20 building permits.)

1. The City Engineer shall have the exclusive right to interpret this section in case of any disagreements concerning its applicability.

Section 3.10 Subsequent Discretionary Approvals.

a. To the extent any discretionary approvals are required to develop the Property after this Agreement is recorded, the Developer shall apply for those approvals in the same manner as any other person applying for land use entitlements from the City. All application fees then applicable for the type of land use entitlement(s) sought shall apply. The City will review these applications in

good faith within a reasonable time to insure that the Developer may proceed to develop The Property in the manner contemplated by this Agreement.

b. The only remaining discretionary approval which is contemplated at this time is site plan review (design review) under the Zoning Ordinance.

Section 3.11 Review of Agreement.

Reviews by the City of compliance by the Developer of the terms of this Agreement shall be done as provided in Title 11, Chapter 2, Article 7 (Review) of the Winters Municipal Code.

Section 3.12 Compliance with Government Code § 66006.

As required by Government Code section 65865(e) for development agreements adopted after January 1, 2004, the City will comply with the requirements of Government Code section 66006 pertaining to the payment of fees for the development of The Property.

ARTICLE 4

SPECIFIC DEVELOPMENT OBLIGATIONS

Section 4.1 Schools.

a. The Developer acknowledges and agrees that the mitigation of the impact of The Anderson Place at Winters Subdivision on schools within the Winters Joint Unified School District is of paramount importance to the City and its residents. As a consequence, the Developer states that its intention entering into this Agreement is to mitigate the impact on schools to the greatest reasonable extent, in accordance with the terms of an agreement negotiated between the

Developer and the Winters Joint Unified School District. A copy of the agreement is attached as Exhibit E.

b. The Developer shall enter into an agreement with the Winters Joint Unified School District ("School District"), substantially in the form of Exhibit E that provides, among other matters, that the Developer will pay to the School District:

1. For each of the 28 residential units in the Anderson Place Subdivision, Level 2 fees, payable at the time of issuance of a building permit; and

2. For all units in the Anderson Place Subdivision (including the units referenced in subparagraph 1 above), except the very low income and low income affordable units, the difference between Level 3 and Level 2 fees, payable at the close of escrow.

The Developer has represented to the City that it intends to fully and faithfully perform this agreement with the School District, and the City has relied upon this representation in entering into this Development Agreement. A failure to perform the agreement, or amendments thereto, with the School District by the Developer shall be deemed to be a default of this Development Agreement and subject to the provisions of Article 5.

Section 4.2 0.52 +/- Acre Park.

a. Developer shall provide a 0.52 +/- acre neighborhood park ("the Park Obligation"). The Park Obligation consists of three components:

1. Providing land.

2. Providing infrastructure.
3. Planning, developing, and equipping the park.

b. The Parties acknowledge that it is in the best interests of the community that the City accept a sum of money which represents the monetary value of the Park Obligation rather than have the Developer include a fully operational 0.52 +/- acre park within the Anderson Place Subdivision. The payment of the Park Obligation by the Developer is in lieu of the payment of any park impact fees as provided by City ordinance.

c. Developer agrees to satisfy the Park Obligation as follows.

1. At the time of filing the final map for the Anderson Place Subdivision a payment of one hundred percent (100%) of the amount calculated by the City Engineer as set forth in e., below.

2. An additional fifty percent (50%) of the amount calculated under 1., above, payable as follows:

- a) The additional fifty percent (50%) shall be divided by the number of market rate units in the Anderson Place Subdivision (24 units). The resulting amount shall be paid each time a building permit is issued for one of the 24 market rate units.

- b) If at the end of thirty (30) months from the recording of the final map for the Anderson Place Subdivision, the full amount under this subsection 2. has not been fully paid, then the Developer shall pay the remaining amount owing within ten (10) business days of being notified by the City to do so.

(Example: If at the end of thirty (30) months, the Developer has obtained twenty (20) building permits for market rate units and has paid fees under this subsection, then the Developer, upon notice from the City, shall pay the fees owed under this subsection for the remaining four (4) market rate units.)

d. Once all amounts owed under c. above have been paid, the Developer will have satisfied the Park Obligation.

e. The Park Obligation shall be computed by the City Engineer as follows:

1. The land value will be determined by an appraisal made at the Developer's expense. The Developer shall provide to the City the names of three (3) qualified appraisers acceptable to the City who are both licensed by the State of California and members of the Appraisal Institute (MAI) and knowledgeable in appraising property similar in nature to The Property. The City shall select the appraiser to be used from the list and notify the Developer of its decision. The appraisal shall be presented to the City within ninety (90) days thereafter, unless the Parties agree to a different date. The appraisal shall determine the fair market value of 0.52 +/- acres of The Property with the development entitlements specified in this Agreement. The date of value shall be the date of the recording of this Agreement.

2. The estimated cost of the infrastructure improvements will be calculated by the City Engineer using the per acre cost of Sixty Thousand Dollars (\$60,000).

3. The estimated cost of the development of a park (including planning, developing, and equipping the same) will be calculated by the City Engineer using the per acre cost of Two Hundred Twenty-Nine Thousand Five Hundred Dollars (\$229,500).

4. To the total determined by adding the costs determined under 1., 2., and 3., above, shall be added five percent (5%) for administration, including, but not limited to, the use of eminent domain by the City as necessary to acquire park land.

Section 4.3 Advance Funding of Fees For Construction of New Water Well.

a. The Parties acknowledge that the City intends to construct a new water well near the northwest corner of the intersection of West Grant Avenue and West Main Street. In order to provide sufficient funds for the City to commence construction of this facility, the Developer shall, concurrently with the filing of the final subdivision map for the Anderson Place Subdivision pay to the City the following development fee.

1. A water facilities fee at its then current rate for all 28 residential units in the Anderson Place Subdivision.

b. Each time the Developer applies for and receives a building permit thereafter, the Developer shall be credited with the amount paid under subsection a. for each permit.

c. If, at the time of the actual issuance of a building permit, the fees payable at that time have increased since the payment made under subsection a., the Developer shall pay the difference between the two amounts.

Section 4.4 Annuity in Lieu of Mello-Roos District.

a. The Developer agrees that the City will establish, and the Developer will fund, an annuity to offset the projected fiscal deficit to the General Fund of the City created by the development of The Anderson Place Subdivision per the Economic & Planning Systems reports titled "City of Winters – Anderson Place Revised Fiscal Impact Analysis", dated January 22, 2007. Such an annuity is in lieu of the creation of a Mello-Roos Community Facilities District or other similar financing device.

b. The funding of the annuity will be created and funded as follows:

1. From the escrow for the sale of each residential unit to a third party the Developer will pay to the City the sum of Seven Thousand Three Hundred Fifty Dollars (\$7,350.00).

2. The City will invest the amounts received under this section in an annuity, or other similar investment, which will create a stream of income to be paid into the City's General Fund to pay for the increase in the cost of municipal services resulting from the development of the Anderson Place Subdivision

Section 4.5 Payments to Public Safety Facility and Library Fund.

a. Prior to recording of the final map for the Anderson Place Subdivision the Developer shall pay to the City the sum of Twenty-Five Thousand Dollars (\$25,000.00). This amount shall be kept in a specific designated account and used solely for constructing the new Public Safety Facility in the City of Winters.

b. Prior to recording of the final map for the Anderson Place Subdivision the Developer shall pay to the City the sum of Twenty Thousand Dollars (\$20,000.00). This amount shall be kept in a specific designated account and used solely for constructing, maintaining, and/or improving a public library facility in the City of Winters.

Section 4.6 Energy Efficiency.

In order to obtain energy efficiency in each unit with the Anderson Place Subdivision, to the maximum extent possible the techniques identified in the July 27, 2004 Planning Commission staff report on the "Proposed Energy Resolution" shall be utilized; provided, however, that the following techniques are mandatory:

a. Photovoltaic solar energy systems capable of producing 2.4 peak rated direct current (DC) kilowatts shall be installed on seven of the proposed buildings for The Project. The market rate units without photovoltaic solar energy systems shall be pre-wired for such systems and these systems shall be offered as an option to prospective buyers of these units.

b. All units shall be constructed to the Energy Star Standards as defined by the U. S. Environmental Protection Agency.

c. Tankless water heaters shall be installed in all residential units. The tankless water heaters shall not be counted towards meeting the Energy Star Standards.

d. All units shall be built with low emission furnaces.

e. No unit shall be built with any dark colored roofing material.

Section 4.7 Affordable Housing.

The Winters Community Development Agency (CDA) has authorized, subject to satisfaction by developer of the conditions set forth in this Section, a grant of Two Hundred Thousand Dollars (\$200,000.00) in redevelopment agency low and moderate income housing funds to either the developer or a third party designated by the developer and acceptable to the City and CDA for the construction of the two very low-, one low-, and one moderate-income for-sale affordable housing units required for the project provided that the developer applies for and receives the first building permit for a residential structure within 18 months of the City Council's approval of the project development agreement. Prior to and as a condition on the release of CDA low and moderate income housing funds, the CDA and the developer or its third party designee shall enter into an agreement governing the grant of funds (the "Affordable Housing Agreement"), which shall include requirements that (1) deed restrictions ensuring long-term affordability consistent with the provisions of the City's inclusionary housing ordinance and the California Community Redevelopment Law shall be recorded against each of the affordable units, (2) the developer or third party designee shall execute a promissory note and deed of trust to be recorded against the affordable units, which shall secure both the CDA's interest in the affordable units and the long term affordability of the affordable units. The Affordable Housing Agreement, deed restrictions, promissory notes and deeds of trust shall be prepared and approved by the CDA and the City. The grant shall be repayable to the CDA in the event that there is a default under the Affordability Agreement, deed restrictions, promissory notes or deeds of trust.

Should circumstances beyond the control of the Developer preclude the Developer from applying for and receiving the first building permit for a residential structure within 18 months of the City Council's approval of the project development agreement, then the CDA and City shall determine, in their sole discretion, whether it is appropriate to grant the developer an extension of time in which the developer may receive its first building permit, and still receive the Affordable Housing Assistance contemplated by this Section. For purposes of Section 4.7, "circumstances beyond the control of the Developer" shall include, but are not limited to, the failure of Well #7 to be in operation, acts of God, natural disasters, and acts of the State and/or federal government. However, "circumstances beyond the control of the Developer" do not include a change in economic conditions which affect either the Developer individually or the land development/building industry generally. The CDA and City have sole discretion to determine whether an extension of time is merited based on circumstances beyond the control of the Developer, and the appropriate length of such extension.

ARTICLE 5

DEFAULT, REMEDIES, AND DISPUTE RESOLUTION

Section 5.1 Application of Article. The Parties agree that the following provisions shall govern the availability of remedies should either Party breach its obligations under this Agreement.

Section 5.2 City's Remedies.

a. The City's remedies under this Agreement are as follows:

1. Termination of the Agreement after giving the Developer the opportunity to cure a default, as provided in subsection b.

2. An action for injunctive relief to preserve the physical or legal status quo of the development of The Anderson Place Subdivision pending a judicial determination of the rights of the Parties in the event of a dispute between the Parties as to their rights and obligations under this Agreement.

3. Specific performance as provided in subsection c.

4. An action for declaratory relief to determine the rights and obligations of the Parties under this Agreement.

5. An action for damages as provided in subsection d.

b. Default by the Developer.

1. Notice of Default. With respect to a default by the Developer under this Agreement, the City shall first submit to the Developer a

written notice of default identifying with specificity those obligations of the Developer which have not been performed. Upon receipt of the notice of default, the Developer shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default. The Developer shall complete the cure of the default(s) not later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy the default(s), provided Developer has continuously and diligently pursued such remedy at all times until such default(s) is cured.

2. Procedure After Failure to Cure Default. If, after the cure period has elapsed, the City finds and determines that the Developer remains in default and the City wishes to terminate or modify this Agreement, the City Manager shall make a report to that effect to the City Council and set a public hearing before the City Council in accordance with the notice and hearing requirements of Government Code section 65868 and Section 11-2.802 of the Winters Municipal Code.

3. Modification or Termination of Agreement. If, after the public hearing, the City Council determines Developer has failed to timely cure a material breach of the obligations under this Agreement, City shall have the right to modify or terminate this Agreement.

c. Specific Performance. The City may seek specific performance to compel the Developer to do any, or all, of the following:

1. To complete or demolish any uncompleted improvements which are located on public property or property which has been offered for dedication to the public, with the choice of whether to demolish or complete such

improvements and the method of such demolition or completion of such improvements to be selected by the City in its sole discretion.

2. To dedicate and properly complete any public improvements which are required by this Agreement.

3. To complete, demolish or make safe and secure any uncompleted private improvements located on The Property with the choice of whether to demolish, complete or secure such private improvements and the method of such demolition, completion and securing such private improvements to be selected by the Developer in its sole discretion.

d. The City may institute an action for damages for the amount of any money owed to it under Article 4, or the cost of performing any act required of the Developer under Article 4, or the cost to complete any public improvements required to be installed under the final map (or any phase, if applicable) for The Anderson Place Subdivision.

Section 5.3 Developer's Remedies.

a. The Developer's remedies under this agreement are as follows:

1. An action for specific performance of an obligation of the City after giving the City the opportunity to cure a default, as provided in subsection b.

2. An action for injunctive relief to preserve the physical or legal status quo of the development of The Anderson Place Subdivision pending a

judicial determination of the rights of the Parties in the event of a dispute between the Parties as to their rights and obligations under this Agreement.

3. An action for declaratory relief to determine the rights and obligations of the Parties under this Agreement.

b. Default and Notice of Default. With respect to a default by the City under this Agreement, the Developer shall first submit to the City a written notice of default identifying with specificity those obligations of the City which have not been performed. Upon receipt of the notice of default, the City shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default and shall complete the cure of such default(s) not later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy such default(s), provided that the City has continuously and diligently pursued such remedy at all times until such default(s) is cured.

c. Waiver of Damage Remedy. The Developer understands and agrees that the City would not be willing to enter into this Agreement if it created any monetary exposure for damages (whether actual, compensatory, consequential, punitive or otherwise) in the event of a breach by City. For the above reasons, the Parties agree that the remedies listed in subsection a. are the only remedies available to the Developer in the event of the City's failure to carry out its obligations hereunder. The Developer specifically acknowledges that it may not seek monetary damages of any kind in the event of a default by the City under this Agreement, and the Developer hereby waives, relinquishes and surrenders any right to any monetary remedy. The Developer covenants not to sue for, or claim

any monetary remedy for, the breach by the City of any provision of this Agreement, except for attorneys' fees for actions under a., above, and hereby agrees to indemnify, defend and hold the City harmless from any cost, loss, liability, expense or claim (including attorneys' fees) arising from or related to any claim brought by the Developer inconsistent with the foregoing waiver.

ARTICLE 6

HOLD HARMLESS AND INDEMNIFICATION

Section 6.1 Limitation of Legal Relationship.

a. The Parties represent and declare that this Agreement creates no partnership, joint venture, or other legal entity between them.

b. In entering into this Agreement, the City is acting under the statutory and/or police powers which it holds as a municipal corporation of the State of California and which authorize it to regulate the development of land within its boundaries and to provide for the general health, safety and welfare.

c. In entering into this Agreement, the Developer is acting in a purely private capacity as an owner of real property within the City of Winters, which property is subject to the jurisdiction of the City acting in the capacity set forth in subsection b.

Section 6.2 No Liability for Acts of the Developer.

a. It is expressly understood that the development of The Anderson Place Subdivision is an undertaking that may create for the Developer liability to

third parties, including, but not limited to, assignees of all or part of this Agreement, buyers and lessees of residential units, building contractors and sub-contractors, and suppliers. The Developer understands and agrees that the City would not execute this Agreement if, in so doing, it created for the City any liability to any third party.

b. Consequently, the Developer, its successors, heirs, and assigns agrees to defend, indemnify, and hold harmless the City, and all its officers, agents, and employees from any claim of injury to person or property arising out of the operations of the Developer in the development of The Anderson Place Subdivision under the terms of this Agreement or otherwise.

c. Notwithstanding anything in Article 5 to the contrary, the City shall have any remedy available to it at law and/or equity to enforce the provisions of this section or to collect damages for any breach of it.

Section 6.3 Duty to Defend Challenges to this Agreement.

a. The Parties recognize that there may be third party challenges to this Agreement, relative to the procedure used to adopt it or the contents of it.

b. The Parties agree to cooperate jointly to defend any action or proceeding brought to challenge this Agreement or the ordinance adopting it.

c. In the event of any such challenge, each Party shall bear its own attorneys' fees and other litigation expenses.

d. Should the court, in any action challenging this Agreement or the ordinance adopting it, award attorneys' fees, costs and any other litigation expenses

against the City, the Developer shall be responsible for the payment of those fees, costs, and expenses, and shall hold the City harmless from any claim thereto.

e. Notwithstanding subsection b., the City may, at its sole discretion, tender the defense of any action or proceeding brought to challenge this Agreement or the ordinance adopting it to the Developer, in which event the Developer shall have the sole responsibility to defend, on behalf of itself and the City, the matter. However, nothing herein obligates the Developer, should the City tender its defense to the Developer, to defend the action if it determines that it is in its best interests not to do so.

REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE TO FOLLOW

**DEVELOPER
SAN BERNADINO, LLC**

By: _____

Its: _____

Dated: _____

CITY OF WINTERS

By: _____

Mayor

Dated: _____

Attest: _____

City Clerk

Approved as to form:

John Wallace, City Attorney

Attorney for Developer

.....

LIST OF EXHIBITS

- EXHIBIT A Map of Anderson Place Property
- EXHIBIT B Legal Description of Anderson Place Property
- EXHIBIT C Anderson Place Tentative Subdivision Map
- EXHIBIT D Conditions of Approval, including Mitigation Measures
- EXHIBIT E School Agreement

.....

This Agreement was adopted by Ordinance No. 2007-05 of the City Council of the City of Winters. Ordinance No. 2007-05 was adopted on June 19, 2007 and is effective on the date it is recorded with the Yolo County Recorder.

ORDINANCE NO. 2007-05

**AN ORDINANCE OF THE
CITY COUNCIL OF THE
CITY OF WINTERS
ADOPTING A DEVELOPMENT AGREEMENT
(ANDERSON PLACE PROPERTY)**

THE CITY COUNCIL OF THE CITY OF WINTERS HEREBY ORDAINS
AS FOLLOWS:

Pursuant to the provisions of Government Code §65864 et seq. and Chapter 2 of Title 11 of the Winters City Code, the City Council of the City of Winters hereby:

1. Adopts and approves that certain document entitled "**AN AGREEMENT BETWEEN THE CITY OF WINTERS AND G STREET SAN BERNADINO, LLC RELATING TO THE DEVELOPMENT OF THE PROPERTY COMMONLY KNOWN AS THE ANDERSON PLACE PROPERTY.**"

2. Authorizes and directs the Mayor to sign the document on behalf of the City after the second reading of this ordinance and after it has first been signed by a duly authorized representative of G Street San Bernadino, LLC.

3. Authorizes and directs the City Clerk to record the document, after it is signed by both parties, in the Office of the Recorder of Yolo County.

PASSED AND ADOPTED THIS 19th day of June, 2007 on the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Woody Fridae, MAYOR

Attest:

Nanci G. Mills, CITY CLERK



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council members
DATE : June 5, 2007
FROM: John W. Donlevy, Jr., City Manager 
SUBJECT: Parking Ordinance 2007-04

RECOMMENDATION:

That the City Council:

1. Conduct a Second Public Hearing on the an amendment to the Winters Municipal Code Pertaining to Stopping, Standing and Parking; and
2. Adopt Ordinance No. 2007-04, AN ORDINANCE OF THE CITY OF WINTERS AMENDING CHAPTER 10.16 OF THE MUNICIPAL CODE PERTAINING TO STOPPING STANDING AND PARKING.

BACKGROUND:

Over the past few years, Staff has received an ever increasing rise in complaints from residents regarding persons regularly storing their recreational vehicles, trailers and boats on the public street. Specifically, the complaints center around unattached "fifth wheels", recreational trailers and boats being parked in front of residences on the public street for extended periods of time. In some cases, permanently.

Under the City's Municipal Code, parking is limited to 120 consecutive hours of parking before a vehicle must be moved. Unfortunately, this requires the Police Department to chalk the tires and schedule re-checks. The definition of "move" is also vague.

The Municipal Code also prohibits the parking or storage of commercial vehicles in residential areas.

In a survey of the City, Staff found 22 different instances where trailers are apparently being stored on the street. These range from the smaller tent trailers or ski boats to the very large travel trailers. In some cases, the size of these recreational trailers rival those of commercial vehicles and are being parked on a residential street. The result of this storage has multiple effects:

- Visual Nuisance- Outside storage in the public right of way impacts the attractiveness of the neighborhood. As one resident has put it, "the view outside my living room window says Country Squire". In some cases, these trailers are not newer models, making them extremely unattractive.

- **Maintenance-** Residents know that the City is not enforcing No Parking on Street Sweeping Days. In most cases, these trailers are not moved, resulting in an accumulation of debris due to the lack of street sweeping.
- **Safety-** In some cases, these trailers are being stored on corner lots and on side streets. The large trailers are parked on or near the corners, creating a large visual barrier to cars making turns. In all practicality, this creates a blind intersection for motorists turning due to the reduced site distance.
- **Enforcement-** The Police Department is literally in a "cat and mouse" game with some trailer owners. Many residents are extremely frustrated by neighbors storing trailers and repeatedly call for service because the trailer has been in the same location for in excess of 120 hours. The problem arises in the definition of whether the trailer has been "moved". The result is an adversarial situation where neighbor is pitted against neighbor, one neighbor feeling he is being falsely accused by Police of storing the trailer, and another neighbor feeling his rights to a "nice" neighborhood, unfettered by someone storing a large trailer in front of their home and "the City is doing nothing about it".

Additionally, Staff is encountering problems with persons living and/or occupying trailers and recreational vehicles on City streets. In some cases, persons have been emptying restroom tanks into public trash cans.

DISCUSSION:

This Ordinance was heard and a Public Hearing held at the May 15, 2007 City Council Meeting. This is a second hearing and reading of the ordinance which is recommended for adoption.

Staff is recommending that the City Council adopt the attached amendment to the municipal code to refine the parking ordinance to increase clarity and place more clearly defined restrictions on the storage of recreational trailers and boats in the public right of way. This new ordinance will now include:

1. Prohibition of parking unattached trailers in or on any public right of way within the City of Winters.
2. A 72 hour parking restriction for attached recreational trailers and boats on any Winters street.
3. Establishment of a permitting process whereby residents with recreational trailers or boats can purchase an on street storage permit for up to 36 total days per year for a specified trailer parked in front of their owner occupied residence. Under the permit, trailers could be stored unattached for a cumulative period of not more than 36 days total in any calendar year.
4. A re-definition of moving a vehicle to mean " a minimum of 1,000 linear feet" from a specified address and non-parking in front of the address for a period of not less than 72 hours, or on to a private property.
5. A strict prohibition against persons living or occupying a recreational vehicle unless permitted for a period not to exceed 120 hours, but not more than 14 calendar days total per year.

The Ordinance will not provide for the prohibition of storage of recreational trailers, boats or vehicles on private property, outside of the public right of way. This recommendation only deals with storage in the streets or public right of way.

FISCAL IMPACT:

Costs for increased enforcement and increased revenues from citations. Actual amounts to be determined.

ATTACHMENT:

Ordinance 2007-04

ORDINANCE NO. 2007-04

AN ORDINANCE OF THE CITY OF WINTERS
AMENDING CHAPTER 10.16 OF THE MUNICIPAL CODE
PERTAINING TO STOPPING, STANDING, AND PARKING

The City Council of the City of Winters does ordain as follows:

SECTION 1: Section 10.16.010 of the Municipal Code of the City of Winters is hereby amended to read as follows:

Section 10.16.010 Application of Regulations

A. The provisions of this chapter prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times specified in this Chapter, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

B. The provisions of this Chapter imposing a time limit on standing or parking shall not relieve any person from the duty to observe other and more restrictive provisions of the Vehicle Code or this code of this city prohibiting or limiting the standing or parking of vehicles in specified places or at specified times.

C. For purposes of this Chapter:

"Vehicle" means any device used for the transportation of persons or property as defined in section 670 of the California Vehicle Code.

"Unattached trailer" means a vehicle that is not self-propelled, was originally designed for carrying persons or property, including boats, and for being drawn by a motorized vehicle, and is not attached to a motorized vehicle that is capable of immediately propelling and towing such unattached trailer.

"Recreational vehicle" means any vehicle, whether self-propelled or drawn by another motorized vehicle, which was originally designed or permanently altered, and equipped or used for human habitation. The term "recreational vehicle" includes, but is not limited to, motor homes, travel trailers, 5th-wheel trailers, campers, and tent trailers. The term "habitation" means the use of a vehicle for temporary or permanent living quarters.

SECTION 2: Section 10.16.050 of the Municipal Code of the City of Winters is hereby amended to read as follows:

Section 10.16.050 Use of streets for storage of vehicles prohibited

No person who owns or has possession, custody or control of any vehicle or recreational vehicle shall park such vehicle or recreational vehicle upon any street or alley for more than a consecutive seventy-two (72) hour period.

No person who owns or has possession, custody or control of an unattached trailer shall leave standing any unattached trailer upon any street or alley within the City.

For purposes of this Chapter, a vehicle or recreational vehicle shall be deemed to be parked in violation of this section when it has not moved at least one thousand (1,000) feet within a consecutive seventy-two (72) hour period.

Any vehicle, recreational vehicle or unattached trailer parked in violation of this Chapter may be removed by the Chief of Police, or his/her designee, in accordance with Sections 22651 and 22669 of the California Vehicle Code.

SECTION 3: Section 10.16.055 is added to Chapter 10.16 of the Municipal Code of the City of Winters to read as follows:

10.16.055 Habitation of Vehicles on Streets

It shall be unlawful for any person who owns or has possession, custody or control of any vehicle, recreational vehicle or unattached trailer, to use or allow the use of such vehicle for human habitation or occupancy. The term "habitation" means the use of a vehicle for temporary or permanent living quarters.

SECTION 4: Section 10.16.270 is added to Chapter 10.16 of the Municipal Code of the City of Winters to read as follows:

10.16.270 Exemptions, Issuance of Permits

Notwithstanding sections 10.16.050 and 10.16.055, the Chief of Police, or his/her designee, may issue permits for the temporary stopping, parking, standing or habitation of vehicles, recreational vehicles or unattached trailers on a street or alley, subject to the following conditions:

- A. A permit for the temporary stopping, parking or standing of vehicles shall be for up to a maximum of thirty-six (36) total days per calendar year for each vehicle. A permit for the temporary habitation or occupancy of a vehicle shall be for up to a maximum of fourteen (14) total days per calendar year for each vehicle, however, each habitation or occupancy period shall not exceed one hundred and twenty (120) consecutive hours. Each habitation or occupancy period must be separated by at least ten (10) days.
- B. A permit for stopping, standing or parking of a vehicle may only be issued to the property owner of a single family residence.
- C. No more than one (1) permit may be issued to a property owner at any given time.
- D. A permit shall restrict the stopping, parking or standing of a vehicle, recreational vehicle or unattached trailer to that portion of the street or alley immediately in front of and abutting the property upon which the single family residence is located.

E. A permit shall be immediately revocable if the vehicle, recreational vehicle or unattached trailer poses a safety concern, in the sole and absolute discretion of the Chief of Police.

F. The Chief of Police, or his/her designee, may impose any additional conditions that he/she deems necessary to protect the health, safety and general welfare of the community.

Appeals regarding the issuance of permit by any interested person may be made to the City Manager within ten (10) days of issuance. The decision of the City Manager regarding any appeals shall be final.

The City Council may by resolution establish fees for the issuance of permits authorized by this Section.

SECTION 5. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Winters hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

SECTION 6. Effective Date.

This ordinance shall be in full force and effective 30 days after its adoption and shall be published and posted as required by law.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Winters, California, held on May 15, 2007, and was passed and adopted at a regular meeting of the City Council held on June 5, 2007 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Woody Fridae, Mayor

ATTEST:

Nanci G. Mills, City Clerk



MEMORANDUM

May 24, 2007

TO: John W. Donlevy, Jr. – City Manager

FROM: Dan Sokolow – Community Development Director

SUBJECT: **Town and Country Market Recycling Center and Alleyway Issues.**

1. RECYCLING CENTER

BACKGROUND: Earlier this year, the recycling center, which consists of two cargo containers, at the Town and Country Market was moved from a location in front of the store to an area at the rear of the store. Both locations are on the west side of the store. The new location is now closer to the residences on the east side of Walnut Lane and the residences on the north side of Colby Lane than the prior location. As a result, the City has received noise complaints from multiple property owners on Walnut and Colby.

I discussed the noise situation with Town and Country manager David Lorenzo and suggested moving the recycling center to an area in front of the store on the east side to lessen or eliminate the noise complaints. Lorenzo rejected the alternative location because of his concerns that the location would appear as a "junk yard" from Grant Avenue. To address the complaints from residents of Colby and Walnut, Lorenzo has notified the operators of the recycling center to limit pickups of the recycling materials to Monday through Friday during the hours of 7 a.m. to 4 p.m. At least one of the residents complained that the recycling containers were being serviced on the weekend before 7 a.m. Lorenzo also instructed the operators to ask their customers to turn down their vehicles radios when they visit the center.

Lorenzo indicated that the recycling center needed to be moved because its old location was actually on properties that house Berryessa Sporting Goods and Sutter Health instead of the Town and Country property. In addition, Berryessa is putting in a propane tank behind the store (in the vicinity of the prior recycling center location).

DISCUSSION: Staff has researched State Law and the recycling center (redemption center) needs to be located within one-half mile of Town and Country. Ideally, the center should remain on or near Town and Country. A recycling center is a permitted

use in the Central Business District (C-2) and Neighborhood Commercial (C-1) Zones. There are some locations in the C-2 Zone that could accommodate the center such as the undeveloped Mariani properties on Railroad Avenue or the Landes-Vallecillo property on East Abbey Street. Moving the recycling center to one of these locations may undermine "community aesthetics" and the City's economic development efforts. However, as an interim location for a couple of years, the new location would provide noise relief for the residential properties adjacent to the Town and Country Market. Obviously, there needs to be a willing property owner to host the recycling center. The Suisun Valley Farmers Cooperative on East Abbey Street was considered by staff as a possible location for the recycling center since the site is built out as an industrial facility and not a high priority candidate at this time for redevelopment to a highest and best use. The drawback is that the site is very close to single-family residences on East Abbey Street. Not all recycling centers consist of two cargo containers. If the structures used for the center were upgraded perhaps Town and Country would reconsider hosting the center in front of the store on the east side.

2. ALLEYWAY

BACKGROUND: In January, staff was contacted by Juanita Martinez Freix, the property owner at 807 Walnut Lane, regarding the unpaved alleyway that runs from Walnut Lane to the rear of the Town and Country Market building. The alleyway borders the north side of Martinez Freix's property. Martinez Freix and perhaps others have contacted the City before to express concerns about the "nuisance" aspects of the alleyway. These aspects include vehicles and motorcycles using the alleyway, trash and other debris being left in the alleyway or being thrown over fences into yard areas, loitering in the alleyway, and damage to fences that border the alleyway. She asked whether the alleyway could be closed off. Martinez Freix also expressed concerns about damage to her rear fence and the rear fences of her neighbors on Walnut. These fences border the Town and Country Market property on the east.

Staff contacted David Lorenzo from the Town and Country Market to discuss the alleyway situation and queried the Fire and Police Chiefs on their requirements for closing off the alleyway. The alleyway has also been officially or unofficially designated as an emergency vehicle access. The alleyway can't be completely closed off because it contains an easement for a water line and likely a separate easement for an above ground utility line. However, the Fire and Police Chiefs did agree to a partial closing of the alleyway provided that the following conditions were satisfied; pedestrians would still be able to use the alleyway as a shortcut to the Town and Country Market.

- (1) Replace existing fire hydrant at the rear of the Town and Country Market with a City-standard hydrant
- (2) Use collapsible bollards at the ends of the alleyway

Lorenzo has agreed to have the alleyway closed off, re-grade the alleyway to direct pedestrian traffic to the middle of the alleyway, and install a decomposed granite path in

the middle of the alleyway. He has also agreed to provide the bollards and install them; however, the collapsible bollards researched by staff are somewhat expensive. The City has received the new fire hydrant for the Town and Country Market and staff expects this to be installed next month. Martinez Freix expressed an interest in installing shrubs on the north side of her fence in the alleyway to discourage people from damaging the fence. Once the new hydrant is installed, staff will notify David Lorenzo so the other work can be completed for closing off the alleyway to vehicle and motorcycle traffic.

Z+B+E/Town Town & Country Market Recycling Center & Alleyway Issues 24May07



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: June 5, 2007
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Carol Scianna, Management Analyst *CS*
SUBJECT: Approval of Resolution 2007-24, Budget Adjustment to fund 621-57913-640 Misc. Capitol Expenditures for the Purchase of Two New Brush Aerators for the Wastewater Treatment Facility for \$42,537.50.

RECOMMENDATION:

That the City Council:

1. Approval of purchase of two new 25 horsepower brush aerators manufactured by S&N Airflo at a cost of \$42,537.50.
2. Adopt Resolution 2007-24

BACKGROUND:

The main aerators at the wastewater treatment facility (WWTF) have been out of service for several months due to mechanical failures. City Staff, working with ECO Resources and other vendors, determined that it was neither cost effective nor in the best interest of the City to repair/rebuild the aerators. The aerators, purchased in 2002, were originally manufactured by ATI which is no longer in business and, according to several sources, produced an inferior product. The cost to rebuild the aerators is approximately \$23,000 with no guarantee that they will not fail within five more years. The typical useful life of these types of aerators is 20 years.

Staff has received proposals from two manufacturers of 25 horsepower aerators, House and S&N Airflo. In an evaluation of the devices, Staff feels they are equal in capacity. The quotes are as follows:

1. House- \$60,250
2. S&N Airflo- \$42,537.50

The requested funds include the purchase price of two aerators, sales tax, freight, and installation.

Sewer Treatment Facility- Aerator Replacement

Agenda Report- June 5, 2007

Page 2

Staff is recommending acceptance of the bid from S&N Airflo and the appropriation of funds for the purchase. Installation is estimated in three (3) weeks from contract.

The current 2007 Wastewater Treatment Plan Master Plan Update identifies several alternative capacity upgrades to the WWTF. In all of these alternatives the brush aerators will be incorporated such that City should utilize them through their 20 year useful life.

FISCAL IMPACT: Budget in adjustment in the amount of \$42,537.50.

RESOLUTION 2007-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS AMENDING THE CITY OF WINTERS 2006-2007 ADOPTED OPERATING BUDGET AND APPROVING EXPENDITURE FOR PURCHASE OF TWO NEW AERATORS

WHEREAS, On June 26, 2006 the City Council of the City of Winters adopted operating budget for Fiscal Year 2006-2007; and

WHEREAS, the City finds it necessary to purchase two new aerators for the Waste Treatment Facility rather than repair/rebuild the existing ATI aerators; and

WHEREAS, funding is available in the Sewer O & M Fund established to purchase such items; and

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Winters that the adopted operating budget for fiscal year 2006-2007 be amended as follows:

Section 1: Increase 2006-2007 budgeted expenditures in the following funds and amounts:

Fund 621-57913-640	\$42,537.50
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PASSED AND ADOPTED by the City Council, City of Winters, the 5th day of June 2007 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Keith Fridae, Mayor

ATTEST:

Nanci G. Mills, CITY CLERK

Carol Scianna

From: Karen Honer [khoner@ecoresources.com]
Sent: Thursday, April 12, 2007 10:53 AM
To: Carol Scianna
Subject: FW: Winters Price Quote
Attachments: SNA5177 Winters Price Scope 040407.doc

Here is the quote form Dave Green for the new aerators.

Karen D. Honer
Facility Manager
530-795-4660

From: Dave Green [mailto:dhg@dcfrostassoc.com]
Sent: Thu 4/12/2007 10:28 AM
To: Karen Honer
Subject: Fw: Winters Price Quote

Karen,

*with
700
K*
Enclosed is the proposal from S & N Airflow. The unit cost for these aerators is \$17,500 each. The freight is over 6 K. We can probably ship 2 units for 7 K. Since freight is such a large part of the cost, you might want to consider 2 units. Let me know when you get a copy of the drawing of your basin and I will stop by to pick it up. I will forward you phone numbers and of installations in a separate e mail. Let me know if you need anything else.
Dave



The Most Efficient Name In Aeration.

QUOTE NO. SNA5177-2

To: Dave Green
D.C. Frost Associates

Date: April 4, 2007

Project: Eco Resources
City of Winters WWTP, CA

Subject: S&N Airoflo Aeration Equipment
Horizontal Floating Brush Rotor

Scope of Supply:

S&N Airoflo™ is pleased to submit a proposal for the supply of the following equipment:

Item 1. Hot-Dipped Galvanized (HDG) Unit

One (1) 25-HP S&N Airoflo™ Hot-Dipped Galvanized Horizontal Floating Brush Wastewater aerator(s) complete with the following features:

- 230/460 volt, 3-phase, 60 hertz continuous duty, TEFC totally enclosed fan cooled horizontal electric motor, with minimum 1.15 service factor.
- Continuous duty AGMA III rated gear reducer, with a minimum 2.0 service factor, connected to the electric motor and driven by a banded and cogged belt (made with non stretching Aramid fibers) via a double grooved pulley and fitted with a labyrinth style seals modified and upgraded for use in wastewater treatment on output and input shafts. The gearbox is supplied with S&N AD Gear Lube.
- Gear reducer to be equipped with **Falk AirMax™**, particulate & water vapor blocking, vent breather operating at ambient pressure. Gear reducer will also be fitted with a drain hose to allow for cleaner, safer oil changes.
- Bolt-on stub shaft for easy replacement.

S&N Airoflo, P.O. Box 1994, Greenwood, MS 38935 Ph: 877-AIROFLO Fax: 662-453-0797



The Most Efficient Name In Aeration.

- 304L stainless steel spring tensioned torque arm to maintain belt tension within an allowable range.
- Hot-Dipped Galvanized rotor and tubular support frame.
- Hot-Dipped Galvanized, non-skid, maintenance/work platforms welded to each end of the frame for secure footing and safe access during O&M inspection.
- Foam filled stainless steel floatation devices with HDG cradles.
- 304L stainless steel vertical adjusting linkage for variable operating depths and amperage control.
- UHMW polyethylene self-wastewater lubricating (non-greasing, maintenance free) rotor bearings with bi-metallic wear sleeves.
- A polyethylene motor and gear reducer cover is provided to prevent weather and water contamination.
- Splash Deflector Shield
- Levee Mounted Anchoring System. Thirty foot (30') ring-type extensions
- Convenience Package: One (1) additional belt, One (1) belt tension gauge, and One (1) lifting chain.

Pricing: All the above \$24,029.00, FOB Winters, CA.

Exclusions: State or local taxes, if applicable; interconnecting wiring, wiring and conduit from each unit-mounted electrical device to a terminal box or control panel, piping, connections, walkways, gratings, railings, installation, or any other auxiliary equipment or service not detailed above.

Specifically Excluded: LIQUIDATED AND CONSEQUENTIAL DAMAGES.

Validity: The above price is firm for thirty (30) days from the date of quote. Pricing is based on the schedules stated in this proposal.



The Most Efficient Name In Aeration.

Owner/Contractor Responsibility:

- Equipment for unloading, uncrating, and installation. (Note: Installation will, at a minimum, require lifting equipment rated at 2,000 lbs at its extended reach and possibly a crane/hoist for unloading multiple stacked units and/or for sites with limited or difficult accessibility.)
- Installation of the units.
- Adjustment of operating level of each unit to get correct ampere draw.
- Visual inspection of units after three (3) days of operation to check gear reducer for any oil leaks and to check belt tension.
- Electrical connection and interconnecting wiring to or from any of the following except as noted above:
 - Motor
 - Disconnect
 - Controls

Delivery: Ex-factory, four (4) to six (6) weeks after final submittal approval or Release to Manufacture with Full Freight allowed to jobsite.

Terms: To be paid within thirty (30) days of delivery.

Warranty: S&N Airoflo™ warrants their equipment to be free from defects in material and workmanship for a period of one (1) year. The electric motor and gear reducer warranties shall be as stated by the manufacturers.

The S&N warranty period ends twelve (12) months after the start-up date or eighteen (18) months after delivery, whichever comes first.

Any damages resulting from acts of God, vandalism, animals, or high or low voltage will not be covered under warranty.

Thank you for the opportunity to provide you with this quote and for your consideration.

Joseph Johnson
S&N Airoflo

Carol Scianna

From: ray sprague [raysprague@surewest.net]
Sent: Friday, June 01, 2007 12:56 PM
To: Carol Scianna
Subject: FW: "20hp and 25hp aerators"
Attachments: AeratorComparison_s&n.doc; Techsupport_HouseAerator.doc

From: Chad House [mailto:chad@housemfg.com]
Sent: Friday, June 01, 2007 12:38 PM
To: 'ray sprague'; jimf@pacbell.net
Subject: "20hp and 25hp aerators"

Jim,

Thanks for taking the time today to hear why the House Brush Aerator is the most efficient aerator on the market today. Attached are a couple of documents that you may find handy when comparing us vs. S&N and understanding our manufacturing procedures. Please review these procedures and call/email me with any questions and/or comments. Below is our pricing for 20hp and 25hp House Brush Aerators

20hp	\$21,000 ea.	Freight for two (2) aerators	\$3,000
25hp	\$23,500 ea.	Freight for two (2) aerators	\$3,000

Also, factory start-up is a \$750 option. This includes one day of training about maintaining the aerator and proper operation and making sure the aerators are running properly.

We have a consignment aerator for JBI that will be in California in two weeks. If you would like to use this aerator for aeration purposes until our aerators arrive, we will gladly let you use the aerator at no charge with a purchase order agreement. Please keep this in mind, the only help we would need is unloading and placing the aerator in the water.

Once again, thanks for this opportunity.

Chad House
 Vice-President, House Manufacturing Company, Inc.
 P.O. Box 117
 Cherry Valley, Arkansas 72324

(870) 588-3307 office
 (870) 588-3517 fax

www.housemfg.com
 chad@housemfg.com



HOUSE Manufacturing Company, Inc.



3720 Hwy 1 • PO Box 117 • Cherry Valley, Arkansas 72324 • (870) 588-3307 • FAX (870) 588-3517

Brush Aerator Comparison

Oxygen Transfer Performance

House Manufacturing Company, Inc.

Tests range from 3.04 to 3.15 lbs/O₂/hp/hr
5% to 12% better transfer rates

S&N Airoflo

Transfer range: 2.9 lbs./O₂/hp/hr

Drive-Train System

House Manufacturing Company, Inc.

Direct-Drive drive train that utilizes a Deck-Mounted Helical gear reducer. Only manufacturer with an external-high speed coupler. Direct-Drive eliminates side load forces on the input shaft of the gear reducer, thus increasing L10 life of the input shaft bearings. Eliminates maintaining belts.

S&N Airoflo

V-Belt drive

Rotor Pipe

House Manufacturing Company, Inc.

Schedule 40 pipe is almost twice the material thickness as competitor's rotor tube. Heavier walled pipe leads to a more balanced rotor assembly.

S&N Airoflo

Light wall rotor tubing

Drive & Tail Shafts

House Manufacturing Company, Inc.

"Piloted" Bolted-In drive and tail shafts assemblies reduce forces on the "bolts" and provide alignment apart from the "bolts". (See Tech Support Document)

S&N Airoflo

Outboard flanged, Bolted-On drive and tail-shaft assemblies. Alignment and all forces are on the bolts.

Bearings

House Manufacturing Company, Inc.

Greasable, stainless steel, concentric collar bearing on the non-drive end.
We do not use a water-lubricated bearing because the "wastewater" does not lubricate the bearing properly. Grit and material in the wastewater can lead to pre-mature bearing failures. In addition, wind direction can dictate how much water reaches this bearing. If you do not have any water, the bearing will fail pre-maturely.
No drive-end bearing. Using a deck mounted Helical Gear Reducer allows us to use the reducers output hub bearings for our drive-end bearing. In 19 years, we have never had a problem with these bearings because they are so oversized. These bearings have L-10 lives over 1,000,000 hours.

S&N Airoflo

UHMW Plastic, water lubricated bearings on both the drive and non-drive end.

Brushes

House Manufacturing Company, Inc.

Brushes robotically welded on both sides for strength and durability. Robotic weld has more consistency than manual welding, thus more balance along the rotor assembly. On aerators 5hp and larger, are brushes are 6" wide. Our brushes operate between 6" to 8" in the water. Our brushes cover much more surface area.

House Manufacturing Company, Inc.

Aerators are much heavier due to using heavier materials for aerator construction.
 25hp= 25.5 ft. length, 10 width, 4,500 lbs.
 20hp= 24.5 ft. length, 10 width, 4,200 lbs.
 15hp= 21.5 ft. length, 10 width, 3,300 lbs.
 10hp= 18' length, 8' width, 2,200 lbs.

S&N Airoflo

Brushes are manually welded on one side after only being tacked on the other side. Brushes are approx. 3" wide, and operate 7" to 9".

Overall Weights & Dimensions

S&N Airoflo

Based on data provided in their literature: 20hp = 2,000 lbs. 15hp= 1,800 lbs.
 10hp= 1,600 lbs.