



Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, April 7, 2009,
7:30 p.m.
AGENDA

Members of the City Council

*Michael Martin, Mayor
Woody Fridae, Mayor Pro Tempore
Harold Anderson
Cecilia Aguiar-Curry
Tom Stone*

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

COUNCIL/STAFF COMMENTS

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 the Consent Calendar for separate discussion and action. Items(s) removed will be discussed later in the meeting as time permits.

- A. Minutes of the Regular Meeting of the City Council of the City of Winters Held on Tuesday, March 17, 2009 (pp 1-4)
- B. Minutes of the Special Meeting of the City Council of the City of Winters Held on Monday, March 23, 2009 (pp 5-6)
- C. Youth Day Parade Permit (pp 7-9)
- D. Resolution 2009-12, A Resolution of the City Council of the City of Winters Authorizing Purchase of Swainson's Hawk Mitigation Credits by the City of Winters for the City's Public Safety Center at the Chickahominy Creek Conservation Area Project (pp 10-15)
- E. Request for Street Closure - Iron Steed HOG (Harley Owners Group) of Vacaville for Sunday, May 24, 2009 (pp 16-18)
- F. Resolution 2009-15, A Resolution of the City Council of the City of Winters for the Claim of Transportation Development Act Funding from the Sacramento Area Council of Governments (pp 19-26)
- G. Resolution 2009-16, A Resolution of the City Council of the City of Winters Declaring Weeds and Rubbish on Certain Lots and Parcels Within the City of Winters to be a Public Nuisance and Ordering the Institution of Proceedings to Abate Said Public Nuisances (pp 27-44)
- H. Implementation of a Voluntary Employee Beneficiary Association VEBA Trust (pp 45-68)
- I. Approval of First Amendment to Consultant Services Agreement - Agreement No. 004-09, DaRe, LLC (pp 69-77)
- J. Selection of Independent Auditors for Fiscal Year End June 30, 2009 with an option for 6/30/10 and 6/30/11 (pp 78-113)

PRESENTATIONS

2008 Officer of the Year Jose Ramirez, presented by Chief of Police Bruce Muramoto

DISCUSSION ITEMS

- 1. TANC (Transmission Agency of Northern California) Transmission Line and Substation Project Update (pp 114-117)
- 2. Review of Proposed Water Meter Installation Time Lines and Pricing for Both Business and Residential Properties (pp 118-119)

3. Introduce and Waive First Reading of Ordinance No. 2009-03 - An Ordinance of The City of Winters Rezoning the Property for the St. Anthony's Church and Rectory Project (Assessor Parcel Number 003-120-03) to Single-Family Planned Development Zone (R-2-PD) (pp 120-219)
4. Consideration of Resolution 2009-13 Authorizing Purchase of Swainson's Hawk Mitigation Credits by the City of Winters for the City's Sport Park at the Chickahominy Creek Conservation Area Project (pp 220-224)
5. Planning Commission Vacancies (pp 225)
6. RFP for Consultant Services to Prepare Cultural Resources Studies for the Downtown Streetscape Improvement Project Phase II (pp 226-236)
7. Update on Winters Farmers Market (pp 237-295)
8. Public Hearing, Introduction and First Reading of Ordinance 2009-04, An Ordinance of the City of Winters Adding Chapter 14.01 to the Winters Municipal Code Pertaining to Farmers Market (pp 296-309)

*** The following item to be heard concurrently with the Community Development Agency.**

9. Resolution 2009-18, a Resolution of the City Council of the City of Winters Approving and Authorizing a Lease Agreement with John Siracusa and a Sublease with The Clayground of That Certain Real Property at 7 East Main Street (pp 310-340)

COMMUNITY DEVELOPMENT AGENCY

1. Joint Public Hearing and Resolution 2009-19 – Clayground (Please see documentation under Discussion Item #9)

CITY MANAGER REPORT

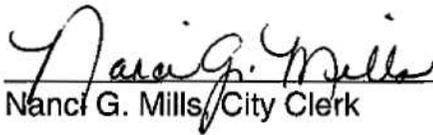
INFORMATION ONLY

EXECUTIVE SESSION

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the April 7, 2009, 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 April 1, 2009, and made available to the public during normal business hours.


Nanci G. Mills/City Clerk

Questions about this agenda – Please call the City Clerk's Office (530) 795-4910 ext. 101. Agendas and staff reports are available on the city web page www.cityofwinters.org/administrative/admin_council.htm

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

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

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

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City Clerk's Office – City Hall – 318 First Street

During Council meetings – Right side as you enter the Council Chambers

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Wednesday at 10:00 a.m.

Videotapes of City Council meetings are available for review at the Winters Branch of the Yolo County Library.



Minutes of the Regular Meeting of the
Winters City Council
Held on Tuesday, March 17, 2009,

Mayor Martin called the meeting to order at 7:30 p.m.

PRESENT: Aguiar-Curry, Anderson, Fridae, Mayor Martin

ABSENT: Stone

STAFF: City Manager John Donlevy, City Attorney John Wallace, Director of Financial Management Shelly Gunby, Grant Writer Dawn Van Dyke, City Clerk Nanci Mills.

Pledge of Allegiance

APPROVAL OF AGENDA: City Manager Donlevy asked that the agenda be amended as follows: Consent Item D to Discussion Item #1; Presentation of quilts and Police Officer of the Year were removed from the agenda, and the Farmers Market update moved to Information Only.

Motion by Council Member Anderson, Second by Council Member Aguiar-Curry, to approve the agenda with the noted changes. Motion carried unanimously 4-0, with Council Member Stone absent.

COUNCIL/STAFF COMMENTS

Council Member Anderson stated he recently attended the LGC Conference and received valuable information regarding sustainability. Council Member Fridae asked everyone to save the date, June 2, 2009, to celebrate EARTH Day from 10 am to 2pm, which will occur in conjunction with the Farmers Market. Council Member Aguiar-Curry encouraged attendance to the Foreclosure Workshop being held on Thursday, March 19 at the Community Center. She stated she had also attended the LGC Conference, which was well done.

CITY MANAGER REPORT

City Manager Donlevy asked the Council for a date to hold a special meeting for Executive Session to discuss property/real estate on either March 23rd or 24th. Mayor Martin requested that City Manager Donlevy forward an e-mail to the Council to firm up the date and time of this proposed meeting. City Manager Donlevy also stated the City is working on their 2009-2010 budget, which will be a tight year. Worksheets have been sent out to obtain preliminary numbers and a workshop with the Council will be scheduled in late April or early May to review.

PUBLIC COMMENTS: None

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the City Council of the City of Winters Held on Tuesday, March 3, 2009
- B. Resolution 2009-09 A Resolution of the City Council of the City of Winters in support of the Draft CEDS (Comprehensive Economic Development Strategy) for submittal to the United States Economic Development Administration
- C. Proclamation in Recognition of National Agriculture Week, March 15 – 21, 2009
- D. City Sponsorships – Plein Air Art Festival and Youth Day
- E. Resolution 2009-11, A Resolution of the City Council of the City of Winters Accepting Public Right of Way Easements from Mariani Nut Company, Joseph and Lora Pearce, Abraham and Katherine Lopez, and David Kelly

City Manager Donlevy gave a brief overview. Council Member Anderson asked about Item B, the Draft CEDS, specifically Goal #3, Support Technology and Innovation. He asked why there wasn't some consideration given to striving to get lead certification or equivalent in buildings. Council Member Aguiar-Curry added that green technology in classes is provided. City Manager Donlevy stated the County is taking the lead in Yolo County regarding climate change. Council Member Anderson also asked about Goal #5, Land and Infrastructure for Future Development, specifically that there should be mention of mass transit. City Manager Donlevy indicated a note will be forwarded to the County to include mass transit.

Motion by Council Member Aguiar-Curry, Second by Council Member Fridae to approve the Consent Calendar. Motion carried unanimously with Stone absent.

PRESENTATIONS

Mayor Martin presented a copy of the Proclamation to David Brown, Manager of the Sacramento-Yolo Mosquito Vector Control District in Recognition of Mosquito Awareness Week, April 20 – 24, 2009. David Brown thanked the Council for their acknowledgement and indicated most people don't know they have been in existence since 1946 until airplanes started spraying for West Nile Virus. They want to be known for what you can do to reduce the mosquito population, which is why water management is so important. He encouraged residents to drain any standing water to avoid an increase of the mosquito population as the weather gets warmer. Regarding water conservation, water lawns only; do not water gutters and drains, which is the perfect habitat for mosquitoes. He also touched

on climate change and the potential impact of new pathogens or viruses introduced to California and indicated the West Nile Virus is here to stay. He acknowledged Marie Heilman, our local representative and the Secretary of the Board of Trustees of the Sacramento-Yolo Mosquito & Vector Control District, who can address these issues.

DISCUSSION ITEMS

1. Hold Public Hearing and Adopt Resolution 2009-08 Committing CDBG Program Income to the Almondwood Apartment Acquisition and Rehabilitation Program

Shelly Gunby, Director of Financial Management gave an overview of staff report.

Mayor Martin opened the public hearing at 8:00 p.m. and closed the public hearing at 8:00 p.m. with no public comment.

Motion by Councilmember Aguiar-Curry, Second by Council Member Fridae to adopt Resolution 2009-08, a Resolution Committing CDBG Program Income to the Almondwood Apartment Acquisition and Rehabilitation Program. Motion carried with the following roll call vote:

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

2. Approval of Sale Agreement between Edward Douglas Griffin and Joetta Rae Griffin and the City of Winters for a portion of certain real property located at 104 and 106 Caselli Court, Winters, California, Yolo County APN: 003-480-62 and Yolo County APN: 003-480-63

City Attorney John Wallace gave an overview of the staff report.

Motion by Council Member Anderson, Second by Council Member Aguiar-Curry to approve the purchase of the Putah Creek Easement at 104/106 Caselli Court and authorize the Certificate of Acceptance. Motion carried unanimously 4-0, with Council Member Stone absent.

3. Resolution 2009-10, Approving a Budget Adjustment for the 1st Annual Winters Outdoor Quilt and Textile Art Festival

Shelly Gunby, Director of Financial Management gave an overview of the staff report.

Motion by Council Member Anderson, Second by Council member Aguiar-Curry to adopt Resolution 2009-10, a Resolution approving a budget adjustment for the 1st Annual Winters Outdoor Quilt and Textile Art Festival with the tote bags and charms to be purchased with recycling money. Motion carried with the following roll call vote:

AYES: Aguiar-Curry, Anderson, Fridae, Mayor Martin

NOES: None

ABSTAIN: None

ABSENT: Stone

COMMUNITY DEVELOPMENT AGENCY

1.

INFORMATION ONLY

1. **Update on Economic Stimulus Funding legislation (American Recovery & Reinvestment Act of 2009)**

Grant Writer Dawn Van Dyke gave an overview of the staff report.

EXECUTIVE SESSION: None

ADJOURNMENT

Mayor Martin adjourned the meeting at 8:37 p.m.

Michael Martin, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



Minutes of the Special Meeting of the City Council
of the City of Winters
Held on Monday, March 23, 2009

Mayor Michael Martin called the meeting to order 5:30 p.m.

PRESENT: Aguiar-Curry, Anderson, Fridae, Stone, Mayor Martin
ABSENT: None
STAFF: City Manager John Donlevy, City Manager John Wallace, Director of Financial Management Shelly Gunby, City Clerk Nanci Mills.

Pledge of Allegiance

Approval of Agenda: Motion by Council Member Stone, Second by Council Member Aguiar-Curry to approve the agenda. Motion carried unanimously.

Council Members Anderson and Fridae stepped down due to a possible conflict of interest.

COMMUNITY DEVELOPMENT AGENCY

Discussion Item:

1. Downtown Streetscape Project- Additional Improvements

City Manager Donlevy gave a brief overview, asking Council to approve Staff recommendation as follows: Authorize the City Manager to combine the scope of work and budget of ninety-eight thousand (\$98,000) encompassed in the approved Railroad Avenue Library Sidewalk, Project No. 09-04 with the Downtown Streetscape Phase 1, Project No. 06-07 for concurrent execution under the same construction contract with Maxicrete, Inc. of Fairfield; authorize the City Manager to award the Railroad Avenue Library Sidewalk work to Maxicrete, Inc. in the amount of Sixty-Five Thousand Seven Hundred (\$65,700) with a contract change order under their existing Downtown Streetscape Phase 1 construction contract with the City, and authorize an expenditure limit of Seventy-Two Thousand Three Hundred Dollars (\$72,300) for that work; and authorize an increase of Twenty-Five Thousand (\$25,000) in the total project expenditure limit and the total budget for the Downtown Streetscape Phase 1 project, making the new construction expenditure limit for the Downtown Streetscape Nine Hundred Seventy Four Thousand Dollars (\$974,000) and the revised total project budget One Million Four Hundred Eighteen Thousand Dollars (\$1,418,000).

Motion by Council Member Stone, Second by Council Member Aguiar-Curry to approve staff recommendation. Motion carried unanimously 3-0, with two absent.

Council Members Anderson and Fridae returned to the dais at this time.

ADJOURNMENT

Mayor Martin adjourned the City Council meeting to go into Executive Session at 5:45 p.m.

EXECUTIVE SESSION

- 1. Real Property Negotiation of the Community Development Agency regarding parcels 003-370-28, 003-370-003-370-29 and 009-370-30 California Government Code Section 54956.8**

The CDA Board of Directors provided direction to the Agency Staff regarding real estate negotiations regarding the indicated parcels. The Executive Session was adjourned at 6:18 p.m.

Michael Martin, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager. *JD*
FROM: Nanci G. Mills, Director of Administrative Services/City Clerk *Nanci*
SUBJECT: Application for Youth Day Parade Permit and Request for Youth Day Street Closure

RECOMMENDATION:

Approve the Application for Youth Day Parade Permit and Request for Youth Day Street Closure.

BACKGROUND:

The amount of \$2,500.00 was adopted at the City Council meeting held on 3/17/2009.

FISCAL IMPACT:

None by this action.

APPLICATION FOR PARADE PERMIT

NOTE: To be submitted _____ days prior to the event.

NOTE: If amplification system is to be used a separate permit is required.

DATE OF APPLICATION: MARCH 9, 2009

NAME OF ORGANIZATION: WINTERS YOUTH DAY

ADDRESS: P.O. Box 807, Winters, CA 95694 TELEPHONE # 530 795-2091

PURPOSE OF PARADE: 73rd Annual Winters Youth Day Celebration

TYPE OF CONVEYENCE: Autos, Horses, OFF-road vehicles, Walking, trucks

NUMBER OF PERSONS OR ENTRIES ENROLLED Approx. 120 entries

TYPE OF SAFETY MEASURES PROVIDED: Parade Marshals, Barricades, Cones,
no parking notices and signs

CITY SERVICES REQUIRED: Barricades, Cones, Stairs at City Yard, 4 tables, 10 chairs from
Community Center, general police patrols, Keys to City Park power and restrooms

DATE & TIME OF PARADE: Saturday April 25, 2009 9:30am - Noon (parades)

PROVIDE MAP OF PARADE ROUTE.

DATE: 3/9/09 C.C. _____

SIGNATURE OF AUTHORIZED APPLICANT: Michael Debartra, Parade Chairman

FIRE CHIEF: [Signature] POLICE CHIEF: [Signature]

APPROVED BY CITY COUNCIL: _____

DATE: _____ BY: _____

DENIED BY CITY COUNCIL:

DATE: _____ BY: _____

REASON(S) FOR DENIAL: _____



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Kate Kelly, Contract Planner
SUBJECT: Resolution 2009-12 Authorizing Purchase of Swainson's Hawk Mitigation Credits by the City of Winters for the City's Public Safety Center at the Chickahominy Creek Conservation Area Project

RECOMMENDATION: Staff recommends that the City Council take the following actions:

1. Receive the Staff Report.
2. Adopt Resolution 2009-12 Authorizing Purchase of Swainson's Hawk Mitigation Credits by the City of Winters for the City's Public Safety Center at the Chickahominy Creek Conservation Area Project.

BACKGROUND: The CEQA clearance for the Public Safety Center was included as part of the Hudson-Ogando project's Initial Study/Mitigated Negative Declaration (IS/MND) and is further addressed in the Mitigation Monitoring Plan and Development Agreement for the Hudson-Ogando project. The City Council considered and adopted these documents on November 15, 2005 (Resolution 2005-56). The City also adopted the Citywide Habitat Mitigation Program in 2006 (revised in 2008) which provides additional framework for the mitigation of Burrowing Owls, Swainson's Hawks, raptors, special-status vernal pool invertebrates, and seasonal wetlands.

The City and Winters Investors LLC, the developers of the Hudson-Ogando Subdivision entered into a Development Agreement in 2006 and amended in March 2009 which provides for the development of the Hudson-Ogando Subdivision. Section 4.14 of the Hudson-Ogando Development Agreement requires the Developer implement the biological mitigation measures for the Public Safety Center. These mitigation measures include impacts to 2.77 acres of Swainson's hawk foraging habitat.

The Mitigation Monitoring Plan directs that the site preparation for the Public Safety Center occur as part of the site preparation for the residential portion of the site. Advanced site preparation of the Public Safety Center site by the residential development was based upon the housing market at the time the project was approved and the desire for cost-effective, cohesive mitigation of the Public Safety Center utilizing

the residential development activities. The developer of the Hudson-Ogando Subdivision has not provided the required mitigation due to the current economic downturn which has delayed the Hudson-Ogando Subdivision.

The City desires to take advantage of the advantageous bidding climate resulting from the economic downturn and the Public Safety Center is now being developed years in advance of the residential development. New strategies are needed to provide mitigation so the Public Safety Center construction can proceed. Staff recommends the City implement the required Swainson's hawk mitigation and for the City to be reimbursed for the cost of complying with the mitigation measures by the developer of the Hudson-Ogando Subdivision per a separate Reimbursement Agreement.

POLICY ANALYSIS: The Habitat Mitigation Program directs Swainson's hawk mitigation to occur via perpetually protected lands which are located within a 7 mile radius of the City of Winters and are managed by a qualified conservation entity.

In January 2009, the 151.9 acre Chickahominy Creek Conservation Area became available for Swainson's hawk mitigation. The Chickahominy Creek Conservation Area (APN 040-160-13) is located 4.5+/- miles from the City of Winters and is protected with a perpetual conservation easement which preserves Swainson's hawk foraging habitat. The land is owned by Duane Chamberlain and the Swainson's hawk mitigation credits held by Charles and Kathryn Tyson. The Chickahominy Creek Conservation Easement is held and managed by the California Waterfowl Association. California Waterfowl Association meets the Habitat Mitigation Program's criteria for a qualified conservation entity. The Swainson's hawk easement on the property has been fully approved by CA Dept. of Fish and Game. The Chickahominy Creek Conservation Area meets the goals, objectives, and requirements of the City's Habitat Mitigation Program for a Swainson's hawk mitigation site.

On March 3, 2009 the City Council received an informational presentation on the Chickahominy Creek Conservation Area.

DISCUSSION: The current price for Swainson's hawk mitigation credits at the Chickahominy project is \$5,400/acre plus escrow costs. The \$5,400/acre includes the required endowment. Escrow costs are expected to be less than \$500. The mitigation is available on a first come, first serve basis and several other "buyers" are reportedly working on purchases.

For perspective, the in lieu fee in Yolo County for Swainson's hawk is currently \$8,660/acre which includes endowment and escrow costs.

In order to proceed with the Public Safety Center project staff is requesting authorization and direction via Resolution #2009-12 to purchase the required Swainson's hawk mitigation credits at the Chickahominy Creek Conservation Area in an amount not to

exceed \$17,000, and to take any and all steps deemed necessary to complete the mitigation credit transaction. The not to exceed cost of \$17,000 represents the estimated cost plus a 10% contingency.

Should the City not utilize the Chickahominy Creek project then other mitigation acreage would need to be identified and secured with perpetual conservation easements which meet CA Dept. of Fish and Game's approval. The use of in lieu fees could be considered but it would be contrary to the goals and objectives of the adopted mitigation measures and the City's Habitat Mitigation Program.

FISCAL IMPACT: Not to exceed \$17,000 from the Public Safety Center project funds and shall be reimbursable to the City by the Hudson-Ogando Subdivision developer.

ATTACHMENTS:

1. Resolution 2009-12 Authorizing Purchase of Swainson's Hawk Mitigation Credits by the City of Winters for the City's Public Safety Center at the Chickahominy Creek Conservation Area Project.

RESOLUTION NO. 2009-12
A RESOLUTION OF THE CITY OF WINTERS AUTHORIZING THE
PURCHASE OF SWAINSON'S HAWK MITIGATION CREDITS AT THE
CHICKAHOMINY CREEK CONSERVATION AREA TO MITIGATE
POTENTIAL IMPACTS TO SWAINSON'S HAWK FORAGING HABITAT BY
THE PUBLIC SAFETY CENTER PROJECT
(ASSESSOR PARCEL NUMBERS 003-522-01 AND 003-430-13)

a. WHEREAS, the City of Winters (the "City") proposes to construct a Public Safety Center (the "Project") located at northwest corner of Grant Avenue and West Main Street, Winters, CA 95694 (Assessor Parcel Numbers 003-522-01 and 003-430-13) ("Project Site"). The Project will house the City's Police and Fire Departments; and

b. WHEREAS, the potential environmental impacts of the Project were analyzed and addressed as part of the Mitigated Negative Declaration prepared for Hudson-Ogando Subdivision; and

c. WHEREAS, the City Council considered and adopted a Mitigated Negative Declaration and adopted a Mitigation Monitoring Plan for the Hudson-Ogando Subdivision, including the Project, pursuant to Section 15074 of the California Environmental Quality Act Guidelines on November 15, 2005 (Resolution 2005-56) ; and

d. WHEREAS, the City and Winters Investors LLC, the developers (the "Developer") of the Hudson-Ogando Subdivision entered into a statutory Development Agreement, providing for the development of the Hudson-Ogando Subdivision, which was recorded on July 14, 2006, and the First Amendment of the Development Agreement, which was recorded on March 16, 2009 (collectively the "Hudson-Ogando Development Agreement"); and

e. WHEREAS, the Hudson-Ogando Development Agreement requires that certain mitigation measures be implemented prior to the construction of the Project pursuant to the Hudson/Ogando Subdivision and City Public Safety Center Mitigation Monitoring Plan ("MMP"); and

f. WHEREAS, pursuant to Section 4.14 of the Hudson-Ogando Development Agreement, the Developer is obligated to implement certain mitigation measures for the Project at Developer's sole cost and expense. These mitigation measures include impacts to 2.77 acres of Swainson's hawk foraging habitat; and

g. WHEREAS, the Developer of the Hudson-Ogando Subdivision has not provided the required mitigation due to the current economic downturn which has delayed the Subdivision; and

h. WHEREAS, the City desires to proceed with the Project to take advantage of the advantageous bidding climate resulting from the economic downturn; and

i. WHEREAS, the City desires to implement the mitigation measures required for the Project by Section 4.14 of the Hudson-Ogando Development Agreement and will be reimbursed for the cost of completion of the mitigation measures by the Developer of the Hudson-Ogando Subdivision per a separate Reimbursement Agreement; and

j. WHEREAS, the City adopted a Citywide Habitat Mitigation Program on May 2, 2006 and revised the Program on December 16, 2008. The Habitat Mitigation Program directs Swainson's hawk mitigation to occur via perpetually protected lands which are located within a 7 mile radius of the City of Winters and are managed by a qualified conservation entity; and

k. WHEREAS, the Chickahominy Creek Conservation Area (APN 040-160-13) is located 4.5+/- miles from the City of Winters and is protected with a perpetual conservation easement which preserves Swainson's Hawk foraging habitat. The Chickahominy Creek Conservation Easement is held and managed by the California Waterfowl Association which meets the Habitat Mitigation Program's criteria for a qualified conservation entity. The Chickahominy Creek Conservation Area meets the goals, objectives, and requirements of the City's Habitat Mitigation Program for a Swainson's hawk mitigation site;

NOW THEREFORE, the City Council authorizes and directs the City Manager to purchase the required Swainson's hawk mitigation credits at the Chickahominy Creek Conservation Area in an amount not to exceed \$17,000.00, and to take any and all steps deemed necessary to complete the mitigation credit transaction.

Passed and adopted at a regular meeting of the City Council held on _____, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk
1215784.1



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE : April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Tracy Jensen, Administrative Assistant for Nanci G. Mills, Director of Administrative Services and City Clerk
SUBJECT: Street Closure Request – Iron Steed HOGS (Harley Owners Group) Poker Run – May 24, 2009

RECOMMENDATION:

Approve the closure of Main Street between Railroad Avenue and First Street to allow for the Vacaville-based HOGS Poker Run.

BACKGROUND:

The Vacaville Iron Steed HOGS, or Harley Owners Group, have requested the closure of Main Street between Railroad Avenue and First Street and have requested that barricades be placed at these intersections.

If approved, closure notification will be posted on all affected streets a minimum of 48 hours prior to the scheduled closures.

Per the City's Street Closure Ordinance, it requires Council approval on identified streets on the attached form.

FISCAL IMPACT:

To be Determined (Police staff overtime, signage, barricade placement).



City of Winters Request for Street Closure

This application is for citizens or groups that have occasion to request that streets be temporarily closed for such things as bicycle races, running contests, block parties and other such events requiring the re-routing of traffic. For a parade or amplified sound an additional permit is required.

A request to close streets shall be filed with the Police and Public Works Departments at least ten (10) business days prior to the date the street would be closed.

There shall be no closure of the following streets without Council approval:

1. Main Street
2. Railroad Street
3. Grant Avenue
4. Valley Oak Drive
5. Abbey Street

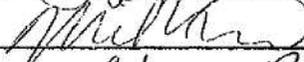
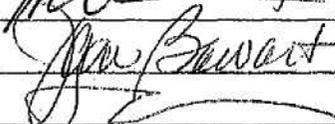
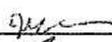
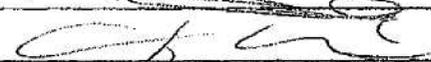
Request to close these streets shall be processed in much the same manner except that the request shall be submitted to the City Council by the Police Department. Requests to close the streets herein listed shall be submitted at least thirty (30) business days prior to the street closure.

Requests for street closures that are not submitted by the minimum time lines may be granted only by the Winters City Council.

Name: <u>Rich McDonald</u>	Organization: <u>Iron Steel HOG</u>
Address: <u>100 Auto Center Drive Vacaville</u>	Mailing Address: <u>Same</u>
Telephone: <u>(707) 592-6075 95687</u>	Today's Date: <u>4/7/2009</u>
Streets Requested: <u>1st block of Main Street</u>	
Date of Street Closure: <u>May 24, 2009</u>	Time of Street Closure: <u>10AM-5PM</u>
Description of Activity: <u>Harley Owners Group (HOG) pocket run - 200 to 400 riders</u>	
Services Requested of City: <u>no parking signs & street closure barricades</u>	
APPROVED: <u>[Signature]</u> Police Department	<u>[Signature]</u> Public Works Department

City of Winters Request for Street Closure

Please provide a listing of the names and signatures of people living on the street (s) to be closed and acknowledging that they know why the closure is requested and that they agree to the closure. Attach additional sheets if necessary.

'intimidated Company	
Velo City	
Realty World-Camelot Winters	Cheryl Rhenly
Dental foundation	Yessie Cera
CAWILES Hair Salon	
CLOTH CAROUSEL	 *
DUKIDORN CORP	
Art & Winters street	
IRELAND Agency	Tom Ireland
CHRIS' FLORIST	Chris Florist
Estados Occidentales	Carmel Estada
La Bodega	Diane Mathy
Tienda DELICIOUS	
First Northern Bank	
El Pueblo MKT	Baldomero Arce



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Shelly A. Gunby, Director of Financial Management
SUBJECT: Resolution 2009-15 for Claim of Transportation Development Act Funding

RECOMMENDATION:

Approve Resolution 2009-15, A Resolution of the City Council of the City of Winters for the Claim of Transportation Development Act Funding from the Sacramento Area Council of Governments (SACOG).

BACKGROUND:

The City of Winters receives funding from the Sacramento Area Council of Governments (SACOG) for transportation needs each year. A portion of the Local Transportation Funds (LTF) received is used to fund the bus service for the citizens of the City of Winters. LTF funds not used for the bus service may be used for certain street and road expenditures. The total LTF allocation for 2008-2009 is \$268,651, of which \$150,444 will be expended for the Yolo Bus Service, \$8,309 will be expended for SACOG planning expenses, and the balance of \$109,898 available to be used for street and road work.

The City must file a claim of the estimated expenditures for transportation needs to be funded by the Transportation Development Act each year in order to receive the funds. Attached is the 2008-2009 Annual Project and Expenditure Plan and the 2008-2009 Transportation Development Act Claim

FISCAL IMPACT:

Continues SACOG funding for the bus service, provides some small amount of funding for street expenditures and provides for funding for transportation planning activities.

RESOLUTION 2009-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS FOR THE CLAIM OF TRANSPORTATION DEVELOPMENT ACT FUNDING FROM THE SACRAMENTO AREA COUNCIL OF GOVERNMENTS

WHEREAS, Section 99260 of the Public Utilities Code requires a local agency to file an estimated claim of transportation needs for each fiscal year; and

WHEREAS, the Sacramento Area Council of Governments (SACOG) is designated as the Transportation Planning Agency for the City of Winters to receive such claims for approval pursuant to Rules and Regulations adopted by the Secretary of the Business Transportation Agency; and

WHEREAS, SACOG has adopted finding of apportionment of Local Transportation Funds and State Assistance Funds for Fiscal Year 2008-2009; and

WHEREAS, surplus funds may be used for certain street and road expenditures

NOW, THEREFORE BE IT RESOLVED that the attached Fiscal Year 2008-2009 Annual Project and Expenditure Plan and the Fiscal Year 2008-2009 Transportation Development Act Claim be hereby approved and that the City Manager and/or his designee be authorized to execute the attached claims and forward to SACOG.

PASSED AND ADOPTED by the City Council, City of Winters, the 7th day of April 2009

AYES:

NOES:

ABSTAIN:

ABSENT:

Mike Martin, Mayor

ATTEST:

Nanci G. Mills, CITY CLERK

**TRANSPORTATION DEVELOPMENT ACT
CLAIM CHECKLIST**

Please check the following items as either included with the attached TDA claim package or on file at SACOG.

Item	Claimant	Attached	On File
TDA-1 Annual Transportation Development Claim	All Claimants		N/A
TDA-2 Project and Expenditure Plan (for the fiscal year of this claim and prior fiscal year)	All Claimants		N/A
TDA-3 Status of Previously Approved Projects	All Claimants		N/A
TDA-4 Statement of Conformance	All Claimants		N/A
TDA-5 TDA Claim Certification	All Claimants		N/A
Resolution by governing body that authorized the claim	All Claimants		N/A
CHP Safety Compliance Report (completed within the last 13 months)	Claimants for transit service		
Statement of projected or estimated revenues and expenditures for the prior fiscal year	Claimants for transit service		
Adopted or proposed budget for the fiscal year of the claim and the prior fiscal year	Claimants for transit service		
Signed copy of transit service contract	Claimants for transit service		
Areawide transfer agreement and resolution	Claimants for transit service		
Information establishing eligibility under efficiency criteria	Claimants for transit service		
Certification that claim is consistent with Capital Improvement Program	Claimants for transit service		
Compliance with PUC Sections 99155 and 99155.5	Claimants for transit service		
STA Operator Qualifying Criteria calculation based on Section 99314.6	Claimants for transit service		

TDA - I
TRANSPORTATION DEVELOPMENT ACT CLAIM

TO: Sacramento Area Council of Governments
 1415 L Street, Suite 300
 Sacramento, CA 95814

FROM:

Claimant	City of Winters
Address	318 First St
City	Winters, CA Zip Code 95694
Contact Person	Shelly Gunby, Director of Financial Management
Telephone	530-795-4910 ext 104
E-Mail	shelly.gunby@cityofwinters.org
Facsimile	530-795-4935

The above claimant hereby requests, in accordance with authority granted under the Transportation Development Act and applicable rules and regulations adopted by the Sacramento Area Council of Governments (SACOG), that its request for funding be approved as follows:

LTF:

\$268,651	FY 2008-2009
	FY
	FY
	FY
	FY

STA:

	FY

Submitted by: **Shelly Gunby** *Shelly Gunby*
 Title: **Director of Financial Management**
 Date: **April 7, 2009**

**TDA-2
ANNUAL PROJECTION AND EXPENDITURE PLAN**

Claimant: City of Winters							Fiscal Year: 2008-2009		
Project Title and TDA Article Number	Sources of Funding								
	TDA LTF	TDA STA	Transit Fares	Measure A	Road Fund	Developer Fees/ Const. Tax	Federal/ State	Other	Total
Winters Bus Service Article 4 Section 99260(a)	\$150,444								\$150,444
Streets and Roads Article 8 Section 99400 (a)	\$109,898								\$109,898
Reclassify amount for bus from 07-08 Article 4 Section 99260(a) to:	\$-18,528								\$-18,528
Streets and Roads Article 8 Section 99400 (a)	\$ 18,528								\$ 18,528
SACOG Planning	\$ 8,309								\$ 8,309
TOTAL REQUEST	\$268,651	\$	\$	\$	\$	\$	\$	\$	\$268,651

**TDA-3
STATUS OF PREVIOUSLY APPROVED PROJECTS**

Instructions — Describe the status of all prior fiscal year TDA claim projects and any projects from previous years that are still active, as follows:

- Include both operating and capital budgets
- Approved amounts should be specified in TDA claims approved by SACOG
- Expenditures should be to date
- Project status should be either "Complete" or "Active"

Fiscal Year	Project Title	Amount Approved		Expenditures		Project Status
07-08	Bus Service	177,750		159,222.		Complete
05-06	Streets	171,453		171,453		Complete
06-07	Streets	242,957		20,166		Active
06-07	Transportation Services		22,269		20,495	Active
07-08	Streets	105,374				Active
TOTAL		\$697,534	\$22,269	\$350,841	\$20,495	

TDA-4
STATEMENT OF CONFORMANCE

Form TDA-4 must be completed and signed by the Administrative Office of the submitting claimant.

The City of Winters

hereby certifies that the Transportation Development Act claim for fiscal years 2008-2009

in the amount of \$ 268,651 (LTF) and \$ -0- (STA)

for a total of \$ 268,651 conforms with the requirements of the Transportation Development Act and applicable rules and regulations (see Attachment A for listing of conformance requirements).

Certified by Chief Financial Officer



Title Director of Financial Management

Date April 7, 2009

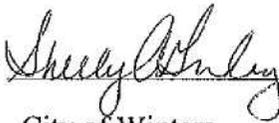
TDA-5
TDA CLAIM CERTIFICATION FORM

I, Shelly Gunby, Chief Financial Officer for the City of Winters

do hereby attest, as required under the California Code of Regulations, Title 21, Division 3, Chapter 2, Section 6632, to the reasonableness and accuracy of the following:

- (a) The attached budget or proposed budget for FY 2008-2009
- (b) The attached certification by the Department of the California Highway Patrol verifying that Not applicable is in compliance with Section 1808.1 of the Vehicle Code, as required in Public Utilities Code Section 99251.
- (c) The estimated amount of 2008-2009 maximum eligibility for moneys from the Local Transportation Fund and State Assistance Fund, as defined in Section 6634 is \$ 268,651.

Signature of Chief Financial Officer



Agency Name City of Winters

Date April 7, 2009

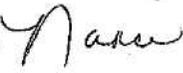


**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers

DATE : April 7, 2009

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

FROM: Nanci G. Mills, Director of Administrative Services, City Clerk 

SUBJECT: Resolution 2009-16, Declaring Weeds and Rubbish on Certain Lots and
Parcels within the City of Winters to be a Public Nuisance and Ordering
the Institution of Proceedings to Abate said Public Nuisances

RECOMMENDATION:

Approve Resolution 2009-16, a Resolution Declaring Weeds and Rubbish on Certain Lots and Parcels within the City of Winters to be a Public Nuisance and Ordering the Institution of Proceedings to Abate said Public Nuisances.

BACKGROUND:

Each year at this time the Winters Fire Department surveys parcels for which weeds or rubbish, or both, have been observed.

A public hearing will need to be held by the Council on April 21, 2009 at 7:30 p.m. for the purpose of hearing and considering all objections to the proposed removal of the weeds, rubbish, and refuse from the parcels described in Exhibit A.

FISCAL IMPACT:

None by this action.

Resolution No. 2009-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
DECLARING WEEDS AND RUBBISH ON CERTAIN LOTS AND PARCELS
WITHIN THE CITY OF WINTERS TO BE A PUBLIC NUISANCE AND
ORDERING THE INSTITUTION OF PROCEEDINGS
TO ABATE SAID PUBLIC NUISANCES**

WHEREAS, Title 4, Division 3, Part 2, Chapter 13, Article 2 of the Government Code, commencing with section 39560 (herein "Weed Abatement Law"). Provides the City Council with an alternative procedure which it may use for the abatement of weed and rubbish on lots and parcels within the City as public nuisances, and

WHEREAS, The City Council desires to utilize the procedures provided in the weed abatement law as a means of abating certain public nuisance conditions located throughout the City consisting of weeds and rubbish on lots and parcels within the City, and

WHEREAS, The Winters Fire District has presented the City Council with a list describing by street name and assessor's parcel number the lots and parcels within the City upon which weeds or rubbish, or both have been observed; and

WHEREAS, The City Council desires to abate weeds growing on said lots as seasonal and recurrent nuisances as provided in Section 39562.1 of the Weed Abatement Law;

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WINTERS AS
FOLLOWS:**

1. That all weeds growing upon the streets, sidewalks and private property and all rubbish and refuse upon parkways, sidewalks and private property within the City are hereby declared to be, a public nuisances subject to abatement as provided in the weed abatement Law and this resolution.
2. That all weeds growing upon streets, sidewalks and private property within the City are also declared to be a seasonal and recurrent nuisance subject to abatement as provided in Section 39562.1 of the weed Abatement Law.
3. That the location of each such lot and parcel upon which a public nuisance has been observed to presently exist, listed by street upon which it fronts and Yolo County Assessor's parcel number, is set forth in Exhibit "A" attached hereto and incorporated herein by reference.

4. That the Fire Chief or his Representative of the Winters Fire District is hereby designated to be the "superintendent" as defined in Section 39560 of the Weed Abatement Law. For purposes of performing the duties imposed by said law within the City. Except that, the City Manager will be responsible for filing all liens and signature approval of the abatement contractor.
5. That a public hearing is hereby set before the City Council to be held at 7:30 P.M. on April 21, 2009 at the City Council Chambers. City Hall 318 First Street, Winters Ca. For the purposes of hearing and considering all objections to the proposed removal of the weeds, rubbish and refuse from the parcels described in Exhibit "A".
6. That the Winters Fire District is hereby directed to give mailed notice of said hearing to all persons owning property described in Exhibit "A" as provided in Section 39567.1 of the Weed Abatement Law. Said mailed notice to be in the form provided for in the Weed Abatement Law for such notice. Said notice shall state that weeds are seasonal and recurrent nuisances as provided in Section 39562.1 of the Weed Abatement Law.
7. The Fire Chief or his representative is hereby authorized and directed to seek informal competitive bids for the performance of said abatement work on lots and parcels through the city and to present to the City Manager for consideration following the conclusion of the public hearing described above. The City Council finds and determines that said work of removing weeds and rubbish as provided in the Weed Abatement Law constitutes on professional services to the City.

PASSED AND ADOPTED THIS 7th DAY OF APRIL 2009 BY THE FOLLOWING VOTE:

**AYES:
NOES:
ABSTAIN:
ABSENT:**

Michael Martin, **MAYOR**

ATTEST:

Nanci G. Mills, **CITY CLERK**

APN	SITUS	ASSESSEENA	ADDRESSSTR	ADDRESSCIT	ADDF	ADDRESSZIP
003 183 4	RUSSELL ST	AGUIAR JANET M GIANOLA FAM TRUST	27447 CR 91A	WINTERS	CA	95694
038 050 6	I-505 & RUSSELL BLVD	ALI ASHRAF YASMIN	5000 E 2ND ST STE G	BENICIA	CA	94510
038 050 5	999 E GRANT AVE	ALI ASHRAF YASMIN A	5000 E 2ND ST STE G	BENICIA	CA	94510
030 361 3	1206 VALLEY OAK DR	ALSBURY MERWYN G LINDA LEA	1206 VALLEY OAK DR	WINTERS	CA	95694
030 220 0	105 NIEMANN ST	ALSBURY REV TRUST	8 BETTY CT	WINTERS	CA	95694
030 200 4	HWY 128	BREZNOCK EUGENE M ANN L	27956 HWY 128	WINTERS	CA	95694
003 424 2	822 RAILROAD AVE	BRIGGS MICHAEL A SHAUNIE	820 RAILROAD AVE	WINTERS	CA	95694
003 360 1	840 WALNUT LN	CARRION CATHERINE A CARRION CATHERINE A 200	840 WALNUT LN	WINTERS	CA	95694
003 360 2	126 CARRION CT (PRIVA	CARRION CHARLES R SANDY	806 MERMOD PL	WINTERS	CA	95694
003 524 1	415 GRANT AVE	CARTER PHILLIP JOHN CARMEN CARTER REV TRUST	P O BOX 929	WINTERS	CA	95694
003 241 1	WOLFSKILL ST	CASTRO GEORGE J CASTRO GEORGE J MARITAL DEC	8552 HOLMES LN	WINTERS	CA	95694
003 450 1	W GRANT AVE	CASTRO GEORGE J CASTRO GEORGE J SURVIVOR'S	8552 HOLMES LN	WINTERS	CA	95694
038 190 3	E MAIN ST	CHRISTIE ROBERT J KATHERINE L	706 PACK LN	MONTECITO	CA	93108
003 242 1	117 2ND ST	COMAN ELIZABETH ETAL	105 ORCHARD LANE	WINTERS	CA	95694
003 330 1	CR 89	CONWAY LOUIS W	417 F ST 3	DAVIS	CA	95616
003 330 1	DUTTON ST	CONWAY LOUIS W	417 F ST 3	DAVIS	CA	95616
038 050 1	WALNUT LN	CORBETT FAMILY TRUST	44167 GREENVIEW DR	EL MACERO	CA	95618
003 430 1	GRANT AVE	COUNTRY INVESTORS	2706 LAND PARK DR	SACRAMENTO	CA	95818
003 430 1	GRANT AVE	COUNTRY INVESTORS	2706 LAND PARK DR	SACRAMENTO	CA	95818
038 050 2	T8N R1W POR SEC 22	DAVIS GARY LYNN DAVIS FAM REV TRUST	1731 HOWE AVE 198	SACRAMENTO	CA	95825
030 220 1	CR 33	GBH WINTERS HIGHLANDS LLC	4230 DOUGLAS BLVD 100	GRANITE BAY	CA	95746
030 220 1	T8N R1W S21	GBH WINTERS HIGHLANDS LLC	4230 DOUGLAS BLVD 100	GRANITE BAY	CA	95746
003 491 0	103 ORCHARD LN	GUTIERREZ RALPH SHIRLEY	107 ORCHARD LN	WINTERS	CA	95694
030 372 2	910 SOUTHDOWN CT	HACKLEY NANCY A	910 SOUTHDOWN CT	WINTERS	CA	95694
003 243 0	10 RUSSELL ST	HEMENWAY DEBORAH SCHOLAR HEMENWAY DEBORA	8 RUSSELL ST	WINTERS	CA	95694
003 241 1	100 WOLFSKILL ST	JAUREQUI CASIMIRO GUADALUPE	P O BOX 1083	WINTERS	CA	95694
003 370 2	E GRANT AVE	CHENEY D RICK	4230 DOUGLAS BLVD 100	GRANITE BAY	CA	0
003 370 2	E GRANT AVE	CHENEY D RICK	4230 DOUGLAS BLVD 100	GRANITE BAY	CA	0
003 370 3	E GRANT AVE	CHENEY D RICK	4230 DOUGLAS BLVD 100	GRANITE BAY	CA	0
038 070 2	T8N R1W	JORDAN FAM PARTNERSHIP II	1600 EXECUTIVE CT	SACRAMENTO	CA	95825
038 070 2	PCL 2 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II	1600 EXECUTIVE CT	SACRAMENTO	CA	95825
038 070 3	PCL 4 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II	1600 EXECUTIVE CT	SACRAMENTO	CA	95825
038 070 3	PCL 3 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II	1600 EXECUTIVE CT	SACRAMENTO	CA	95825
038 070 3	PCL 1 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II	1600 EXECUTIVE CT	SACRAMENTO	CA	95825
003 224 0	8 E ABBEY ST	PICKEREL JOHN R MELANIE B	10 MAIN ST	WINTERS	CA	95694
003 241 2	200 WOLFSKILL ST	LARSEN ERIC ETAL	200 WOLFSKILL ST	WINTERS	CA	95694
003 120 0	GRANT AVE	MARITAL TRUST	1760 THE ALAMEDA	SAN JOSE	CA	95126
003 430 1	GRANT AVE	MILLER DISCLAIMER TRUST ETAL	1760 THE ALAMEDA	SAN JOSE	CA	95126
003 350 0	121 E GRANT AVE	LORENZO ALADDIN C LYNDA TR	121 E GRANT AVE	WINTERS	CA	95694
038 050 2	T8N R1W POR SEC 22	CONN ROWENE MACMILLAN CO TR MACMILLAN CLIFFO	1012 GROVE LN	NEWPORT BEAC	CA	92660
003 330 1	CR 89	MONTOSA DONNA M MARTIN JOHN R SUCC TR	710 DUTTON ST	WINTERS	CA	95694
003 360 2	125 CARRION CT (PRIVA	BROWN LISA A STEVE M	125 CARRION CT	WINTERS	CA	95694
003 450 1	W GRANT AVE	NORTHERN CALIFORNIA ASSOC LLC	23 PINNACLE PEAK	NAPA	CA	94558

003 450 1	W GRANT AVE	NORTHERN CALIFORNIA ASSOC LLC	23 PINNACLE PEAK	NAPA	CA	94558
003 450 1	W GRANT AVE	NORTHERN CALIFORNIA ASSOC LLC	23 PINNACLE PEAK	NAPA	CA	94558
003 241 2	102 WOLFSKILL ST	OGANDO JOSEPH E KAREN M	102 WOLFSKILL ST	WINTERS	CA	95694
030 220 1	T8N R1W POR SEC 21	PINKSTON VOYDELL LOIS	P O BOX 654	WINTERS	CA	95694
003 155 1	4 EDWARDS ST	PLATT JOHN YOLANDA	27 E EDWARDS ST	WINTERS	CA	95694
003 204 0	311 1ST ST	PORTELLO WILLIAM L MARY PORTELLO FAM TRUST	2721 ANZA AVE	DAVIS	CA	95616
038 070 3	RUSSELL/BAKER/MAIN	RABADA JOHN S RABADA JOHN S M D INC RET TRU	22 CASTLEWOOD DR	PLEASANTON	CA	94566
003 152 0	GRANT AVE	RAMOS DOLORES D TR	P O BOX 1019	WINTERS	CA	95694
003 120 0	511 MAIN ST	ROMAN CATHOLIC BISHOP OF SAC	511 MAIN ST	WINTERS	CA	95694
003 467 0	803 W GRANT AVE	SHERWOOD JOSEPH J	P O BOX 620580	ORANGEVALE	CA	95662
038 050 1	29500 RUSSELL BLVD	SOUTH MARKET COURT PTN LP SKREDEN MARK CHR	7700 COLLEGE TOWN DR STE	SACRAMENTO	CA	95826
030 220 2	R1W POR SEC 21	STATEWIDE PROPERTIES WINTERS	200 B ST STE F	DAVIS	CA	95616
003 360 1	836 WALNUT LN	STILLWILL CYNTHIA I JUNIES C	836 WALNUT LN	WINTERS	CA	95694
003 360 0	WALNUT LN	CENT VALL COAL FOR AFFORD HOU	3351 M ST STE 100	MERCED	CA	95348
003 430 1	537 GRANT AVE	WINTERS INVESTORS LLC	1380 GALAXY WAY	CONCORD	CA	94520
003 011 4	425 ANDERSON AVE	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
003 130 0	500 W EDWARDS ST	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
003 145 0	200 BAKER ST	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
003 282 0	RAILROAD AVE	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
003 282 0	718 RAILROAD AVE	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
003 282 0	RAILROAD AVE	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
003 282 1	RAILROAD AVE	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
003 282 1	101 GRANT AVE	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
003 322 0	101 W GRANT AVE	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
003 450 1	900 W GRANT AVE	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
030 220 13		WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
030 220 14		WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
030 220 3	502 NIEMANN ST	WINTERS JT UNIFIED SCH DIST	909 W GRANT AVE	WINTERS	CA	95694
038 050 6	1-505/GRANT AVE	WINTERS LLC	655 CAMPBELL TECH PK STE	CAMPBELL	CA	95008
003 160 65		HERRINGTON JOHN S & LOIS H & HERRINGTON FAM TR	160 ALDERWOOD RD	WALNUT CREEK	CA	94598
003 370 3	405 EAST STREET	HARRINGTON WILLIAM	405 EAST STREET	WINTERS	CA	95694
003 370 39		PLATT JOHN T YOLANDA	501 EAST STREET	WINTERS	CA	95694
030 220 35		CORP OF THE PRESIDING BISHOP CH OF LDS	50 E NORTH TEMPLE ST 22ND	SALT LAKE CITY	UT	94150
030 220 34		CORP OF THE PRESIDING BISHOP CH OF LDS	50 E NORTH TEMPLE ST 22ND	SALT LAKE CITY	UT	94150

Date: April 13, 2009

To: _____

From: Winters Fire Department

Subject: Request for Proposal – City of Winters Weed Abatement 2009.

The City of Winters invites you to submit a proposal for weed abatement.

This letter comprises the formal Request for Proposal (RFP) for the project. Responses to the RFP should be submitted in accordance with the instructions stated herein.

Point of Contact

All proposals relating to this RFP shall be submitted to:

Winters Fire Department by May 1,2009 16:00hr

10 Abbey Street

Winters Calif. 95694

ATT: Fire Prevention

(530) 795-4131

Criteria for Contractor

The work included in this contract shall consist of furnishing all labor, equipment, and records for abating weeds, noxious vegetation and removing debris from private property within the City of Winters. The

abatement of weeds and noxious vegetation shall be accomplished by disking, mowing or other means as specified in the Winters Fire Departments policies regarding the "Abatement of Weeds" or by other methods approved by the Winters Fire Department. The Contractor shall be knowledgeable of the policies regarding Weed abatement as set forth in the Winters Fire Department policies regarding the Abatement of Weeds. Abatement of lots will not start until the Chief or his representative and the contractor has reviewed the parcel for work to be conducted. The contractor shall contact the Chief or his representative at the conclusion of work on the parcel to review the finished parcel. The Contractor shall work under the direct supervision of the Chief or his representative. Any discrepancies related to weed abatement shall be decided by the Chief or his representative and shall be final up to and including termination of this contract for improper work or inadequate equipment to complete the contracts requirements. If the contract is terminated than the next closest bidder will be awarded the contract. The contractor shall have a form of communication so that the contractor can contact the fire department immediately should an unforeseen event occur on a job site. The contractor will provide proof of liability insurance and workman's com. Insurance (where applicable) in amounts approved by the city manager and the Fire Chief. The contractor will not mow on any day when high winds or low humidity is present. This condition will be decided by the Chief or his / her representative on a day-by-day basis. The contractor will not drive or place any heavy load on any City sidewalk. It will be the responsibility of the contractor to acquire a City of Winters Business license prior to starting work.

SCOPE OF WORK

The listing of lots or parcels that may require to be abated within the City of Winters will be available from the Fire Department as set by the 2009 weed abatement time line. The contractor shall begin the abatement of parcels not meeting the standard within five (5) days of notification by the Winters Fire Department. The contractor shall complete weed abatement by dates prescribed by the "Weed Abatement Time line." or as arranged by the Fire Department. This date could be as late as ten days after the dead line. A one-time extension that is not to exceed ten days may be granted by the Chief. Persons requesting an extension shall make a written request for the extension stating the reason for such extension. There will be a spring and fall abatement dead line as set by the weed abatement time line for the contractor to abate designated parcels.

Contractors Schedule for weed abatement 2009

1. Contractor to begin first weed abatement May 26, 2009
2. Contractor to finish first weed abatement June 13, 2009
3. Contractor to submit first billing for weed abatement by June 16, 2009
4. Contractor to begin second weed abatement July 20, 2009
5. Contractor to finish second abatement July 28, 2009
6. Contractor to submit second billing for weed abatement by August 6, 2009

Records

Accurate records shall be maintained that shows date, time, address, parcel number, work performed, and cost. Photographs shall be taken on the day of abatement, before and after, showing lot with addresses or parcel number. Film shall be provided by the contractor and should be included on the proposal sheet. Payment for work will be based on abatement forms and processed photos. All records will be turned into the Fire Prevention Officer, Winters Fire Department.

Debris

“Debris” -- defined as foreign material on a lot such as woodpiles, concrete, wires, metal, trash, etc. shall be identified by the department and removed on a case by case basis.

Debris shall be removed if:

1. It endangers adjacent fences, structures, or public safety due to its location. Or if the debris is creating a health or fire hazard.
2. It prevents the contractor from performing the required weed abatement due to the quantity or location.

Where minor amounts of debris are present and can be worked around without sacrificing the above basic intent, it shall be left in place.

Time required to accomplish debris removal shall be recorded.

Clean-up & Damages

The contractor shall not allow the sidewalk or street fronting or adjacent to the property to become littered with waste materials, but shall maintain the same in a neat and orderly condition. Clean-up work shall be completed prior to leaving each job site.

Any property damage incurred by the contractor shall be repaired at the contractor's expense.

All waste material is to be disposed of at an approved landfill. Landfill cost falls under debris removal.

STANDARD SPECIFICATIONS FOR ABATEMENT OF WEEDS

To be considered for weed abatement, vegetation shall be taller than six inches or identified for abatement by the Chief or his representative.

Disking / Rotor tilling

- Any parcels that are disked must be disked so that no combustible vegetation or debris is left on the top surface or to the Chiefs approval.
- Shall not be used when lots have been leveled or planed for building construction.
- All bordering fences and property lines shall be cut and cleared of any vegetation including sidewalks and mow strips fronting the parcel.

Mowing/Flail Mowing

- Weeds shall be cut to two approximately 2 inches or shorter or to the Chiefs approval.
- If large amount of debris is left over from mowing, it must be removed from the premises.
- All bordering fences and property lines shall be cut and cleared of any vegetation including sidewalks and mow strips fronting the parcel.
- Mowing shall not be conducted after 12:00 noon unless approved by the Department.

Clearing Fence lines, Sidewalks, Dirt Mounds

- All weeds are to be removed from fence lines, sides of structures, ditch banks, dirt mounds, and along sidewalks or streets or as directed by the Chief or his representative.
- All bordering fences and property lines shall be cut and cleared of any vegetation including sidewalks and mow strips fronting the parcel or as directed by the Chief or his representative.

Fuel Breaks (Fire Breaks)

- Fuel Breaks shall be constructed no less then thirty (30) feet in width and plowed so that fire will not spread across the break
- **Placement and location of fuel breaks shall be approved by the department**

INSURANCE

City requires that the contractor shall obtain and maintain at the contractor's own expense the following types of insurance for the duration of the Contract:

- Worker's Compensation Insurance: As required by the Law of the State of California.
- Personal Injury, Bodily Injury, and Property Damage Liability: Not less than \$500,000 for injury to any one person and \$1,000,000 for any one occurrence for Personal and Bodily Injury Insurance. Property Damage injury coverage of not less than \$100,000 for any one occurrence.
- Automobile bodily injury and property damage liability insurance covering owned, non-owned, rented, and hired cars. The combined single limit for bodily injury and property damage shall be not less than \$500,000.

These policies will contain provisions to include the City, its Council, Winters Fire District, its board and personal, officers, representatives, agents and employees as additional insured. Also, the policies will specify that such insurance is primary and no City insurance will be called-on to contribute to a loss.

Proof of insurance to be submitted prior to beginning of work.

PROPOSALS

Submitted proposals should be based on flat rate for work per square foot. As outlined in the Standard Specification paragraph for lot clearing and lot size. Proposals should include "Tractor Work", Handwork and a minimal contractor activation charge

All proposals should be labeled "Weed Abatement" and returned as a sealed bid for contract, received no later than 12:00 p.m. on May 1, 2009 16:00 hr at:

Winters Fire Department

10 Abbey Street

Winters Calif. 95694

The sealed bids will be opened by the City Clerk and reviewed by the City Manager and the Fire Department on the day following the final filing date.

City of Winters reserves the right to accept or reject all proposals submitted in response to this request for proposals. To request additional information from the proposer and to award the contract for the work to other than the lowest responsible bidder if it deems that such an award would be advantageous to the City.

City of Winters also reserves the right to choose more than one contractor for weed abatement and to select different contractors for: (a) weed abatement on vacant lots; or (b) hand work; or (c) fire breaks, or (d) debris removal. Alternatively, the City may award the bid based upon what it believes is the best overall price bid by any single bidder for each of said items of work.

(Hand work) \$ _____

Company: _____

Address: _____

Contact person: _____

Pager # _____ Cell/Work Phone: _____

Signature: _____ Date _____

Winters Fire Department policies and procedures regarding the enforcement of the City of Winters Weed and Rubbish Abatement. City of Winters ordinance No.98-02.

Definitions:

Approved: Meeting the approval of the Winters Fire Chief or his representative.

Abatement: The removal by mowing or plowing or the prevention by chemical treatment of a area resulting in the area being free or nearly free of weeds and not presenting a fire hazard.

Burning: The burning of weeds shall be prohibited within the City of Winters unless approved by the Fire Department and Air Pollution control.

Chief: The Fire Chief of the Winters Fire Department

Department: Means the Winters Fire District

Fire Hazard: As defined in the current edition of the Uniform Fire Code, and, this Department's requirements, that dry vegetation 6 inches or more in height and so arranged that the spread of fire could be expected. Also any large amounts of cut vegetation left lying on or around an area would constitute a fire hazard.

Fuel Break: (Fire Break) Minimal width; 30 feet. Plowed or scraped leaving mostly mineral earth in such a manner that fire will not burn across the fuel break. Location and placement of fuel breaks shall be approved by the department.

Mowing: The cutting of vegetation within 2 inches of the ground

Plowing / Disking: To cut, lift and turn over the soil and vegetation, leaving mostly mineral earth.

Superintendent: Means the Winters Fire Chief or his representative.

Weeds: Shall include all dry vegetation and other noxious materials, dried or not. Weeds shall also be interpreted to include the word "refuse".

Clean-up

The owner of the property shall not allow the sidewalk or street fronting or adjacent to the property to become littered with waste materials, and shall maintain the same in a neat and orderly condition. Clean-up work shall be completed prior to leaving the job site.

For other definitions: See Uniform Fire Code, DEFINITIONS and the City Government Code Title 4 sec. 39560 and section 39561.5

(1) Duty to remove weeds, grass and other noxious materials and rubbish. It shall be the responsibility of the owner, agent or person in control of any lot, piece, or parcel of land in the city to remove there from, and from the sidewalk and mow strip fronting thereof, all noxious vegetation, dry weeds, dead trees, rubbish, refuse and waste matter of all kinds which may endanger or injure neighboring properties or the health or welfare of the residents of the vicinity. The duty to remove such weeds, rubbish and other matter as aforementioned, shall be deemed a continuing duty. The failure to remove any re-growth or re-accumulation of such matter, whenever necessary, shall be deemed a nuisance and subject to abatement under the Government code chapter 13 and City of Winters Ordinance No.98-02.

(2) Abatement of weeds shall be by plowing under the weeds when possible. Lots that area graded need not be plowed and can have the weeds removed by mowing or scraping within 2 inches of the ground. Any large amounts of cut vegetation shall be removed from the property and disposed of in a safe location. Large parcels where plowing or mowing is impractical due to the size of the parcel, approved fuel breaks not less than thirty feet in width may be installed.

(3) Any person mowing with power equipment shall have readily available to him. At least one long handled round point shovel and either a five gallon water fire extinguisher in good working condition. Or a water hose with a adjustable nozzle and adequate water pressure to spray a water stream 15 feet. The hose shall be long enough to reach from its water supply to all areas being mowed. Mowing of dry vegetation shall not be conducted after 12:00 noon on days where the temperature exceeds 100 degrees or on days when the wind speed is 5 miles per hour or greater. (exception: Mowing can be conducted after 12:00 noon with the Chief's or his representative's approval. This approval may include a fire watch equipped with reliable communication equipment that can call 911) Power equipment will be fitted with an approved spark arrestor or in the case of diesel powered equipped with a turbocharger, no arrestor will be required.

(4) This department will conduct not less than two inspections for parcels with excessive, or the potential for excessive, amounts of weeds yearly. The first will be conducted in the spring of the year with the deadline for weed removal by lien set, as needed each year. The second will be conducted in the Fall with the deadline for weed removal set as needed each year. The dates for removal lien will be largely dependent by that year's weather.

(5) Parcels that require abatement will be placed on a list and the registered owner as noted in the City's parcel book will be notified by a mailing sent out as determined by that years time line. The fire department will present the City Council with a resolution to abate any parcels not having been cleared of the noted weeds by date set by the approved time line in accordance with the City Government Code Title 4, chapter 13. The abatement dates will be firm, exceptions will only be given by the Chief.

(6) The contractor for abatement of weeds by lien within the City of Winters shall be selected as required in Chapter 13 Title 4 of the City Government Code, using a Request for proposal (RFP). The successful contractor awarded the abatement contract shall present prior to conducting abatement operation, proof of not less than \$500,000 for injury to any one person and \$1,000,000 for any one occurrence for personal and bodily injury insurance. Property damage injury coverage of not less than \$100,000 for any one occurrence. A City Business license will also need to be obtained. The City of Winters reserves the right to accept or reject any and all proposals submitted in response to the RFP. To request additional information from the proposer, and to award the contract for the work to other than the lowest responsible bidder if it deems that such an award would be advantageous to the city. The City of Winters also reserves the right to choose more than one contractor for weed abatement and to select different contractors for; (a) weed abatement on vacant lots or parcels; or (b) hand work; or (c) fire breaks; or (d) debris

removal. Alternatively, the city may award the bid based upon what it believes is the best overall price bid by any single bidder for each of said items of work.

(7) Contractors will submit a request for proposal (RFP) to abate weeds based on a price per square foot. A bid will need to be submitted for Fire Brakes, Linear foot x 30 feet wide, disked. And for Debris Removal.

(8) Weed abatement by lien shall be conducted as soon as possible after the deadline set by the approved time line for that year. The contractor will be required to submit before and after pictures of the parcel being abated. The contractor will submit a bill for each parcel abated by lien. The cost will reflect the estimate noted in the approved bid. The contractor will be responsible for any damages related to the abatement operations. The contractor will contact the department before starting abatement operations.

(9) The Chief can extend the weed abatement dead line for any person requesting such. The extension shall be granted one time only and shall not exceed 10 days. Persons requesting a extension shall make a written request for the extension stating the reason for such. If a extension is granted by the Chief, the applicant shall sign the departments extension form agreeing to the conditions of the form.

(10) Any discrepancies related to weed abatement, other than filing liens, shall be decided by the Chief or his representative and shall be final.

2009 Weed abatement Timeline for the City of Winters

March 2, 2009	Identify parcels for potential abatement.
April 7, 2009	Adopt resolution declaring public nuisance on specified parcels.
April 8, 2009	C-D-D secretary to mail notices based on approved list.
April 21, 2009	Public hearing to consider objections from property owners
May 25, 2009	Deadline for voluntary abatement by property owners.
May 26, 2009	City abatement contractor to begin abatement on parcels not in compliance.
June 13, 2009	Contractor to finish first abatement.
June 16, 2009	Contractor to submit first billing for weed abatement
June 24, 2009	Notify all property owners of possible re- growth of weeds.
July 19, 2009	Deadline for voluntary removal of any secondary re-growth of weeds
July 20, 2009	City abatement contractor to begin removal of second growth of weeds on parcels not in compliance.
July 28, 2009	Contractor to finish second abatement
August 6, 2009	Contractor to submit second abatement billing

The Chief may adjust the deadline for voluntary abatement based on the relative fire hazards presented by the dry vegetation.

APN	SITUS	ASSESSEENA
003 183 49	RUSSELL ST	AGUIAR JANET M GIANOLA FAM TRUST
038 050 60	I-505 & RUSSELL BLVD	ALI ASHRAF YASMIN
038 050 57	999 E GRANT AVE	ALI ASHRAF YASMIN A
030 361 32	1206 VALLEY OAK DR	ALSBURY MERWYN G LINDA LEA
030 220 09	105 NIEMANN ST	ALSBURY REV TRUST
030 200 46	HWY 128	BREZNOCK EUGENE M ANN L
003 424 26	822 RAILROAD AVE	BRIGGS MICHAEL A SHAUNIE
003 360 19	840 WALNUT LN	CARRION CATHERINE A CARRION CATHERINE A 200
003 360 22	126 CARRION CT (PRIVA	CARRION CHARLES R SANDY
003 524 19	415 GRANT AVE	CARTER PHILLIP JOHN CARMEN CARTER REV TRUST
003 241 13	WOLFSKILL ST	CASTRO GEORGE J CASTRO GEORGE J MARITAL DED
003 450 18	W GRANT AVE	CASTRO GEORGE J CASTRO GEORGE J SURVIVOR'S
038 190 35	E MAIN ST	CHRISTIE ROBERT J KATHERINE L
003 242 13	117 2ND ST	COMAN ELIZABETH ETAL
003 330 17	CR 89	CONWAY LOUIS W
003 330 18	DUTTON ST	CONWAY LOUIS W
038 050 19	WALNUT LN	CORBETT FAMILY TRUST
003 430 10	GRANT AVE	COUNTRY INVESTORS
003 430 11	GRANT AVE	COUNTRY INVESTORS
038 050 21	T8N R1W POR SEC 22	DAVIS GARY LYNN DAVIS FAM REV TRUST
030 220 17	CR 33	GBH WINTERS HIGHLANDS LLC
030 220 19	T8N R1W S21	GBH WINTERS HIGHLANDS LLC
003 491 03	103 ORCHARD LN	GUTIERREZ RALPH SHIRLEY
030 372 20	910 SOUTHDOWN CT	HACKLEY NANCY A
003 243 02	10 RUSSELL ST	HEMENWAY DEBORAH SCHOLAR HEMENWAY DEBORAH SCH
003 241 12	100 WOLFSKILL ST	JAUREQUI CASIMIRO GUADALUPE
003 370 28	E GRANT AVE	CHENEY D RICK
003 370 29	E GRANT AVE	CHENEY D RICK
003 370 30	E GRANT AVE	CHENEY D RICK
038 070 28	T8N R1W	JORDAN FAM PARTNERSHIP II
038 070 29	PCL 2 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II
038 070 30	PCL 4 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II
038 070 31	PCL 3 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II
038 070 32	PCL 1 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II
003 224 02	8 E ABBEY ST	PICKEREL JOHN R MELANIE B
003 241 21	200 WOLFSKILL ST	LARSEN ERIC ETAL
003 120 04	GRANT AVE	MARITAL TRUST
003 430 12	GRANT AVE	MILLER DISCLAIMER TRUST ETAL
003 350 07	121 E GRANT AVE	LORENZO ALADDIN C LYNDA TR
038 050 23	T8N R1W POR SEC 22	CONN ROWENE MACMILLAN CO TR MACMILLAN CLIFFORD C
003 330 13	CR 89	MONTOSA DONNA M MARTIN JOHN R SUCC TR
003 360 21	125 CARRION CT (PRIVA	BROWN LISA A STEVE M
003 450 15	W GRANT AVE	NORTHERN CALIFORNIA ASSOC LLC
003 450 16	W GRANT AVE	NORTHERN CALIFORNIA ASSOC LLC
003 450 17	W GRANT AVE	NORTHERN CALIFORNIA ASSOC LLC
003 241 22	102 WOLFSKILL ST	OGANDO JOSEPH E KAREN M
030 220 10	T8N R1W POR SEC 21	PINKSTON VOYDELL LOIS
003 155 15	4 EDWARDS ST	PLATT JOHN YOLANDA
003 204 02	311 1ST ST	PORTELLO WILLIAM L MARY PORTELLO FAM TRUST
038 070 35	RUSSELL/BAKER/MAIN	RABADA JOHN S RABADA JOHN S M D INC RET TRU
003 152 01	GRANT AVE	RAMOS DOLORES D TR
003 120 03	511 MAIN ST	ROMAN CATHOLIC BISHOP OF SAC

003 467 01	803 W GRANT AVE	SHERWOOD JOSEPH J	
038 050 18	29500 RUSSELL BLVD	SOUTH MARKET COURT PTN LP SKREDEN MARK CHRISTI	
030 220 27	R1W POR SEC 21	STATEWIDE PROPERTIES WINTERS	
003 360 12	836 WALNUT LN	STILLWILL CYNTHIA I JUNIES C	
003 360 05	WALNUT LN	CENT VALL COAL FOR AFFORD HOU	
003 430 13	537 GRANT AVE	WINTERS INVESTORS LLC	
003 011 40	425 ANDERSON AVE	WINTERS JT UNIFIED SCH DIST	
003 130 01	500 W EDWARDS ST	WINTERS JT UNIFIED SCH DIST	
003 145 01	200 BAKER ST	WINTERS JT UNIFIED SCH DIST	
003 282 07	RAILROAD AVE	WINTERS JT UNIFIED SCH DIST	
003 282 08	718 RAILROAD AVE	WINTERS JT UNIFIED SCH DIST	
003 282 09	RAILROAD AVE	WINTERS JT UNIFIED SCH DIST	
003 282 10	RAILROAD AVE	WINTERS JT UNIFIED SCH DIST	
003 282 15	101 GRANT AVE	WINTERS JT UNIFIED SCH DIST	
003 322 04	101 W GRANT AVE	WINTERS JT UNIFIED SCH DIST	
003 450 19	900 W GRANT AVE	WINTERS JT UNIFIED SCH DIST	
030 220 13		WINTERS JT UNIFIED SCH DIST	
030 220 14		WINTERS JT UNIFIED SCH DIST	
030 220 32	502 NIEMANN ST	WINTERS JT UNIFIED SCH DIST	
038 050 63	I-505/GRANT AVE	WINTERS LLC	
003 160 65		HERRINGTON JOHN S & LOIS H & HERRINGTON FAM TRUS	
003 370 32	405 EAST STREET	HARRINGTON WILLIAM	
003 370 39		PLATT JOHN T YOLANDA	
030 220 35		CORP OF THE PRESIDING BISHOP CH OF LDS	
030 220 34		CORP OF THE PRESIDING BISHOP CH OF LDS	
003-282-21			



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE : April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager *John*
FROM: Nanci G. Mills, Director of Administrative Services *Nanci*
SUBJECT: Implementation of a Voluntary Employee Beneficiary Association (VEBA) Trust

RECOMMENDATION:

It is respectfully requested that the City Council:

1. Adopt Resolution 2009-17 approving participation in the California Government Voluntary Employee Beneficiary Association Trust
2. Adopt the Voluntary Employees Beneficiary Association Restated Master Trust
3. Adopt the California Government Voluntary Employee Benefits Trust Plan Document

BACKGROUND:

The City of Winters has historically provided a comprehensive program of benefits that addresses many of the health and welfare needs of the employees and their families. Periodically, additions and/or modifications to the benefit structure are made to comply with negotiated labor agreements or to provide an improved benefit for employees which are cost neutral. Staff has recommended approval of the attached resolution approving the establishment of a VEBA Trust. A VEBA Trust is a tax exempt benefit plan qualifying under Section 501(c) (9) of the Internal Revenue Code. This plan is similar, in many respects, to a 125 Flexible Spending Account where accumulated assets are utilized for the payment of the eligible health and other expenses for employees and their families. Unlike a 125 plan, however, accumulated assets in a VEBA Trust can be used to make premium payments.

The recommendation to implement a VEBA Trust is based on a number of factors. The first is the significant positive impact the benefit will have on employees during and after retirement from service. By establishing a VEBA Trust, employees will be able to plan for future as well as current health care expenses not covered through the City benefit programs. Expenses such as Long Term Care, unreimbursed medical premiums, co pays and pharmacy charges are all eligible expenses under a VEBA Trust arrangement. Employees will realize a significant benefit since eligible contributions to a VEBA Trust are tax exempt and the reimbursed expenses from the VEBA Trust are also tax exempt.

Another factor is the flexibility of a VEBA over any other alternative available. VEBA's can be tailored to fit the needs of any employer and their employee base. One of the more significant benefits of a VEBA is that it allows for levels of contribution and participation based on employee group. Additionally, VEBA's by law, require that they are collectively bargained. As a result, employees have a mechanism in structuring a program that meets their needs.

The final and more significant factor is that a VEBA Trust provides a more comprehensive approach to assisting with the greatest challenge for employers and employees, the rising cost of health care. A VEBA Trust is permitted to receive employer and employee contributions, the benefit being the opportunity to grow significantly greater assets for health care expenses in a shorter period of time. By establishing the VEBA Trust, employees will be able to make health care choices that address their specific needs and have more money available for health care expenses due to the tax savings realized through the program.

We are aware of a number of public agencies who have implemented VEBA Trusts for their employees. The proposed VEBA Trust was development as a multi-agency Trust in order that other public agencies may provide similar benefits to their employees. The benefit of joining this particular VEBA Trust is that it was developed by a public agency with our issues in mind. This Trust is also governed by a committee of Trustees formed from the list of participating agencies. Should the City of Winters choose to participate in the California Government VEBA, we would hold representation on the Board of Trustees as well.

The costs anticipated with the implementation of this program come from two sources, Plan Administration (provided by Administration Resources Corporation out of Minnesota) and Trust Administration which is provided through Brentwood LLC.

FISCAL IMPACT:

None

ATTACHEMENTS:

Resolution 2009-17

Voluntary Employees Beneficiary Association Restated Master Trust

California Government Voluntary Employee Benefits Trust Plan Document

RESOLUTION 2009-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
APPROVING PARTICIPATION IN THE CALIFORNIA GOVERNMENT
VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION TRUST

WHEREAS, the City maintains a comprehensive health and welfare benefit program for its' employees and their families; and,

WHEREAS, periodic modifications and or additions are made to the benefit programs; and,

WHEREAS, the rising cost of health care is the single most important cost containment issue for employers and employees; and

WHEREAS, the tax advantages of a Voluntary Employee Beneficiary Association Trust will provide employees with more assts for health care and related costs; and

WHEREAS, the California Government Voluntary Employee Beneficiary Association is a governmental multi employer plan that permits employees to accumulate assets for this purpose pursuant to the provisions of Internal Revenue code section 501 (c) (9); and

WHEREAS, the California Governmental Voluntary Employee Beneficiary Association provides for participation pursuant to collective bargaining agreements;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters that California Government Voluntary Employer Beneficiary Association is hereby adopted.

PASSED AND ADOPTED as a resolution of the City Council of the City of Winters at the regular meeting held on the 7th day of April 2009, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Michael Martin, MAYOR

ATTEST:

Nanci G. Mills, CITY CLERK

**CALIFORNIA GOVERNMENT VOLUNTARY EMPLOYEE
BENEFITS TRUST
PLAN DOCUMENT
CITY OF FOSTER CITY/ESTERO MUNICIPAL
IMPROVEMENT DISTRICT**

This Plan is adopted as restated as of April 15, 2008 by the _____, (the "Plan Sponsor") and, together with the trust established to hold the assets of the Plan, evidences the Voluntary Employees' Beneficiary Association established by the Plan Sponsor for the benefit of its eligible employees.

RECITALS

WHEREAS, the Plan Sponsor wishes to establish a comprehensive integrated program under which the Plan Sponsor, other Plan Sponsors, and collective bargaining units can negotiate for a variety of health and welfare benefits for its employees; and,

WHEREAS, such comprehensive program, known as the California Government Voluntary Employee Beneficiary Association was implemented to effect economies of scale through the commingling of assets for investment purposes and centralizing of administrative services to provide the Plan Sponsors with a cost effective vehicle through which to offer benefits to their employees; and,

WHEREAS, it is the intent of the Plan Sponsor to establish a Voluntary Employees' Beneficiary Association ("VEBA") Plan as an integral part of California Government Voluntary Employees' Beneficiary Association Trust; and,

WHEREAS, the Plan Sponsor will provide for a Trust to hold the funds of the VEBA for the benefits specified in this Plan under and in accordance with this Plan and,

WHEREAS, the Plan Sponsor intends that the Plan hereby established, when taken together with the Trust, shall constitute a voluntary employees' beneficiary association under Section 501(c)(9) of the Internal Revenue Code of 1986, as amended (the "Code");

NOW, THEREFORE, in consideration of the foregoing, the Plan Sponsor adopts the following Plan:

**Article I
Name & Documents**

1.1 **Name.** The name of this Plan shall be the California Government VEBA Plan (the "Plan"). It is established pursuant to the provisions of Code Section 501 (c)(9), and together with the Trust adopted to fund the benefits evidences the Plan Sponsor's intent to form a VEBA.

1.2 **Plan Documents.** This Plan, together with the Trust Agreement shall constitute the entire Plan. This Plan document together with such documents attached as Schedule A, shall compose the entire plan.

Article II Definitions

- 2.1 “Beneficiary”: A person or persons who are entitled to receive benefits under the Plan following the death of the Member and who are identified in a form prescribed by the Trust Administrator.
- 2.2 “Contributions”: Amounts deposited in the Trust pursuant to the terms of this Plan.
- 2.3 “Effective Date”: The Effective Date shall be the date the Plan and Trust are adopted by the Plan Sponsor.
- 2.4 “Employee”: Any employee of the Plan sponsor.
- 2.5 “Individual Account”: An account as described in Article VI.
- 2.6 “Plan Sponsor”: Any public agency or political subdivision thereof which has adopted and not terminated a Plan and Trust as part of the California Government VEBA.
- 2.7 “Member”: Any of the following persons who meet the eligibility requirements provided in the Plan:
- An actively employed Employee.
 - An inactive Employee.
 - A retired former Employee.
 - A dependent of an active, inactive, or retired Employee who is a Member including the Employee’s spouse; a minor child residing with the Employee; a child of the Employee who is a student within the meaning of Code Section 151(e) (4); any other person who is a dependent of the Employee within the meaning of Code Section 152(a).
 - A beneficiary of an active, inactive or retired employee who is or was a Member.
 - “Inactive Employee” means: An Employee who, although not actively employed by the Plan Sponsor, retains eligibility for benefits.
- 2.9 “Plan Administrator”: The individual, position or organization designated by the Trustee to act in matters relating to the administration of the Plan and its Documents.
- 2.10 “Trust Administrator”: The entity appointed by the Trustee to perform the duties listed herein.
- 2.11 “Trustee”: The Trust Committee appointed by the forming agency Plan Sponsor, or such other individual or entity as determined pursuant to the California Government Code.

Article III Participation

3.1 Eligibility. In General. Subject to the limitations of section 3.2, every Employee shall be eligible to become a Member under this Plan at the time of the first Plan Sponsor contribution to this Plan on the Employee's behalf. The Plan Sponsor may contribute to the Plan on behalf of its employees on terms pursuant to the Plan Sponsor's leave conversion programs, flat rate contribution program, or any other Plan Sponsor sponsored program permitting contributions to the Plan and Trust.

3.2 Limitations.

3.2.1 Participation shall be limited to those employees by or on behalf of whom a contribution is made to the Trust.

3.2.2 This Plan does not permit any condition for eligibility which would limit participation or benefits to officers or highly compensated Employees.

3.3 Procedure. After satisfying all eligibility requirements, an Employee shall participate in this Plan when the Trustee receives the initial contribution for the Member.

3.4 Duration of Participation. Once an employee becomes a Member in the Plan, his participation shall continue as long as funds remain in or are required to be deposited in his/her Member's Individual Account.

3.5 Voluntary Participation. The participation by an Employee shall be voluntary in accordance with the collectively bargained provisions for member contributions. Such participation shall be governed by the applicable provisions of the Internal Revenue Service (IRS).

Article IV
Plan Benefits

4.1 Description. The purpose of the Plan is to provide health and welfare benefits and similar benefits permitted under section 501 (c)(9) of the Internal Revenue Code, for use during periods of employment, layoff or retirement. Health Benefits may include benefits as defined by Code Section 213 and excludable from income under Code Sections 105 and 106 as amended from time to time. Such benefits may be provided through reimbursement or through the payment of premiums to a medical benefit or health insurance program. Benefits may include payment for services or benefits designed to safeguard or improve the health of Members or clinical care services by visiting nurses, nursing homes and transportation for medical care. Welfare benefits may include, but are not limited to health, severance, unemployment, life and/or education benefits.

4.2 Commencement of Benefits. Benefits commence for covered expenses incurred on or after the date an Employee becomes a Member in the Plan.

4.3 Beneficiaries. Benefits are payable for covered expenses incurred by the Member, the Member's dependents or the Member's Beneficiaries.

4.4 Designation of Beneficiaries. The Member shall have the sole right to designate the Beneficiary or Beneficiaries eligible to receive any benefit under the Plan. Such designation must be on a form or forms supplied by the Plan Administrator and shall be effective when delivered to the Plan Administrator in accordance with established procedures.

4.5 Termination of Benefits. Benefits for Members shall terminate when there are no longer any assets available for payment.

4.6 Beneficiary Payments Individual Accounts. If an Individual Account is established, in the event of the Member's death, any funds then remaining in the Member's Individual Account shall be used for medical expenses of the Member's spouse and qualified dependents.

4.7 Unallocated Benefits. The Plan Sponsor may participate in this Plan without establishing Individual Accounts for Members. The Plan Sponsor shall specify the employees to whom benefits are to be paid, and the amount and type of benefits. The assets contributed for such employees and earnings thereon shall be accounted for in a separate sub account of the Trust. Benefits shall then be paid to Members as prescribed by the provisions of this Plan and any other instrument that is deemed a part of this Plan for the purpose of determining benefits to be paid. When the assets in such sub account are exhausted no further benefits shall be paid.

Article V **Funding of Benefits**

5.1 Plan Sponsor's Contributions. Plan Sponsor contributions made to this Plan and Trust for medical benefits shall be specifically allocated to an Individual Account for each Member for the purpose of providing payment of the benefits described herein unless the Plan Sponsor is providing for Unallocated Benefits pursuant to Section 4.7.

5.2 Determination of Benefits. Unless the benefits are being provided on an Unallocated Basis pursuant to Section 4.7, amounts contributed on behalf of each Member shall be determined pursuant to the provisions of the collective bargaining agreement and Plan Sponsor personnel practices under which the benefits and compensation to be provided to the Employee under this Plan are determined. If benefits are being provided on an Unallocated Basis benefits shall be determined on the same basis.

5.3 Termination of Plan Sponsor Contributions. Contributions shall cease when the applicable bargaining agreements or Plan Sponsor policies no longer provide for contributions. The Plan Sponsor shall be responsible for informing the Plan Administrator when Plan Sponsor Contributions for any employee or employees will cease.

Article VI **Allocation to Member's Accounts**

6.1 Members' Individual Accounts. A separate account shall be maintained by the Plan Administrator for each Member to account for the income, gains, losses, and expenses or benefit payments attributable to his or her account unless benefits are being provided on an Unallocated

Basis.

6.2 Receipt of Contributions. Contributions will be credited when received by the Trustee.

6.3 Accounting. The Plan Administrator shall develop such accounting procedures as are deemed appropriate for the accurate reflection of the Members' Individual Account balance or the assets contributed, earnings thereon and benefits paid if benefits are being provided on an Unallocated Basis.

Article VII **General Provisions**

7.1 Source of Benefits. The Plan and Trust's liability to any Member for benefits under the Plan shall be limited to the sum of the contributions made by the Member to his/her Individual Account and/or the amount contribution made by the Plan Sponsor and interest thereon for the specified benefit of said Member if benefits are being provided on an Unallocated Basis.

7.2 Mechanics of Payment. The Member shall, with respect to any benefit, and subject to the reasonable procedures established by the Plan Administrator, direct the Plan Administrator:

- To pay benefits directly to an insurance company for qualified insurance premiums; or
- To pay benefits to a Plan Sponsor for qualified Medical premium payments; or
- To pay benefits to the Member for reimbursement of qualified medical expenses; or any combination as allowed under the procedures adopted by the Plan Administrator.

7.3 Claims Procedure. At such time when a Member believes he/she is entitled to receive a benefit under the Plan, such Member shall deliver a request for such benefit in writing to the Plan Administrator. The Plan Administrator shall review the claimant's request for a Plan benefit and shall, within a reasonable time thereafter, notify the claimant of its decision.

7.4 If the claimant's request for a Plan benefit is approved the Plan Administrator shall proceed with the distribution of such Plan benefit pursuant to the reimbursement method selected by the Member.

7.5 If the claimant's request for a Plan benefit is denied, in whole or in part, by the Plan Administrator, the Plan Administrator shall notify the claimant of such denial and shall provide the claimant with a reasonable procedure for review.

7.6 Any claimant whose request for Plan benefits has been denied, in whole or in part, may appeal said denial of Plan benefits in accordance with the appeal process established by the Plan Administrator. Such request for review must be delivered to the Plan Administrator within the specified time period after the date the claimant received written notification of the Plan Administrator's initial denial of the claimant's request for Plan benefits.

7.7 The Trust Administrator shall permit the claimant to review pertinent documents and submit written issues and comments concerning the denial of claimant's request for Plan benefits.

Article VIII **Administration**

8.1 Trust Administrator. The Trust Administrator of the California Government Voluntary Employees Beneficiary Association Master ("Trust") shall perform such duties as directed by the Trustee and the terms of this agreement.

8.2 Trust Administrator Duties. The Trust Administrator shall have responsibility for maintaining records of the balances, claims, and contributions to the Individual Accounts as well as such records as are needed to maintain the Plan if contributions are made on an Unallocated Basis. The Trust Administrator shall enforce this Plan in accordance with its terms and those of the Trust and shall be charged with the general administration of the Plan. In addition, the Trust Administrator, or its delegatee, shall have the following duties:

- to determine all questions relating to the eligibility of Employees to participate.
- to report to the Trustee as directed;
- to compute and certify to the Trustee the amount and kind of benefits payable to the Members, their dependants and Beneficiaries;
- to maintain all the necessary records for the Administration of this Plan;
- to account for the investments made by the Trustee in a manner consistent with the objectives of the Plan and authorized by the Trust;
- to make and publish such rules for the regulation of this Plan as are not inconsistent with the terms hereof.

8.3 Information. To enable the Trust Administrator to perform its functions, the Plan Sponsor shall supply it with full and timely information on all matters relating to the compensation of all Employees, their services, their retirements, deaths or the causes for terminations of employment and such other pertinent facts as the Trust Administrator may require.

8.4 Expenses. All expenses shall be paid from the earnings on the assets held in the Trust, unless otherwise authorized by the Trustee.

8.5 Consultants, Advisors & Managers. The Trust Administrator may employ such consultants, advisors and investment managers as it deems necessary or useful in carrying out its duties hereunder, with the cost thereof to be paid from the Trust assets. Such Consultants, Managers and Advisors are subject to approval by the Trustee.

8.6 Funding Policy & Procedures. The Trustee, Trust Administrator and Plan Sponsor shall formulate policies, practices and procedures for contributions to, payments from, and funding of

the Plan, which shall be consistent with the Plan objectives and the provisions of applicable law. Without limiting the generality of the foregoing, the Trust Administrator may, from time to time, accomplish the following:

- Establish a regular and convenient schedule of planning meetings, not less often than annually.
- Review short term, intermediate and long range investment goals.
- Determine and project benefit liabilities.
- Make plans to satisfy the liquidity needs of the Plan; and
- Consult with such other advisors as may be necessary to assure the efficient payment of Plan benefits.
- Recommend asset investment models, fund managers and investment options.

Article IX **Liability**

9.1 No Rights. Neither the establishment of this Plan, nor any modification or amendment thereof, nor the payment of any benefits, shall be construed as giving any Member, or any person whomsoever, any legal or equitable right against the Trustee, Trust Administrator, Plan Sponsor, or the assets of the Plan.

9.2 Obligations of Plan Sponsor. Only assets in the Trust shall be available to pay the benefits and claims which arise under this Plan. No obligation of the Plan shall constitute an obligation of the Plan Sponsor, except as such Plan Sponsor is obligated to make contributions under the Plan.

9.3 Liability Limitation. Neither the Trustee, Plan Sponsor or the Trust Administrator shall be liable for the acts or omissions of any Investment Manager or other person appointed to manage the assets of the Plan and Trust if the Trustee or Trust Administrator in appointing such person acted with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man would use in the conduct of an enterprise of a like character and with like aims.

Adopted by:
City of Foster City/Estero Municipal Improvement District

By: _____
Signature

Title: _____

Date: _____

**CALIFORNIA GOVERNMENT
VOLUNTARY EMPLOYEES BENEFICIARY ASSOCIATION
RESTATED MASTER TRUST**

TRUST restated in its entirety as of the 15th day of April, 2008 by and between The _____ a forming public agency in the State of California (hereinafter referred to as the "Plan Sponsor "), and the Trust Committee of the California Government VEBA", (hereinafter referred to as the "Trustee").

WITNESSETH:

WHEREAS, the Plan Sponsor adopts the California Government VEBA hereinafter referred to as the "Plan", and

WHEREAS, the Plan constitutes the California Government Voluntary Employees Beneficiary Association ("California Government VEBA"); and

WHEREAS, under the Plan, funds will from time to time be contributed to the Trustee, which funds, as and when received by the Trustee will constitute a trust fund to be held for the benefit of the Members and retirees of the Plan of the Plan Sponsor having a right to benefits, pursuant to the provisions of the Plan, and such funds will be invested by the Trustee pursuant to directions by the Plan Sponsor and/or Investment Manager as provided herein; and

WHEREAS, other Plan Sponsors may adopt this Trust as a Master Trust, subject to the provisions of this Trust, to hold assets for the purpose of funding plans that are a part of the California Government VEBA; and

WHEREAS, the Plan Sponsor having entered into this Master Trust with the Trustee for the purpose of holding the assets under the Master Trust attributable to the Plan and other amounts contributed thereunder; and

WHEREAS, the assets and funds to be held in the Master Trust established hereby, as and when received by the Trustee, will constitute a trust fund to be held for the benefit of the members of the Plan and their beneficiaries; and

WHEREAS, the Plan Sponsor desires the Trustee to hold such assets and funds and the Trustee is willing to hold such assets and funds pursuant to the terms of this trust; and

WHEREAS, the master trust is intended to qualify as a "Voluntary Employees Beneficiary Association" within the meaning of Section 501(c)(9) of the Internal Revenue Code, and

WHEREAS, the master trust is intended for the purpose of creating a fund to provide for the payment of benefits that qualify under Section 501(c)(9) of the Internal Revenue Code to participating Members, including their dependents, and their designated beneficiaries.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the Plan Sponsor and the Trustee do hereby agree as follows:

1. The Plan Sponsor hereby adopts the California Government Voluntary Employees Beneficiary Association (VEBA) Trust (the "Master Trust") as a trust to fund the benefits provided by the Plan. All such money and property, all investments made therewith and proceeds thereof and all earnings and profits thereon, less the payments or other distributions which, at the time of reference, shall have been made by the Trustee, as authorized herein, are referred to herein as the "Fund" and shall be held by the Trustee, in trust, and dealt with in accordance with the provisions of this Trust.
2. Any other California public agency may become a Plan Sponsor and adopt the Master Trust to fund benefits provided under the California Government VEBA Plan if the Plan Sponsor adopts the Master Trust and the Plan in order to provide benefits that are funded from the Master Trust and the Trustee agrees to such adoption. The assets of each Plan Sponsor and the investment earnings thereon shall be available only to pay benefits to employees of that Plan Sponsor and any costs or fees associated with the administration of the Plan covered under this Trust.
3. It is intended that the Master Trust shall meet the requirements of Internal Revenue Code section 501(c)(9). All contributions hereunder and all assets and earnings of

the Master Trust are solely and irrevocably dedicated to the payment of benefits that qualify under section 501(c)(9) of the Internal Revenue Code.

Effective January 1, 2008 and as referenced herein, the Trustee shall consist of a Trust Committee. The Trust Committee shall consist of one person designated by each Plan Sponsor. Such designated individual shall assume the responsibility of Trustee. Executive Trustees shall review all information and documents related to the daily activities and operation of the Trust and Plan and shall make recommendation(s) to the full body of Trustees forming the Trust Committee on such related matters. Such Executive Trustees shall consist of the ten original Plan Sponsors and five additional Trustees voted by the full body of Trustees to such position. A vote to fill the five additional positions shall occur every three years. Procedures to fill vacancies which occur in the interim periods shall be developed by the Trust Committee.

4. Trustee shall appoint a Trust Administrator and any and all successor Trust Administrators which shall have the authority to act for a Plan Sponsor in all matters relating to the establishment and maintenance of the Plan and Trust except those relating to the investment and management of the assets of the Trust and such other matters as are reserved to the Plan Sponsor or the Trustee under the provisions of this Trust. Without limiting the generality of the foregoing, the Trust Administrator shall have the following specific powers:
 - A. To contract for and delegate the administration of the Plan to one or more administrators, subject to approval of the Trustee.
 - B. To determine from time to time the benefits to be provided for participants under the Plan.
 - C. To retain professional advisors, including auditors and legal advisors to provide services to the Trust.

- D. To prepare necessary filing with the state and federal government.
5. Responsibility for the management and control of the assets of the Plans which are held under the Master Trust as a funding medium (including the power to acquire or dispose of such assets) is vested in the Plan Sponsor, and/or in such one or more investment managers described in Article 13a who are appointed by the Plan Sponsor. That portion of the Fund for which the Plan Sponsor shall have such responsibility is hereinafter referred to as the "Plan Sponsor-Directed Fund." Any portion of the Fund over which an Investment Manager shall have such responsibility is hereinafter referred to as an "Investment Manager-Directed Fund." Allocations of assets of the Fund between or among any Plan Sponsor-Directed or Investment-Manager Directed Funds shall be determined by the Plan Sponsor. For efficiency or convenience of investment or administration, the Fund or any such Plan Sponsor-Directed or Investment Manager-Directed Fund may be divided into such one or more sub-funds as the Plan Sponsor or the Trustee may deem advisable.
6. The Trust Administrator shall maintain a separate account reflecting the equitable share in the Fund of each Plan Sponsor. For this purpose, the Trustee shall determine the value of the assets of the Fund as of the last day of each calendar quarter and as of such other dates as the Trustee may deem appropriate or on which the Plan Sponsor and the Trustee may agree. Assets shall be valued at their market values at the close of business on the date of valuation, or, in absence of readily accessible market values, at such values as the Trustee shall determine in accordance with methods consistently followed and uniformly applied. Anything herein to the contrary notwithstanding, with respect to assets constituting part of a Directed Fund hereunder, the Trustee may rely, for all purposes of this Trust, including for the purpose of determining the value of such assets as of any quarterly or other valuation date, on any certified appraisal or other form of valuation submitted to it by the Investment Manager(s). The Trustee may also rely on Assets

reported by an Insurer in conjunction with contracts issued by that Insurer. Any amount paid from the Master Trust which is specifically allocable to a particular Plan Sponsor shall be charged against the equitable share of such Plan Sponsor; any amount paid from the Master Trust which is allocable to all of the Plan Sponsors shall be charged against the individual Plan Sponsor assets on a pro-rata basis.

7. The Trustee shall not be required to maintain any separate records or accounts with respect to any Plan Sponsor or any participant in (or beneficiary of) any Plan Sponsor, and any such records or accounts required to be maintained pursuant to the terms of any such Plan shall be maintained by the Plan Sponsor or by the appropriate committee directly charged with such responsibility.
8. By entering into this Trust, the Trustee does not assume any responsibility or undertake any duty to enforce payment of any contribution under any collective bargaining agreement, any responsibility for the adequacy of the Fund or the funding standards adopted by any Plan Sponsor to meet or discharge any liabilities under such agreement or standard, or any responsibility under the terms of this Trust for the management or control of any Discretionary or Directed Funds. Except as may otherwise be required by law, no duties or obligations shall be imposed upon the Trustee unless they have been specifically undertaken by the express terms of this Trust.
9. The Trustee shall receive any contributions paid to it in cash or in other property acceptable to it. All contributions so received, together with the income therefrom and any other increment thereon, shall be held by the Trustee pursuant to the terms of this Trust without distinction between principal and income. The Trustee shall not be responsible for the collection of any contributions to the Plans.

10. The Trustee may from time to time consult with counsel, who may be counsel to the Plan Sponsor, with respect to any question arising as to the construction of this Trust or any action to be taken hereunder and the Trustee shall be fully protected, to the extent permitted by law, in acting in good faith upon the advice of counsel.
11. Subject to the provisions of Article 12 hereof, the Trustee from time to time upon receipt of written notice from the Trust Administrator, may make payments out of the Trust Fund to such persons, in such manner, in such amounts and for such purposes, including the payment of expenses of the Plan and the purchase of life insurance and/or annuity contracts, as may be specified by the Trust Administrator. Except as may otherwise be required by law, the Trustee shall be under no liability for any payment made by it pursuant to a written direction of the Trust Administrator and shall be under no duty to make inquiries as to whether any payment directed by the Trust Administrator is made pursuant to the provisions of the Plan.
12. Notwithstanding anything to the contrary contained in this Trust or in any amendment thereto, it shall be impossible, at any time prior to the satisfaction of all liabilities with respect to the members under the Plans or their beneficiaries, for any part of the Fund, other than such part as is required to pay taxes and expenses of administration, to be used for or diverted to purposes other than for the exclusive benefit of the members under the Plans or their beneficiaries.
13. Unless otherwise prohibited by law or otherwise specified herein, the Trustee shall have the following powers and authority with respect to the Trust Fund:
 - a. To invest and reinvest, as directed by the Plan Sponsor and/or the Investment Manager, the principal and income of the Fund and keep the Fund invested without distinction between principal and income, in such securities or in such property, real or personal (whether or not income producing), wherever

situated, including, but not limited to, life insurance, contracts, stocks, common or preferred; any mutual or other funds maintained or established by the Trustee or any affiliate thereof; bonds and mortgages and other evidence of indebtedness or ownership in any common, collective or commingled trust fund maintained by the Trustee, as the same may be amended from time to time, and during any period when such funds are used, the instrument establishing such fund shall constitute a part of this Trust. In making such directed investments, the Trustee shall not be restricted to securities or other property of the character authorized or required by applicable law from time to time for trust investments. The Plan Sponsor and/or Investment Manager shall direct the Trustee in writing as to the asset allocation or percentage mix of types of investments to be used by the Trustee for the investment of the Trust Fund, and as to specific investments to be made by the Trustee of amounts in the Trust Fund. To the extent permitted by law, the Trustee shall not be liable and shall be held harmless and indemnified by the Plan Sponsor for any losses incurred in connection with the Trust Fund caused by its reliance thereon. Such losses may be either actual realized losses or losses in the nature of "lost investment opportunity."

- b. To settle, compromise or submit to arbitration any claims, debts or damages, due or owing to or from the Master Trust, to commence or defend suits or legal proceedings and to represent the Master Trust in all suits or legal proceedings in any court of law or before any other body or tribunal.
- c. To exercise any conversion privilege and/or subscription right available in connection with any securities or other property at any time held by it; to oppose or to consent to the reorganization, consolidation, merger or readjustment of the finances of any corporation, company or association, or to the sale, mortgage, pledge or lease of the property of any corporation, company or association any of the securities of which may from time to time be held by it and do any act with reference thereto, including the exercise of

options, the making of trusts or subscriptions, and the payment of expenses, assessments or subscriptions, which may be deemed necessary or advisable in connection therewith, and to hold and retain any securities or other property which it may so require.

- d. To exercise, personally or by general or by limited power of attorney, any rights, including the right to vote, appurtenant to any securities or other property held by it at any time.
- e. To hold part or all of the Funds uninvested.
- f. To employ and unemploy agents, including the Trust Administrator, counsel, and auditor and to pay from the Trust Fund their reasonable expenses and compensation.
- g. To register any securities held by it hereunder in its own name or in the name of a nominee with or without the addition of words indicating that such securities are held in a fiduciary capacity and to hold any securities in bearer form.
- h. To make, execute and deliver, as Trustee, any and all deeds, leases, mortgages, conveyances, waivers, releases or other instruments in writing necessary or desirable for the accomplishment of any of the foregoing powers.
- i. To deposit any part of the Fund in interest bearing account deposits maintained by the Trustee.
- j. Generally to do all acts, whether or not expressly authorized, which the Trustee may deem necessary or desirable for the protection of the Trust Fund.

14. The Plan Sponsor reserves the right to retain the services of one or more persons or firms for the management of (including the power to acquire and dispose of) all or any part of the Fund, provided that each of such persons or firms is registered as an investment advisor under the Investment Advisors Act of 1940, is a bank (as defined in that Act), or is an insurance company qualified to manage, acquire or dispose of trust assets under the laws of more than one state, and provided that each of such

persons or firms has acknowledged in writing that he is a fiduciary with respect to the Plan; in such event, the investment manager or managers so retained (the "Investment Manger(s)") shall have the same investment powers and duties as the Trustee, and the Trustee shall not be liable for the acts or omissions of such Investment Manager(s), nor shall it be under any obligation to invest or otherwise manage any Trust Fund assets which are subject to the management of such Investment Manager(s).

15. The Trustee shall pay out of the Fund all personal property taxes, income taxes and other taxes of any and all kinds levied or assessed under existing or future laws against the Trust Fund.

16. The Trustee shall, within 90 days after the close of each calendar year, and within 90 days after the removal or resignation of the Trustee or the termination of the Trust or Plan, render accounts of its transactions to the Trust Administrator and Plan Sponsor. The Trust Administrator and Plan Sponsor may make exceptions to such accounts by an instrument in writing delivered to the Trustee. In the absence of the filing in writing with the Trustee of exceptions or objections to any such account within ninety (90) days of the rendering, shall be deemed to have been approved, the Trustee shall be released, relieved and discharged with respect to all matters and things set forth in such account as though such account had been settled by the decree of a court of competent jurisdiction. The Trustee shall keep accurate and detailed accounts of all investments, receipts, disbursements and other transactions hereunder for the Fund (including any Discretionary or Directed Fund) and all accounts, books and records relating thereto shall be open to inspection and audit at all reasonable times by any persons designated by the Trustee or Trust Administrator. Except as the Retirement Security Act of 1974, as amended ("ERISA"), provides otherwise, no person other than the Plan Sponsor may bring any action against the Trustee with respect to the Trust or their actions as Trustee. The Trustee shall from time to time permit an independent public accountant selected by the Plan Administrator (except one to

whom the Trustee has reasonable objection) to have access during ordinary business hours to such records as may be necessary to audit the Trustee's accounts.

17. The Trustee shall be fully protected in relying upon notice from the Trust Administrator with respect to any instruction, direction or approval of the Trust Administrator, and protected also in relying upon a notice from the Trust Administrator as to the person or persons who are authorized to direct payments from the Trust Fund and in continuing to rely upon such notice until a subsequent notice is filed with the Trustee.

The Trustee shall be fully protected in acting upon any instrument, certificates or paper believed by it to be genuine and to be signed or presented by the proper person or persons, and the Trustee shall be under no duty to make any investigation or inquiry as to any statement contained in writing, but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

The Trustee shall not be liable for the application of any part of the Fund if payments are made in accordance with the approved written instructions of the Trust Administrator as herein provided, nor shall the Trustee be responsible for the adequacy of the Fund to meet and discharge any and all payments and liabilities under the Plan. All persons dealing with the Trustee are released from inquiry into the decision or authority of the Trustee and from seeing to the application of any moneys, securities or other property paid or delivered to the Trustee.

The Trust Administrator and Plan Sponsor hereby agree to hold the Trustee harmless from and against all taxes, expenses (including counsel fees), liabilities, claims, damages, actions, suits or other charges incurred by or assessed against it as a successor Trustee, as a direct or indirect result of any act or omission of a predecessor

Trustee or any other person charged under any trust affecting Fund assets for investment responsibilities with respect to such assets.

The Plan Sponsor agrees to hold harmless and indemnify the Trustee, to the fullest extent permitted under applicable law, for any and all liabilities of any kind incurred by the Trustee in connection with the Plans and Trust (a) relating to periods of time prior to the Trustee's becoming Trustee, or (b) relating to periods of time while the Trustee is Trustee if such liability is not due to the Trustee's negligence, willful misconduct, or breach of its fiduciary duties.

18. The Trustee may resign at any time by giving sixty (60) days written notice to the Trust Administrator. In the case of the resignation or removal of the Trustee, the Trust Administrator immediately shall appoint a successor Trustee. If for any reason the Trust Administrator cannot or does not act in the event of the resignation or removal of the Trustee, as hereinabove provided, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee. Any expenses incurred by the Trustee in connection therewith shall be paid from the Fund as an expense of administration. Any successor Trustee shall have the same powers and duties as those conferred upon the Trustee named in this Trust. The removal of the Trustee and the appointment of a new Trustee shall be by written instrument delivered to the Trustee.

19. This Trust, subject to the provisions of Article 1 may be amended by the Trustee at any time or from time to time and in any manner and the provisions of any such amendment may be made applicable to the Fund as constituted at the time of the amendment as well as to the part of the Fund subsequently acquired; provided, however, that no such amendment shall increase the duties of the Trustee without its consent. Any amendment shall be by a written instrument adopted by the Trustee.

20. This Trust and the trust created hereby may be terminated at any time by the Trustee, and upon such termination, the Fund shall be paid out by the Trustee as and when directed by the Trust Administrator in accordance with the provisions of Article 12 hereof.

21. The Trust Administrator shall provide the Trustee with copies of all documents constituting a Plan at the time the Trust is executed by a Plan Sponsor, as provided in Article 2, and all other documents amending or supplementing a participating Plan promptly upon their adoption. The Trustee shall be entitled to rely upon the Trust Administrator's attention to this obligation and shall be under no duty to inquire of the Trust Administrator as to the existence of any documents not provided by the Trust Administrator hereunder. The Trustee is bound and acknowledges that it is a fiduciary with respect to the Master Trust and the participating Plans and by the fiduciary responsibility provisions of ERISA as applicable to governmental plans. The provisions of ERISA are expressly made applicable to the provisions of this Master Trust in order to ensure that the Master Trust meets the control requirements for a VEBA under the provisions of 501(c)(9) of the Internal Revenue Code.

22. To the extent consistent with the provisions of ERISA, this Agreement and the trust created hereby shall be construed, regulated and administered under the laws of the State of California, and the Trustee shall be liable to account only in the courts of the State. All contributions to the Trustee shall be deemed to take place in the State of California. Unless the provisions of ERISA provide otherwise, the Trustee may at any time initiate an action or proceeding for the settlement of its accounts or for instructions, and the only necessary party defendant to such action or proceeding shall be the Employer except that the Trustee may, if it so elects, bring in as parties defendant any person or persons.

IN WITNESS WHEREOF, this instrument has been executed as of the day and year first above written.

SPONSOR

ATTEST:

By: _____

Name:

Title:

Date: _____

TRUSTEE:

ATTEST:

Trust Committee

By: _____

Name:

Title:

Date:



**COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT**

TO: Honorable Chair and Agency Members
DATE : April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Mary Jo Rodolfa, Executive Assistant
SUBJECT: Approval of First Amendment to Consultant Services Agreement
Agreement No. 004-09

RECOMMENDATION:

Approve the First Amendment to Consultant Services Agreement, Agreement No. 004-09.

BACKGROUND:

On July 15, 2008 the City of Winters Community Development Agency (CDA) entered into a Consultant Services Agreement with Kathleen Iudice & Associates for branding and strategic marketing services related to the "branding" of Winters. After several meetings, and much thought and careful consideration, the parties mutually agreed to terminate the contract allowing the CDA to move forward with branding at its own pace and in its own way.

The CDA being desirous of having a logo designed and related services provided as part of moving forward with the branding process entered into Consultant Services Agreement, Agreement 004-09 with DaRe, LLC on January 30, 2009 in the amount of \$3,800.00.

As City staff and the branding committee worked with DaRe, LLC, it became clear that the scope of their work needed to be expanded to include the development of a new City of Winters official logo along with letterhead, envelope and business card templates that are consistent with the community branding logo. It also became apparent that the additional services of street banner design and the development of a presentation for use in launching the brand to community groups were needed as integral parts of the branding process. The fee for these additional services is \$3,900.00. That amount coupled with the original agreement amount of \$3,800.00 brings the total amount of the amended agreement to \$7,700.00.

FISCAL IMPACT: \$7,700.00

ATTACHMENTS:

- First Amendment to Consultant Services Agreement, Agreement 004-09
- Consultant Services Agreement, Agreement 004-09

**FIRST AMENDMENT TO
CONSULTANT SERVICES AGREEMENT
AGREEMENT No. 004-09**

THIS FIRST AMENDMENT TO AGREEMENT NO. 004-09 is made at Winters, California, as of April 7, 2009, by and between the City of Winters Community Development Agency ("the CDA") and DaRe, LLC "(CONSULTANT)", amending only the identified sections as follows:

SECTION 1. SERVICES is amended as follows:

1. SERVICES. Subject to the terms and conditions set forth in Agreement, CONSULTANTS shall provide to the CDA the Services described in Exhibit "A" of the First Amendment to the Agreement. Consultant shall provide said services at the time, place, and in the manner specified by the Proposal.

SECTION 2. PAYMENT is amended as follows:

2. PAYMENT. The Consultant shall be paid for the actual costs, for all time and materials expended, in accordance with the Fee Schedule included in Exhibit "A" of the First Amendment to the Agreement, but in no event shall total compensation exceed Seven-Thousand-Seven-Hundred dollars (\$7,700.00), without the CDA's prior written approval. CDA shall pay consultant for services rendered pursuant to the Agreement and described in Exhibit "A" of the First Amendment to the Agreement.

All other provisions of Agreement 004-09 remain as originally stated in the Agreement.

EXECUTED as of day first above-stated.

CITY OF WINTERS
COMMUNITY DEVELOPMENT AGENCY
a municipal corporation

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

CONSULTANT

By: _____

ATTEST:

By: _____
Nanci G. Mills, CDA Secretary

Exhibit "A" to First Amendment to Agreement 004-09

- Logo and Tagline designs for the City of Winters and for the Winters branding.
 - 8 initial logo/tagline examples. These will be presented to the committee to receive input.
 - Unlimited revisions. After committee feedback the Consultant will narrow down the selections and make changes/revisions as necessary resulting in one logo/tagline design for use by the City of Winters in its official capacity and one for use as community branding.
- Letterhead and envelope design and templates for the City of Winters.
- Business card design and templates as required (for no more than 40 individuals) for the City of Winters.
- Print Ad Campaign
 - Once the Winters branding logo/tagline design has been created, the Consultant will present three different examples of an over all marketing campaign incorporating the logo/taglines along with a consistent color palate, fonts, and wording to demonstrate the overall feel and theme of the brand.
- Banner design for street banners incorporating the Winters branding logo/tagline design.
- Development of one Winters branding Power Point presentation for use in presenting the Winters brand to community groups.

Total for above services: \$7,700.00

MAYOR:
Michael Martin
MAYOR PRO TEM:
Woody Fridae
COUNCIL:
Tom Stone
Harold Anderson
Cecilia Curry



MAYOR EMERITUS:
J. Robert Chapman
TREASURER:
Michael J. Sebastian
CITY CLERK:
Nanci G. Mills
CITY MANAGER:
John W. Donlevy, Jr.

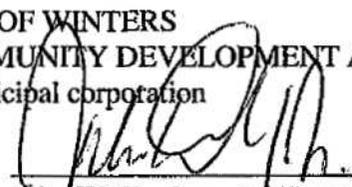
**CONSULTANT SERVICES AGREEMENT
AGREEMENT No. 004-09**

THIS AGREEMENT is made at Winters, California, as of _____, by and between the City of Winters Community Development Agency ("the CDA") and DaRe, LLC "(CONSULTANT)", who agree as follows:

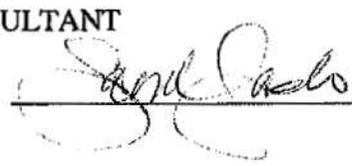
- SERVICES.** Subject to the terms and conditions set forth in this Agreement, CONSULTANTS shall provide to the CDA the Services described in Exhibit "A", which is the CONSULTANT'S Proposal dated December 16, 2008. Consultant shall provide said services at the time, place, and in the manner specified by the Proposal.
- PAYMENT.** The Consultant shall be paid for the actual costs, for all time and materials expended, in accordance with the Fee Schedule included in Exhibit "A", but in no event shall total compensation exceed Three-Thousand-Eight-Hundred dollars (\$3,800.00), without the CDA's prior written approval. CDA shall pay consultant for services rendered pursuant to the Agreement and described in Exhibit "A".
- FACILITIES AND EQUIPMENT.** CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
- GENERAL PROVISIONS.** The general provisions set forth in Exhibit "B" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control only insofar as it is inconsistent with general Provisions.
- EXHIBITS.** All exhibits referred to therein are attached hereto and are by this reference incorporated herein.

EXECUTED as of day first above-stated.

CITY OF WINTERS
COMMUNITY DEVELOPMENT AGENCY
a municipal corporation

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

CONSULTANT

By: 

ATTEST:

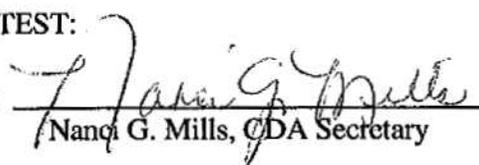
By: 
Nanci G. Mills, CDA Secretary

Exhibit "A" Provided by Consultant

-Logo and Tagline design

-8 Initial logo/tagline design examples. These will be presented to the committee to receive input.

-Unlimited revisions. After committee feedback we will narrow down the selections and make changes/revisions as necessary.

-Letterhead and Envelope Design

- Print Ad Campaign

-Once the logo/tagline design has been created, we will present three different examples of an overall marketing campaign incorporating the logo/taglines along with a consistent color palate, fonts, and wording to demonstrate the overall feel and theme of the brand.

-Total \$3,800

EXHIBIT " B "

GENERAL PROVISIONS

(1) INDEPENDENT CONTRACTOR. At all times during the term of this Agreement, CONSULTANT shall be an independent contractor and shall not be an employee of City of Winters (" CITY ") nor the CDA. CDA shall have the right to control CONSULTANT only insofar as the results of CONSULTANT'S services rendered pursuant to this Agreement; however, CDA shall not have the right to control the means by which CONSULTANT accomplishes services rendered pursuant to this Agreement.

(2) LICENSES; PERMITS; ETC.. CONSULTANT represents and warrants to CDA that CONSULTANT has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONSULTANT to practice CONSULTANT'S profession. CONSULTANT represents and warrants to CDA that CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice his profession.

(3) TIME. CONSULTANT shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT'S obligations pursuant to this Agreement.

(4) INSURANCE.

(a) WORKER'S COMPENSATION. During the term of this Agreement, CONSULTANT shall fully comply with the terms of the law of California concerning worker's compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against any liability CONSULTANT may have for worker's compensation.

(5) CONSULTANT NOT AGENT. Except as CDA may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of CDA in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement, to bind CDA to any obligation whatsoever.

(6) ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

(7) PERSONNEL. CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. In the event that CDA, at its sole discretion, at anytime during the term of this Agreement, desires the removal of any person or persons assigned by CONSULTANT to perform services pursuant to this Agreement, CONSULTANT shall remove any such person immediately upon receiving notice from CDA of the desire of CDA for the removal of such person or persons.

(8) STANDARD OF PERFORMANCE. CONSULTANT shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged in the geographical area in which CONSULTANT practices his profession. CDA pursuant to this Agreement shall be prepared in a substantial, first-class, and workmanlike manner, and conform to the standards of quality normally observed by a person practicing in CONSULTANT'S profession. CDA shall be the sole judge as to whether the product of the CONSULTANT is satisfactory.

(9) CANCELLATION OF AGREEMENT. This Agreement may be canceled at any time by CDA for its convenience upon written notification to CONSULTANT. CONSULTANT shall be entitled to receive full payment for all services performed and all costs incurred to the date of receipt of written notice to cease work on the project. CONSULTANT shall be entitled to no further compensation for work performed after the date of receipt of written notice to cease work. All completed and uncompleted products up to the date of receipt of written notice to cease work shall become the property of the CDA.

(10) PRODUCTS OF CONSULTING. All products of the CONSULTANT resulting from this Agreement shall be the property of the CDA.

(11) INDEMNIFY AND HOLD HARMLESS. CONSULTANT shall indemnify, hold harmless the CITY, the CDA, their officers, agents and employees from all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property to the extent arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by the CONSULTANT or any person directly or indirectly employed by or acting as agent for CONSULTANT in the performance of this Agreement, including the concurrent or successive passive negligence of the CITY, the CDA, their officers, agents or employees.

It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

(12) PROHIBITED INTERESTS. No employee of the CITY or the CDA shall have any direct financial interest in this agreement. This agreement shall be voidable at the option of the CDA if this provision is violated.

(13) LOCAL EMPLOYMENT POLICY. The City of Winters desires wherever possible, to hire qualified local residents to work on city projects. Local resident is defined as a person who resides in Yolo County.

The City encourages an active affirmative action program on the part of its contractors, consultants, and developers.

When local projects require, subcontractors, contractors, consultants, and developers will solicit proposals from qualified local firms where possible.

As a way of responding to the provisions of the Davis-Bacon Act and this program, contractor, consultants, and developers will be asked to provide no more frequently than monthly, a report which lists the employee's residence, and ethnic origin.

(14) CONSULTANT NOT PUBLIC OFFICIAL. CONSULTANT is not a "public official" for purposes of Government Code §87200 et seq. CONSULTANT conducts research and arrives at conclusions with respect to his or her rendition of information, advise, recommendation or counsel independent of the control and direction of the CITY or any CITY official, other than normal contract monitoring. In addition, CONSULTANT possesses no authority with respect to any CITY or CDA decision beyond the rendition of

information, advice, recommendation or counsel.

(15) CITY'S OWNERSHIP OF DELIVERABLES. CONSULTANT and CITY agree that all original documents, including, without limitation, plans, drawings, specifications, reports, maps, models, renderings, and other copyrightable work, including electronic media, prepared or obtained by CONSULTANT under the terms of this Contract ("Deliverables") are works made for hire. It is agreed that such Deliverables are the exclusive property of CITY, and CITY shall own the copyright and other intellectual property rights in them. CONSULTANT hereby assigns to CITY all of CONSULTANT 's rights in such works, and agrees to cooperate with CITY in preparing and filing any copyright registration applications associated with such Deliverables.

CONSULTANT's basic survey notes, diaries, sketches, charts, computations, and other data shall be made available to CITY upon request (whether such request is made during the term of this Contract or after its completion or earlier termination) with no restriction or limitation on their use by CITY.

(16) CITY'S USE, RE-USE, OR MODIFICATION OF DELIVERABLES. No legal limitation shall be imposed upon CITY in its subsequent use of the Deliverables, or any ideas developed in or as a result of the Deliverables, whether such use involve CITY's occupancy, operation, and maintenance of the Project or otherwise. In the event any of the Deliverables are re-used or modified by or on behalf of CITY, the name plates or other identification of CONSULTANT shall be removed from the Deliverables. In the event any of the Deliverables are re-used or modified by or on behalf of CITY, CITY shall release CONSULTANT and those who worked on the Project by or through CONSULTANT, from liability or legal exposure arising out of or resulting from such re-use or modification.

(17) LIMITED LICENSE UPON PERFORMANCE IN FULL. Upon CONSULTANT 's full and proper performance of all obligations imposed by the Contract Documents, CITY shall be automatically deemed to have granted to CONSULTANT a limited, non-exclusive, perpetual, royalty-free license to copy, distribute, and use any of the Deliverables on other projects; provided, however, that CONSULTANT may not use the Deliverables to substantially duplicate the Project or any of its significant parts or aspects in any other application or for any other client; and provided further, however, that CONSULTANT shall defend, indemnify, and hold harmless CITY and its Consultants in accordance with the provisions the Contract from and against liability or legal exposure arising out of or resulting from such copying, distribution or use of any of the Deliverables.

(19) RIGHTS IN DELIVERABLES UPON CITY'S TERMINATION OF CONTRACT FOR CONVENIENCE. If CITY terminates this Contract for its convenience as set forth in the Contract Conditions, then upon CITY's payment to CONSULTANT of those amounts due for Work properly performed to date of termination in accordance with the Contract Documents, CITY may use the Deliverables in the completion of the Project through its employees, agents, or third parties; CITY may use the Deliverables in and for CITY's subsequent use, occupancy, operation, and maintenance of the Project; and/or CITY may re-use or modify the Deliverables in accordance with the terms set forth above, without further obligation or liability to CONSULTANT; provided, however, that CONSULTANT shall be automatically deemed to have been granted by CITY a limited, non-exclusive, perpetual, royalty-free license to copy, distribute, and use the Deliverables on other projects in accordance with the terms set forth above.

(20) RIGHTS IN DELIVERABLES UPON CITY'S TERMINATION OF CONTRACT FOR DEFAULT. If CITY terminates this Contract due to CONSULTANT's default pursuant to the Contract Provisions and Conditions, then upon payment of those amounts due for Work properly performed to the date of termination, CITY may use the Deliverables in the completion of the Project through its

employees, agents, or third parties; CITY may use the Deliverables in and for CITY's subsequent use, occupancy, operation, and maintenance of the Project; and/or CITY may re-use or modify the Deliverables in accordance with the terms set forth above, without further obligation or liability to CONSULTANT.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager *JD*
FROM: Shelly A. Gunby, Director of Financial Management *Shelly*
SUBJECT: Proposal for Independent Audit Services

RECOMMENDATION:

Accept the proposal from Boler & Associates for performing the annual independent audit for fiscal years 2008-2009 with an option for two additional years, 2009-2010 and 2010-2011 and authorize the City Manager to execute a professional services agreement for the fiscal year 2008-2009 in the amount of \$27,250.00.

BACKGROUND:

The City of Winters is required to have an independent financial audit performed each year. For the last 6 fiscal years, the City of Winters has retained Moss, Levy and Hartzheim, Certified Public Accountants to perform that audit and prepare the Comprehensive Annual Financial Report (CAFR). The contract term with Moss, Levy & Hartzheim has terminated, and staff prepared a Request for Proposal and received 7 responses. The cost of the proposals ranged from \$27,250 to \$45,000. Boler and Associates is the lowest bidder. The price of \$27,250 includes preparation of both the Community Development Agency State Controller report and the Cities State Controller Report. Removing those reports from the proposal would reduce the audit fee to \$24,700. References have been checked, and Felix Pon, Director of Auditing comes highly recommended by the Directors of Finance of West Sacramento, Marysville and Loomis.

FISCAL IMPACT:

Increase of approximately \$9,300 for auditing services if the Redevelopment Agency State Controller report and the Cities State Controller report are included in the contract. The increase without the inclusion of the two State Controllers report would be \$6,550.00.

MAYOR:
Michael Martin
MAYOR PRO TEM:
Woody Fridae
COUNCIL:
Tom Stone
Harold Anderson
Cecilia Curry



MAYOR EMERITUS:
J. Robert Chapman
TREASURER:
Michael J. Sebastian
CITY CLERK:
Nanci G. Mills
CITY MANAGER:
John W. Donlevy, Jr.

CONSULTANT SERVICES AGREEMENT
AGREEMENT No. _____

THIS AGREEMENT is made at Winters, California, as of _____, by and between the City of Winters ("the CITY") and Boler & Associates "(CONSULTANT)", who agree as follows:

1. **SERVICES.** Subject to the terms and conditions set forth in this Agreement, CONSULTANTS shall provide to the City the Services described in Exhibit "A", which is the CONSULTANT'S Proposal dated March 20, 2009. Consultant shall provide said services at the time, place, and in the manner specified by the Director of Financial Management and Exhibit "A".
2. **PAYMENT.** The Consultant shall be paid for the actual costs, for all time and materials expended, in accordance with the Fee Schedule included in Exhibit "B", but in no event shall total compensation exceed dollars (\$27,250), without the City's prior written approval. City shall pay consultant for services rendered pursuant to the Agreement and described in Exhibit "A".
3. **FACILITIES AND EQUIPMENT.** CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
4. **GENERAL PROVISIONS.** The general provisions set forth in Exhibit "C" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control only insofar as it is inconsistent with general Provisions.
5. **EXHIBITS.** All exhibits referred to therein are attached hereto and are by this reference incorporated herein.

EXECUTED as of day first above-stated.

CITY OF WINTERS
a municipal corporation

By: _____
John W. Donlevy, Jr., City Manager

CONSULTANT

By: _____

ATTEST:

By: _____
Nanci G. Mills, CITY CLERK

Exhibit "A" Provided by Consultant

See Attached



**Proposal for Auditing Services
City of Winters, California**

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Letter of Transmittal



Proposal prepared for
City of Winters, California

By Boler & Associates

BOLER & ASSOCIATES

PROFESSIONAL ACCOUNTANCY CORPORATION
750 F STREET • DAVIS, CA 95616

(530) 756-1735

March 20, 2009

Ms. Shelly Gunby
City of Winters, California
318 First Street
Winters, CA 95694

**EXAMINATION OF FINANCIAL STATEMENTS FOR THE
FISCAL YEARS ENDING JUNE 30, 2009, 2010, and 2011**

Dear Ms. Gunby,

Boler & Associates is pleased to submit our proposal to provide auditing services to the City of Winters, California. Mr. Felix Pon will coordinate and administer the audit. Mr. Pon has a history of successfully auditing the California cities for the past twenty years. Mr. Pon administers his clients with a personal hands-on approach, resulting in first-hand knowledge of the level of audit services expected and required by the City. He always works closely with client staff. You can be assured that our firm will provide the City of Winters a high level of audit services done with great care and pride.

In any service organization, it is the people who make the difference. We know of the challenges and opportunities confronting governmental entities, especially cities. With our experience providing audit services to the governmental entities mentioned in this proposal, our team members know and understand those issues. Mr. Pon's professional experience is invaluable and will be used to promote an efficient and effective audit.

We have carefully reviewed the City's requirements and believe that our professional approach and experienced staffing detailed in our proposal fully responds to the City's requirements and needs. Our successes in providing audit services to various governmental entities demonstrates that Boler & Associates possesses the technical expertise, as well as the engagement management skills and staffing resources sufficient to ensure that the City of Winters' reporting deadlines are met.

We enthusiastically welcome the opportunity to serve the City for the fiscal years ended June 30, 2009, 2010, and 2011. For each fiscal year, we anticipate issuing by December 1st thirty copies of the following:

- City of Winters, California Comprehensive Annual Financial Report
- Winters Community Development Agency Component Unit Financial Statements
- Single Audit Reports
- Management letter
- Compliance with Article XIII(b) (the Appropriations Limit)

The examinations of the City's basic financial statements and the Redevelopment Agency shall be the financial and compliance type performed in accordance with:

- ◊ **auditing standards generally accepted in the United States of America as set forth by the American Institute of Certified Public Accountants;**
- ◊ **standards set forth for financial audits in the U.S. General Accounting Office's (GAO) *Government Auditing Standards*, issued by the Comptroller General of the United States;**
- ◊ **the provisions of the Single Audit Act and its amendments;**
- ◊ **the provisions of the U.S. Office of Management and Budget (OMB) Circular A-133 ;**
- ◊ **the California State Controller's, *Guidelines for Compliance Audits of California Redevelopment Agencies*;**
- ◊ **the *Codification of Governmental Accounting and Financial Reporting Standards* published by the Governmental Accounting Standards Board.**

The examinations shall lead to the expressions of opinion in compliance with regulations of the State Board of Accountancy.

Affirmative statements:

- Our firm is independent of the City of Winters in accordance with generally accepted auditing standards and standard applicable to financial audits contained in the *Government Auditing Standards*;
- The firm and all key professional staff are properly registered and licensed to practice in the State of California;
- We have the direct experience necessary to successfully execute the objective outlined and the work proposed in the City's RFQ;
- The firm has the resources necessary to meet the requirements of the proposal; and,
- The firm is not involved in any lawsuits or claims of fraud or malpractice relating to the firm's government audit and consulting practices.

The audit process is a joint effort, and cooperation is essential for the timeliness of its completion. If the City can commit to having the financial records ready for audit and

Proposal for Auditing Services
Submitted to: **City of Winters, California**
Submitted by: **Boler & Associates**

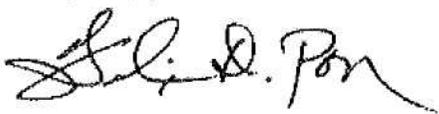
satisfactorily completes our audit preparation guide on a timely basis, we will deliver the required number of reports to the City by December 1st of each fiscal year.

If conditions are discovered which lead to the belief that material errors, defalcations, or other irregularities may exist, or if any other circumstances are encountered that require extended services, we will promptly advise the City's Director of Financial Management. No extended services will be performed unless they are authorized in a contractual agreement or in an amendment to the agreement.

Mr. Felix D. Pon, C.P.A., Director of Audit, is authorized to negotiate with the City of Winters and sign a binding agreement. He is available at 750 F Street, Suite A-1; Davis, California 95616 or telephone (530) 756-1735.

Our professional team's experience, success in providing audit services to various governmental entities, and sensitivity to the City's needs will promote a successful audit process. The City will be a valued client and will always receive the full support of the firm and attention. Without reservation, we hope to provide the quality audit services expected and required by the City. We would welcome the opportunity to meet with you to discuss any of the matters contained in this proposal or to answer any questions you may have.

Very truly yours,



FELIX D. PON, C.P.A.
Director of Audit

Minimum Qualifications

 **WINTERS**
CITY OF
CALIFORNIA
Proposal prepared for
City of Winters, California
By Boler & Associates

Proposal for Auditing Services
 Submitted to: City of Winters, California
 Submitted by: Boler & Associates

♦ MINIMUM QUALIFICATIONS ♦

Independence

- Boler & Associates is independent of the City of Winters, in accordance with:
- auditing standards generally accepted in the United States of America; and,
 - standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United State.

Licensed to practice in the State of California

Boler & Associates and all key professional staff are properly registered and licensed to practice in the State of California.

Experience



Our experience in the governmental accounting and auditing area includes cities, counties, and special districts. Mr. Pon has performed single audits (including Community Development Block Grant funds), special compliance audits, agreed-upon procedures, internal control reviews, and grant audits, as well as preparing comprehensive annual financial reports for submission to the GFOA certificate program. Our extensive experience will be used to ensure an effective and efficient audit of the City of Winters.

Our firm has recent and relevant experience in municipal audits. Mr. Pon's experience includes the following entities:

	CAFR Sub- mission	Single Audit	Redevel- opment Agency	Last Audited
Town of Loomis	No	Yes	No	2008
City of Wheatland	No	Yes	No	2008
City of Marysville	No	Yes	Yes	2008
City of West Sacramento	Yes	Yes	Yes	2004
City of Stockton	Yes	Yes	Yes	2004

We are proud of and value the clients we serve. We always strive to satisfy all deadlines and commitments. In addition, our efforts of making the firm's supervisory staff highly accessible have resulted in very cordial professional relationships with each. Our clients all understand that we are only a phone call away for technical assistance or as a sounding board for ideas. Our firm policy

is not to bill for matters that can be resolved without extensive research – it is part of our dedication to serving our clients.

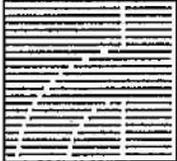
In addition to the municipal audits above, Boler & Associates provides or had provided audit services to diverse clients of different industries. A partial list is as follows:

- South Sutter Water District
- Sacramento Area Council of Governments
- Colusa Indian Community Council
- Yuba County Water Agency
- Nevada Irrigation District
- New Millennium Foster Family Agency

We firmly believe our experience assures the City that we are qualified and capable of providing the service required.

From small entities to large, our valued clients are served with the highest standards in mind. □

CAFR EXPERIENCE



We encourage our municipal clients to participate in the certificate program of the Government Finance Officers Association (GFOA). The GFOA's *Certificate of Achievement for Excellence in Financial Reporting* is a distinction widely recognized and desired by progressive municipal professionals.

Mr. Felix Pon has successfully coordinated and worked with cities in obtaining the certificates for their Comprehensive Annual Financial Reports (CAFR). In total, he has obtained the certificate for eight cities. He drafted the CAFRs that were awarded the certificate in the first year of submission for five different cities! The first year is the most difficult and challenging.

We realize that small cities like the City of Winters, have limited staffing resources to devote to the production of a CAFR. Services that we offer include the drafting the financial statements and coordinating the timely completion of the other parts of the CAFR: transmittal letter, the management's discussion and analysis, covers, divider sheets, and the statistical section.

Felix also is a member of the GFOA's Special Review Committee. He has **served on the certificate program committee** for fourteen years.

He has evaluated over 70 CAFRs from all over the United States for compliance with the requirements of the program. Appointment to the committee requires demonstration that the individual possesses specialized knowledge in the field of governmental accounting, auditing and financial reporting.

A benefit of being a reviewer for the GFOA, Mr. Pon has access to the resources and latest literature (including checklists) of the GFOA, as well as, the consultation of other Special Review Committee members. This coupled with his experience enables us to stay abreast of the current reporting requirements. It also allows us to provide the most appropriate responses to the review comment letters from the certificate programs.

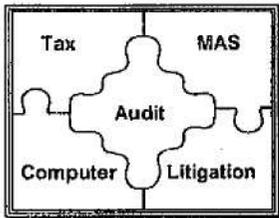
The cities for which Felix has obtained certificates for are:

- City of Citrus Heights*
- City of Dixon*
- City of Folsom*
- City of Nampa, Idaho
- City of Galt*
- City of Suisun City
- City of West Sacramento
- City of Woodland*

*Drafted the initial award winning CAFR

The combination of our experience and success and the professional attitude of the City's Director of Financial Management enhances the City of Winters' chances for continued success in the certificate program. □

Firm capacity



Our firm philosophy centers on our commitment to the highest level of quality service – delivered by quality people. We have an impressive history of providing technical excellence through teamwork that is responsive to the client's needs and expectations. By the past successful audits of the City, Mr. Felix Pon has demonstrated the necessary professional qualifications and technical ability to provide the City with the quality service required.

Our experience auditing local governments is extensive. We have very current and relevant experience, including engagements with Single Audits and Redevelopment Agencies. Mr. Pon implemented GASB No. 34 for three cities, including one early implementation. He has drafted and submitted CAFRs, to the GFOA awards program on a timely basis. We are current with the latest *Governmental Accounting Standards Board* pronouncements, as well as the AICPA's *Audits of State and Local Governmental Units*, and the U.S. General Accounting Office's *Government Auditing Standards*.

We maintain a professional staff size capable of providing a timely and successful completion of this and every other engagement undertaken by our firm. We anticipate the supervisory involvement for the City of Winters audit as follows:

- Felix D. Pon *Director of Audit*
- Todd C. Boler *Shareholder*
- Marc C. Boler *Shareholder*

The City of Winters' audit will receive the commitment and staffing to insure its timely completion. Mr. Pon will be on-site to supervise and conduct the fieldwork. Two experienced staff persons will assist him.

We can and will serve City of Winters, California in any capacity necessary. □

Single Audit

Mr. Felix Pon has been involved with auditing under the requirements of the Single Audit Act since its inception in 1986. He has conducted audits in accordance with the requirements of the United States Office of Management and Budget (OMB) Circular A-133 *Compliance Supplement*.

He has successfully performed Single Audits of funds received from various grantor agencies including:

- U.S. Department of Housing and Urban Development
 - Community Development Block Grants
 - Economic Development Block Grants
 - HOME – Investment Partnerships Program
 - Section 8 Housing

- U.S. Department of Interior
 - Bureau of Indian Affairs – Self-Governance Grant
 - Indian Health Services – Health Management Development Grant

- U.S. Department of Health and Human Services
 - Foster Care Title IV-E

- Federal Emergency Management Agency (FEMA)

Firm Information



Proposal prepared for
City of Winters, California

By Boler & Associates

◆ FIRM INFORMATION ◆

Offices and key personnel

Boler & Associates

Key Personnel:

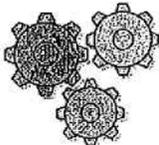
Marc C. Boler, CPA, MBA, Shareholder
Todd C. Boler, CPA, Shareholder
Felix D. Pon, CPA, Director of Auditing

OFFICES:

- 750 F Street • Suite A-1
Davis, CA 95916
☎ (530) 756-1735
☎ Fax (530) 756-1812

Mr. Pon has extensive municipal auditing experience and will be in charge of the City of Winters, California audit. □

Firm organization and size



Boler & Associates is a local firm with an office located in Davis, California. We have a staff of eight, including three CPAs. Our firm is dedicated to providing our clients with quality audit, tax, accounting and business advisory services at a reasonable cost consistent with the highest professional standards. We have proven ability in converting our years of experience and in directing our firm's resources to the benefit of our clients. Mr. Felix Pon has over twenty years of extensive experience auditing California cities.

Mr. Pon has always prided himself in being personally involved in the firm's audit clients. This personalized service results in the knowledge of how the audit is being executed and the ability to more readily respond to the needs of the City. Again, Felix will be on-site for the duration of fieldwork for the term of our engagement. He will be assisted by experienced staff from the Davis office. In addition, we have worked with MOMs, the City's current software package. Our familiarity with the accounting records and the city's software will promote an extremely efficient and effective audit.

With our experience auditing municipal entities, we are intimately aware of the nuances of the municipal accounting. Our size affords the personalized service and attention throughout the engagement; and, it promotes the continuity from year to year valued by our clients. We are available for year round consultation to address accounting issues as they arise. Your engagement as a valued client represents a commitment to continuous, consistent service, not just an annual visit for the audit.

We are members of the following:

- ◆ *American Institute of Certified Public Accountants (AICPA)*
- ◆ *California Society of Certified Public Accountants*
- ◆ *Government Finance Officers Association*
- ◆ *California State Municipal Finance Officers Association*

□

Government audit practice

The firm's government audit practice (municipalities and tribal governments) totals approximately \$105,000. This represents approximately 10% of the firm's total revenues. The professional staff consists of the Director of Audit and two full-time staff.

Government consulting work

The firm provides consulting and write up services to two large tribal governments. The work includes capital asset accounting and maintenance of the general ledger. The revenues from this work totals approximately \$350,000 or about 35% of the firm's total revenues.

Recent work examples

Audits of government agencies

Our current audits of government agencies (including tribal governments) are as follows:

- Yuba County Water Agency
- Nevada Irrigation District
- City of Marysville, California
- City of Wheatland, California
- Town of Loomis, California
- Colusa Indian Community Council

Government consulting work

- United Auburn Indian Community – general ledger maintenance and payroll, general consultation
- Jackson Rancheria – capital asset accounting and maintenance
- City of Colusa – consulted as interim finance director for six months

Our firm has not had the occasion to implement the requirements of GASB No. 45 for any of our current clients. We are not actuaries and do not profess to have any expertise in this specialized area. We believe that the client is best served by the engagement of an actuary to establish the OPEB liability.

Work Plan For the Audit



Proposal prepared for
City of Winters, California

By Boier & Associates

Proposed Audit Fee



Proposal prepared for
City of Winters, California

By Boler & Associates

◆ WORK PLAN FOR THE AUDIT ◆

Production schedule

A proposed time table of our anticipated audit timing is as follows:

	June		July		August		Sept.		October		Nov.		Dec.
	15	30	15	31	15	31	8	14	15	31	4	11	1
Pre-audit conference													
Interim work, review of minutes, internal control update, fraud risk assessment													
Submit a comprehensive audit preparation guide and entrance conference with the Director of Financial Management													
Submit finalized detailed audit plan													
Review for compliance with laws and regulations													
On site fieldwork procedures													
Supervision and review of workpapers and procedures													
Drafting of reports: Comprehensive Annual Financial Report Redevelopment Agency Management letter Appropriations limit													
Submit drafts to the City													
Review client prepared Management's Discussion and Analysis transmittal letter, and statistical section													
Review of draft with the Director of Financial Management													
Exit conference													
Deliver final reports													

This schedule has been developed from the representations of management as to when the City would be ready for the audit. The timing is subject to change to accommodate the City's preparedness for audit. □

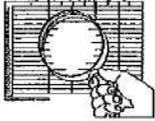
Estimated work hours

Our estimates of the initial year's time required to provide the services above are as follows:

Audit Area	MB	TB	FP	Senior	Staff	Clerical	Total
PRELIMINARY WORK AND PREPARATION:							
Review of minutes			6				6
Review of internal control structure			4		4		8
Risk assessment			6		6		12
Update permanent files			8				8
Audit planning			6				6
Audit preparation guide			4				4
Travel			20	8	8		36
Trial balances and adjustments			8	6	4		18
Tests of transactions:							
Receipts					4		4
Payroll					4		4
General disbursements					4		4
Grant compliance			8				8
GENERAL FIELDWORK:							
Confirmations							
Cash					4		4
Long-term debt					4		4
Single audit determination			8				8
Redevelopment agency			8				8
Appropriations limit compliance					4		4
Cash and investments				10			10
Cash with fiscal agent				6			6
Receivables:							
Accounts				12			12
Interest				6			6
Notes				6			6
Other					6		6
Capital assets					20		20
Interfund/intergovernmental transactions			4				4
Accounts payable				16			16
Accrued expenses					6		6
Interest payable					6		6
Deposits payable				6			6
Deferred revenue			4				4
Compensated absences			6				6
Bonded debt and capitalized leases			8				8
Fund balances			4				4
Exit conference			1				1
Analytical review			8				8
AUDIT CONCLUSION:							
Draft financial statements and reports			50	8	4	8	70
Workpaper and report review		10	6				16
Quality control review	4						4
Audit presentation			1				1
TOTAL HOURS	4	10	178	84	88	8	372

The time estimates are realistic and will support the type of audits required by the City of Winters. It reflects the knowledge from our actual audit experience and accommodates a very efficient and effective audit process. □

Engagement planning



As previously noted, the audit process is a joint effort; and, the support and cooperation of the City's staff and management is crucial in meeting expectations and time commitments. The anticipated joint effort for the audit process is reflected in our proposed fee.

Our audit methodology is substantive in nature. We determine our materiality level during our audit planning. All balance sheet accounts with balances that are deemed material are analyzed and substantiated by review of underlying documentation and evidence – i.e. for cash, the reconciliations are obtained. Any balance sheet balances which are below our materiality threshold are reviewed analytically with the prior year. General Fund and major fund revenue and expenditures will also be reviewed analytically. Variances that exceed our materiality level will be submitted to the Director of Financial Management for review and explanation. Explanations will be evaluated for reasonableness with other data obtained in the course of conducting our procedures.

As required by current auditing procedures, we will shift our emphasis to different audit areas and controls for each audit. In this matter, a broader understanding and coverage of significant accounts will be accomplished during the term of our engagement as the City's auditors.

We have found that this methodology ensures that we will concentrate on those areas of highest risk. Time and resources are not wasted on auditing areas that have no material risk to the financial statements. In addition, we will perform an assessment of the internal controls for the purpose of determining the procedures necessary to perform our audit, and any recommended enhancements to internal controls that we note during our procedures will be communicated to management.

Our work plan is detailed and addresses the needs of the City. We will obtain approval from the Director of Financial Management for any changes in the time requirements for commencement of work to the completion of the final reports. Our work plan is as follows:

1. Pre-Audit:

- a. Upon execution of the contract between the City and the Firm, we will contact the Director of Financial Management to arrange a meeting with City staff to discuss timelines, prior audit problems, and work to be performed before closing.
- b. Prior to year end, we will provide the City with selected control

activities forms (internal control questionnaires) for completion. The selection will be the result of our fraud risk assessment.

- c. Internally at the office, we will have engagement team discussions as to potential areas of risk at the City and modify our procedures and programs accordingly.
- d. We will obtain the number sequences for cash receipts, cash disbursements (especially grant related expenditures), and payroll disbursements. From these populations, we will select a sample for compliance testing. The sample size typically is 25 to 40 and will be selected using the haphazard methodology. Our selection of cash disbursements will be primarily of the grant programs. In this manner, we will be able to satisfy our testing in 2.d. below. An agreeable date for interim procedures will be made with the Director of Financial Management.

2. Interim testing:

- a. The sample selection will be given to the City a week before our interim testing. We request that the underlying documentation be gathered and made available to us. Information for confirmation of new bank accounts, grants, long-term debt, special assessments, and franchise revenues will be obtained. We may request City staff to prepare some of these confirmation requests.
- b. From the completed control activities forms, any potential areas of weakness will be reviewed for any mitigating controls. This review will be through discussion with the client as well as by observation through our substantive testing. Management letter recommendations will be made for those weaknesses which are significant and are not sufficiently mitigated.
- c. Fraud risk assessments will be performed.
- d. We will begin the grant review and documentation. We request that all grant documentation be centralized and made available to us for review. This information will be used to create the Schedule of Expenditures of Federal Awards, as well as determination of major programs. From the accounting records of the respective funds, a sample of grant expenditures will be selected for compliance testing. The sample size typically is 25 to 40 and will be selected using the haphazard methodology.
- e. From the grant documents, the schedule of federal awards will be developed and major programs will be determined.
- f. Mr. Pon is quite familiar with the types of printouts available through the City's MOMs system. He will provide a list of accounts to be printed in detail and any lead schedules needed. Also, an electronic text file (Excel compatible) of year end balances and year to date balances will be requested.
- g. By July 15th a detailed audit plan and a comprehensive audit preparation guide will be tailored and submitted to the City for review. The final audit plans and preparation guide will be submitted to the City for assignment and completion by City staff by August

15th. The timely completion of the guide will enable us to more efficiently utilize our time in the actual performance of auditing procedures on the City's accounting records.

- h.** A sample of employees will be selected for responding to our fraud risk questionnaire.
- i.** We will also consult with the Director of Financial Management throughout the engagement. Especially over matters concerning technical accounting issues.

3. General Fieldwork:

- a.** Our tentative start of the general fieldwork is the second week of September. Adherence to this time period is crucial in enabling us to issue our final reports by the first of December. If the closing of the accounting cycle is not complete or if account balances are not adequately reconciled and documented, we reserve the option of postponing the start of fieldwork, and may delay the delivery of the final reports.
- b.** For the Single Audit, we will apply the prescribed audit tests required by the Office of Management and Budget (OMB) Circular A-133 Compliance Supplement for compliance for the respective federally assisted programs. From our testing of selected transactions, we will determine whether the City has complied with laws and regulations that may have a material effect on each major Federal Financial Assistance Program. Examination of any secondary recipients is specifically excluded from this proposal.
- c.** For the Redevelopment Agency, we will apply the prescribed tests as suggested by the California State Controller's, Guidelines for Compliance Audits of California Redevelopment Agencies. This will include review of the required annual reports submitted as well as review of the set aside of the increment monies for low and moderate income housing.
- d.** The main fieldwork involves the review and evaluation of the balance sheet accounts and analytical reviews of the material revenue and expenditure accounts. Schedules prepared by the City staff and confirmations received will be agreed to corroborating documentation. City staff may be asked to pull additional documentation and reconcile certain accounts.
- e.** We will submit to the Director of Financial Management the preliminary analytical review of the General Fund and any major funds for explanations of any variances that we deem to be material. The explanations will be reviewed and a determination made as to whether additional testing is needed in the respective audit areas.
- f.** For continued compliance with the requirements of GASB No. 34, we will monitor and review significant activity of the capital asset and long-term liabilities.

4. Audit Completion:

- a. The review of the workpapers and trial balances will be performed during fieldwork and at our offices. Additional questions and requests for documentation may arise and responsible City staff will be contacted. It is our experience that these can be resolved over the telephone, fax, or email.
- b. The final analytical review of the General Fund and major funds will be made at the financial statement level. We will request additional clarification for those variances which are not adequately explained in the preliminary analytical review or as a result of adjusting journal entries made during the audit.
- c. The drafting of the financial statements and all other reports is the auditors' responsibility.
- d. We will review the Management's Discussion and Analysis that is to be prepared by the City for the GASB No. 34 presentation. If provided on a timely basis, we will graphically enhance the MD&A with pie charts.
- e. For production of the CAFR, we will coordinate the completion of the letter of transmittal and statistical section by the City in time for review by our firm and inclusion in the final report.
- f. The determination of the major funds for presentation under GASB No. 34 will be reviewed by the auditor.
- g. On October 31st, drafts of the financial statements and management letter will be submitted to the City for review.
- h. We will arrange an exit conference with the Director of Financial Management during the second week of November to discuss the results of the on-site fieldwork and to review any audit findings. Also, the draft of the financial statements will be reviewed and discussed.
- i. Upon completion of the draft, copies will be submitted to the City for review. This will probably be one to two weeks before the due date of the final reports.
- j. Upon approval by the City, final reports will be prepared and delivered by December 1.

Our firm philosophy centers on our commitment to the highest level of quality service – delivered by quality people. We strive to provide technical excellence through teamwork and being responsive to client's needs and expectations to the very best of our ability. Our commitment to quality results in:

- Satisfying our client's needs by providing value added services
- Attracting and retaining clients of the highest caliber
- Providing personal satisfaction and opportunity for professional growth for every member of our organization.

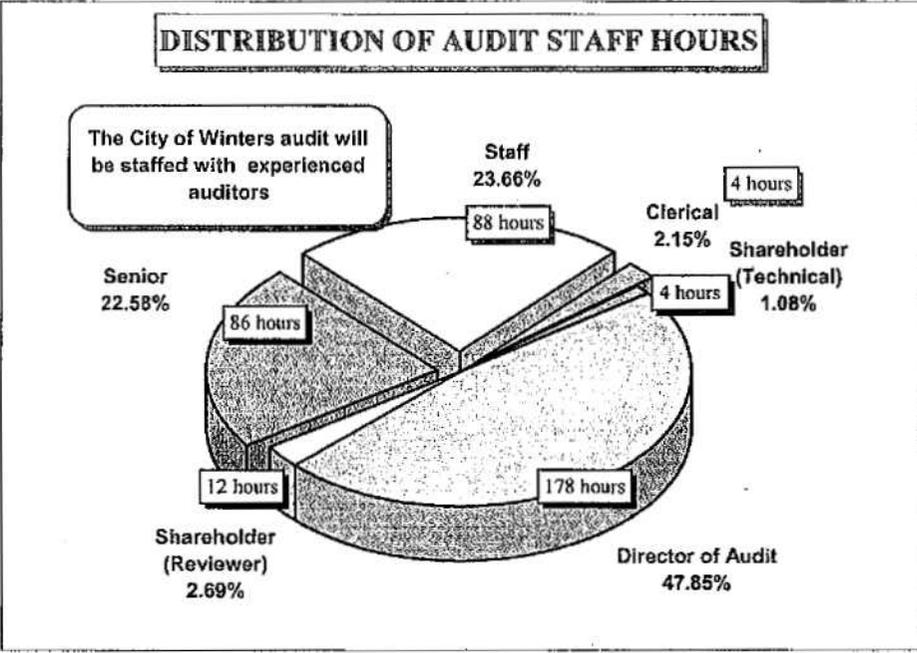
Some of the specific benefits the City of Winters and each of our audit clients realizes from our audit approach include:

- o **Ongoing Communications with Management** – As in the past, Mr. Pon and the firm will work closely with you to resolve issues and serve as an advisor on a timely basis. We do not take dogmatic, unyielding positions, and will keep the lines of communication open. We understand the concepts of materiality and will work with the City personnel on all issues with materiality in mind. Members of our engagement team will always be available to answer questions and to respond to the needs of the City.
- o **Relevant and insightful suggestions** – Our plan and approach requires obtaining an extensive knowledge of the City's operating environment and accounting systems. This positions us as an "advisor" to management.

Less disruption – Our audit plan will result in the most effective and efficient combination of internal control and account balance testing. This eliminates redundant procedures and tasks, minimizes the necessary number of auditors, and, consequently, results in less disruption of City personnel. □

Philosophy for the audit and staffing

Our philosophy is to staff our audits with experienced professionals. We do not expect our clients to train our staff. As a result, a large majority (over 50%) of the audit hours will involve the supervisory staff and the Director of Audit of the firm. The mix of the audit hours is the typical of our municipal engagements and will be similar for the term of the City of Winters engagement. Any professional staff assigned to the audit will be under the direct and close supervision of the Director of Audit. In this manner, the quality of the audit team will be assured. The mix of audit professionals is depicted as follows:



We anticipate the supervisory staffing of the City of Winters audit as follows:

- | | |
|-----------------|-----------------------------|
| • Felix D. Pon | <i>Director of Auditing</i> |
| • Todd C. Boler | <i>Shareholder</i> |
| • Marc C. Boler | <i>Shareholder</i> |

The City of Winters' audit will receive the commitment and personal involvement of each of the Firm's director and shareholders. This assures the City of receiving an audit conducted by experienced professionals. Mr. Pon commits to be on-site for the duration of the fieldwork on the City of Winters audit. During fieldwork, he will be assisted by two experienced staff persons. We promote staffing continuity on our engagements. Such a philosophy contributes to the overall efficiency of the audit process, but also encourages open dialogue and communication between city staff and our firm. The City of Winters's audit will receive the full support of the firm. □

Resumes of senior staff assigned to the audit



We maintain a professional staff size capable of providing a timely and successful completion of this and every other engagement undertaken by our firm. We have a wealth of experience from our performance of the City's financial statement audit that will be directed toward an economical and efficient engagement.

Education and experience information for the supervisory professionals follows:

FELIX D. PON, CPA

Education:

- *Graduate of University of Southern California – Bachelor of Science*

Mr. Felix Pon will be the contact person for the City's audit and will be on-site for the duration of fieldwork. His responsibilities are for the planning, fieldwork, and personally drafting the required reports. Felix recently came to our firm after serving as the audit partner of a small, CPA firm for eleven years; three years as a director for Richardson & Company; and an audit season as a director with a large regional firm. He is a Certified Public Accountant with twenty-eight years of experience. For the past twenty years, Felix has been heavily involved in the planning, fieldwork, report preparation, and review of the audits of small to medium sized cities. He has drafted award winning Comprehensive Annual Financial Reports under the certificate programs of the Government Finance Officers Association (GFOA) and California Society of Municipal Finance Officers Association (CSMFO). Also, Felix has served on the Special Review Committee of the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting Program for fourteen years – one of only a few

practicing CPAs in the State of California. He has reviewed over 70 reports from governmental entities all over the United States for conformity with the award program. With his focus on serving municipal clients and specialization in governmental Auditing and Accounting, Felix participated in the following governmental education courses in 2008:

- o 2007 Annual Update - Gov't & NPO: Federal Government Activities
- o 2007 Annual Update - Gov't: GASB Activities
- o 2007 Qrtly Update - Gov/NFP #1 (Wntr): Review of Risk Assessment SASs
- o 2007 Qrtly Update - Gov/NFP #2 (Spr): Yellow Book and SAS 112 Developments
- o 2007 Qrtly Update - Gov/NFP #3 (Sum): OMB A-133 and Yellow Book Development
- o 2007 Qrtly Update - Gov/NFP #4 (Fall): A-133 Audit Quality
- o Frequent Government and NPO Frauds: Fudging the Financials
- o Frequent Government and NPO Frauds: Problems with Payroll
- o Frequent Government and NPO Frauds: Perpetrating Perks
- o Frequent Government and NPO Frauds: Out of Sight Out of Mind
- o Frequent Government and NPO Frauds: May I Borrow This Forever?
- o Frequent Government and NPO Frauds: Bending or Breaking Rules?
- o Fraud in the Financial Statements: Professional Skepticism and Brainstorming
- o 2007 Annual Update - Gov't&NPO: AICPA Activities
- o Compilation & Reviews: Independence Considerations
- o Risk Assessment SASs: Internal Control Documentation
- o Fraud in the Financial Statements: An Overview of SAS No. 99
- o Fraud in the Financial Statements: Common Frauds and Their Characteristics
- o Fraud in the Financial Statements: Audit Approach and Making Effective Inquiries
- o Fraud in the Financial Statements: Audit Procedures, Evaluation and Communication
- o Fraud in the Financial Statements: The Profession's Focus
- o Fraud in the Financial Statements: A Framework for Detection
- o Fraud in the Financial Statements: Revenue Related
- o Fraud in the Financial Statements: Inventory & Cost of Goods Sold
- o Fraud in the Financial Statements: Understatement of Liabilities
- o A New Stroll Down GAAP Memory Lane
- o World's Liveliest Accounting Update
- o What Every CPA Needs to Know about the New Risk Assessment Standards
- o Using the "Balanced Scoreboard" in an Unbalanced World
- o 2008 Qrtly Update- A&A#3 (Summer): ASB-I/C EDs, RA TPAs; COSO ED; AICPA FASB IASB PCAOB SEC Activity
- o 2008 Annual Update; Gov't & NPO: Federal Government Activities
- o Yellow Book: Rationale, Use, and Application
- o Single Audit Issues: Overview plus "Key Audit Planning Considerations"
- o Fraud in Exempt Organizations: The Governmental and Not-for- Profit Environments
- o Single Audit & Yellow Book Deficiencies: Independence, Single or Prog Audit, A-133 Major Prog Audit
- o Yellow Book: Ethical Principles and General Standards
- o Yellow Book: Field Work Standards & Reporting Standards for Financial Audits
- o OMB A-133: Introduction plus 'Identifying Federal Assistance and Determining Major Programs'
- o Single Audit Issues: 'Internal Controls' plus 'Testing Compliance with Laws and Regulations'
- o 2008 Annual Update: Gov't & NPO: GASB Activities

- 2008 Annual Update: Gov't & NPO: AICPA Activities

Felix has worked and been responsible for the city audits noted on page 4.

Professional memberships:

- American Institute of Certified Public Accountants
- California Society of Certified Public Accountants
- Government Finance Officers Association
- California Society of Municipal Finance Officers

TODD C. BOLER, CPA

Education:

- *Graduate of California State University, Sacramento – Bachelor of Arts*

Todd will work closely with Felix in the management and execution of our audit services, and will be involved in reviewing the workpapers and reports of the audit for consistency with firm policy and requirements. He is a Certified Public Accountant with twenty-five years of professional accounting and auditing experience. Todd has supervised and conducted the fieldwork for a variety of clients including government entities, nonprofit organizations, school districts, and pension plans.

Todd is current on the continuing education requirements for performing governmental audits.

Professional memberships:

- American Institute of Certified Public Accountants
- California Society of Certified Public Accountants

MARC C. BOLER, CPA, MBA

Education:

- *Graduate of California State University, Sacramento – Bachelor of Arts*
- *Golden Gate University – Master of Business Administration (Taxation)*

Marc will have overall responsibility for assisting Felix in assuring the services provided to the City of Winters are of the highest quality. Since significant and timely shareholder involvement is a cornerstone of our quality control procedures, he will be involved in the overall review of all phases of our audit work from initial planning through report preparation. He is a Certified Public Accountant with thirty-four years of professional accounting and auditing experience.

Marc is current on the continuing education requirements for performing governmental audits.

Professional memberships:

- American Institute of Certified Public Accountants
- California Society of Certified Public Accountants

In addition, we anticipate assigning two other staff persons, one at the supervisor level, to assist Mr. Pon in the fieldwork. □

A successful peer review participant



Our firm has successfully undergone four peer reviews. Boler & Associates is committed to providing quality service and demonstrates this commitment in many ways, including:

- Organizing, staffing, and managing engagement to provide for appropriate levels of technical competence, experience, supervision, and review;
- Undertaking quality control reviews of selected engagements to assure compliance with professional standards;
- Recognizing our obligation to the public as well as our clients;
- Providing a full range of services; and,
- Conducting engagements in accordance with clients whose concern for reputation and integrity is similar to our own.

A copy of our latest peer review report dated June 28, 2007 follows: □



David E. Vaughn CPA (209) 957-8806, fax (209) 957-9589
2495 W. March Lane, Suite 75, Stockton, Ca. 95207-8207

June 28, 2007

To the Owners
Boler & Associates

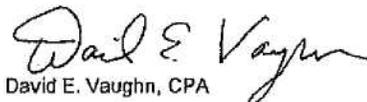
I have reviewed the system of quality control for the accounting and auditing practice of Boler & Associates (the firm) in effect for the year ended December 31, 2006. A system of quality control encompasses the firm's organizational structure, the policies adopted and procedures established to provide it with reasonable assurance of complying with professional standards. The elements of quality control are described in the Statements on Quality Control Standards issued by the American Institute of Certified Public Accountants (AICPA). The firm is responsible for designing a system of quality control and complying with it to provide the firm reasonable assurance of conforming with professional standards in all material respects. My responsibility is to express an opinion on the design of the system of quality control and the firm's compliance with its system of quality control based on my review.

My review was conducted in accordance with standards established by the Peer Review Board of the AICPA. During my review, I read required representations from the firm, interviewed firm personnel and obtained an understanding of the nature of the firm's accounting and auditing practice, and the design of the firm's system of quality control sufficient to assess the risks implicit in its practice. Based on my assessments, I selected engagements and administrative files to test for conformity with professional standards and compliance with the firm's system of quality control. The engagements selected represented a reasonable cross-section of the firm's accounting and auditing practice with emphasis on higher-risk engagements. The engagements selected included among others, engagements performed under *Governmental Auditing Standards*. Prior to concluding the review, I reassessed the adequacy of the scope of the peer review procedures and met with firm management to discuss the results of my review. I believe that the procedures performed provide a reasonable basis for my opinion.

In performing my review, I obtained an understanding of the system of quality control for the firm's accounting and auditing practice. In addition, I tested compliance with the firm's quality control policies and procedures to the extent I considered appropriate. These tests covered the application of the firm's policies and procedures on selected engagements. My review was based on selected tests therefore it would not necessarily detect all weaknesses in the system of quality control or all instances of noncompliance with it. There are inherent limitations in the effectiveness of any system of quality control and therefore noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

In my opinion, the system of quality control for the accounting and auditing practice of Boler & Associates in effect for the year ended December 31, 2006, has been designed to meet the requirements of the quality control standards for an accounting and auditing practice established by the AICPA and was complied with during the year then ended to provide the firm with reasonable assurance of conforming with professional standards.

As is customary in a system review, I have issued a letter under this date that sets forth comments that were not considered to be of sufficient significance to affect the opinion expressed in this report.


David E. Vaughn, CPA

Hourly rates

Our discounted hourly rates are as follows:

Auditors Standard Hourly Billing Rates			
Professional	2008/2009	2009/2010	2010/2011
Partner	\$ 105	\$ 108	\$ 111
Director	\$ 85	\$ 88	\$ 91
Senior Accountant	\$ 55	\$ 57	\$ 59
Staff Accountant	\$ 45	\$ 46	\$ 47

Our hourly rates for consulting services are as follows:

Consulting Services Hourly Billing Rates			
Professional	2008/2009	2009/2010	2010/2011
Partner	\$ 125	\$ 129	\$ 133
Director	\$ 105	\$ 108	\$ 111
Senior Accountant	\$ 75	\$ 77	\$ 79
Staff Accountant	\$ 65	\$ 67	\$ 69

Government references

REFERENCES:	
<p>① City of Marysville, California Mr. Dixon Coulter Director of Financial Management 526 "C" Street Marysville, California 95901 (530) 741-6655</p>	<p>② Town of Loomis, California Mr. Roger Carroll Finance Director 6140 Horseshoe Bar Road Loomis, California 95650 (530) 652-1840</p>
<p>③ West Sacramento, California Ms. Evelyne Hayden Director of Finance 1110 West Capitol Avenue West Sacramento, California 95691 (916) 617-4575</p>	

Exhibit "B" Provided by Consultant

See Attached

PROPOSED AUDIT FEE



Our goal is to provide the City of Winters, California the highest quality service using the highest professional standards at a reasonable cost. We plan each audit carefully and set a time budget for each phase of the engagement. All of our staff are well aware of the need to use their time to the fullest efficiency.

Based on our understanding of the City's requirements, we have developed a fee that we believe will support the audit services desired. Any material changes in the City's accounting model and fund structure in subsequent years will require adjustment of our fees. A summary of our anticipated all inclusive fees for each fiscal year are as follows:

Audit Area	For the Fiscal Year Ended June 30,			
	2009	2010	2011	Total
Comprehensive annual financial report and management letter	\$ 22,050	\$ 22,700	\$ 23,400	\$ 68,150
Redevelopment Agency	1,500	1,550	1,600	4,650
Single audit determination and reports	1,850	1,900	2,000	5,750
Appropriations limit procedures	(Included above)			
Total proposed audit fee	\$ 25,400	\$ 26,150	\$ 27,000	\$ 78,550

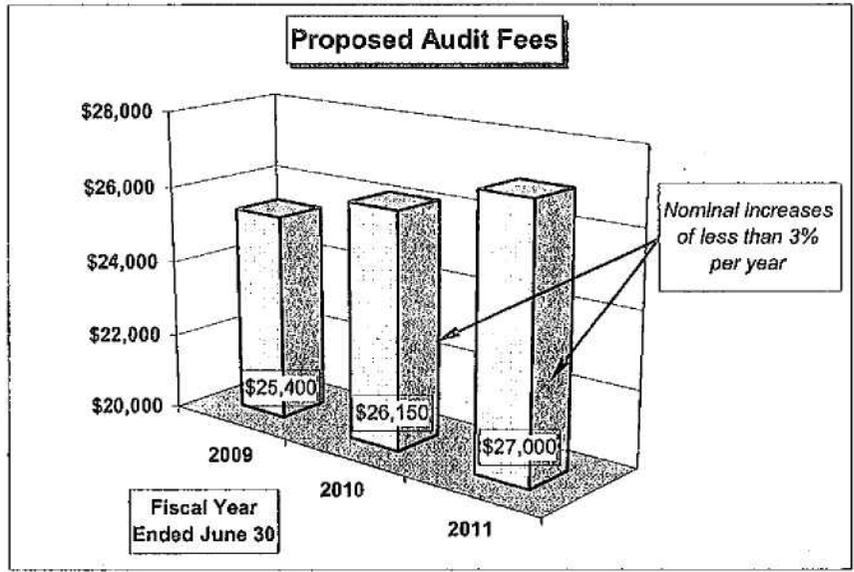


EXHIBIT "C"

GENERAL PROVISIONS

(1) INDEPENDENT CONTRACTOR. At all times during the term of this Agreement, CONSULTANT shall be an independent contractor and shall not be an employee of CITY. CITY shall have the right to control CONSULTANT only insofar as the results of CONSULTANT'S services rendered pursuant to this Agreement; however, CITY shall not have the right to control the means by which CONSULTANT accomplishes services rendered pursuant to this Agreement.

(2) LICENSES; PERMITS; ETC.. CONSULTANT represents and warrants to CITY that CONSULTANT has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONSULTANT to practice CONSULTANT'S profession. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice his profession.

(3) TIME. CONSULTANT shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT'S obligations pursuant to this Agreement.

(4) INSURANCE.

(a) WORKER'S COMPENSATION. During the term of this Agreement, CONSULTANT shall fully comply with the terms of the law of California concerning worker's compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against any liability CONSULTANT may have for worker's compensation.

(b) GENERAL LIABILITY AND AUTOMOBILE INSURANCE. CONSULTANT shall obtain at its sole cost and keep in full force and effect during the term of this agreement broad form property damage, personal injury, automobile, employer, and comprehensive form liability insurance in the amount of \$2,000,000 per occurrence; provided (1) that the CITY, its officers, agents, employees and volunteers shall be named as additional insured under the policy; and (2) that the policy shall stipulate that this insurance will operate as primary insurance; and that (3) no other insurance effected by the CITY or other names insured will be called upon to cover a loss covered there under; and (4) insurance shall be provided by an, at least, A-7 rated company.

(c) PROFESSIONAL LIABILITY INSURANCE. During the term of this Agreement, CONSULTANT shall maintain an Errors and Omissions Insurance policy in the amount of not less than \$1,000,000.

(d) CERTIFICATES OF INSURANCE. CONSULTANT shall file with CITY'S City Clerk upon the execution of this agreement, certificates of insurance which shall provide that no cancellation, major change in coverage, expiration, or non-renewal will be made during the term of this agreement, without thirty (30) days written notice to the City Clerk prior to the effective date of such cancellation, or change in coverage.

(5) CONSULTANT NOT AGENT. Except as CITY may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement, to bind CITY to any obligation whatsoever.

(6) ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

(7) PERSONNEL. CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. In the event that CITY, at its sole discretion, at anytime during the term of this Agreement, desires the removal of any person or persons assigned by CONSULTANT to perform services pursuant to this Agreement, CONSULTANT shall remove any such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person or persons.

(8) STANDARD OF PERFORMANCE. CONSULTANT shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged in the geographical area in which CONSULTANT practices his profession. CITY pursuant to this Agreement shall be prepared in a substantial, first-class, and workmanlike manner, and conform to the standards of quality normally observed by a person practicing in CONSULTANT'S profession. CITY shall be the sole judge as to whether the product of the CONSULTANT is satisfactory.

(9) CANCELLATION OF AGREEMENT. This Agreement may be canceled at any time by CITY for its convenience upon written notification to CONSULTANT. CONSULTANT shall be entitled to receive full payment for all services performed and all costs incurred to the date of receipt of written notice to cease work on the project. CONSULTANT shall be entitled to no further compensation for work performed after the date of receipt of written notice to cease work. All completed and uncompleted products up to the date of receipt of written notice to cease work shall become the property of the CITY.

(10) PRODUCTS OF CONSULTING. All products of the CONSULTANT resulting from this Agreement shall be the property of the CITY.

(11) INDEMNIFY AND HOLD HARMLESS. CONSULTANT shall indemnify, hold harmless the CITY, its officers, agents and employees from all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property to the extent arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by the CONSULTANT or any person directly or indirectly employed by or acting as agent for CONSULTANT in the performance of this Agreement, including the concurrent or successive passive negligence of the City, its officers, agents or employees.

It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been

determined to be applicable to any of such damages or claims for damages.

(12) PROHIBITED INTERESTS. No employee of the CITY shall have any direct financial interest in this agreement. This agreement shall be voidable at the option of the CITY if this provision is violated.

(13) LOCAL EMPLOYMENT POLICY. The City of Winters desires wherever possible, to hire qualified local residents to work on city projects. Local resident is defined as a person who resides in Yolo County.

The City encourages an active affirmative action program on the part of its contractors, consultants, and developers.

When local projects require, subcontractors, contractors, consultants, and developers will solicit proposals from qualified local firms where possible.

As a way of responding to the provisions of the Davis-Bacon Act and this program, contractor, consultants, and developers will be asked to provide no more frequently than monthly, a report which lists the employee's residence, and ethnic origin.

(14) CONSULTANT NOT PUBLIC OFFICIAL. CONSULTANT is not a "public official" for purposes of Government Code §87200 et seq. CONSULTANT conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the CITY or any CITY official, other than normal contract monitoring. In addition, CONSULTANT possesses no authority with respect to any CITY decision beyond the rendition of information, advice, recommendation or counsel.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Dawn Van Dyke, Management Analyst 
SUBJECT: TANC transmission line and substation project update

RECOMMENDATION: That the City Council hear a report on the Transmission Agency of Northern California (TANC), a joint powers agency made up of 15 publicly owned utilities that plans, develops, finances, constructs and operates electric transmission projects; TANC is developing a plan to construct approximately 600 miles of 230-kV and 500-kV transmission lines and substations in the state of California.

BACKGROUND:

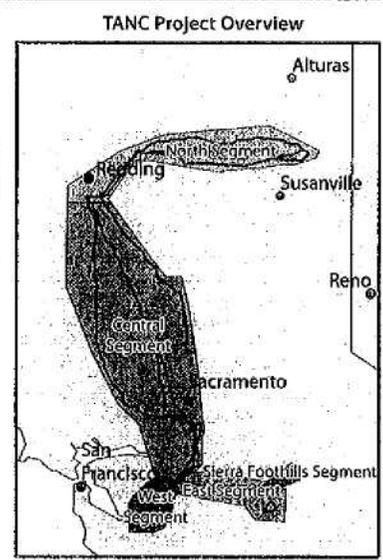
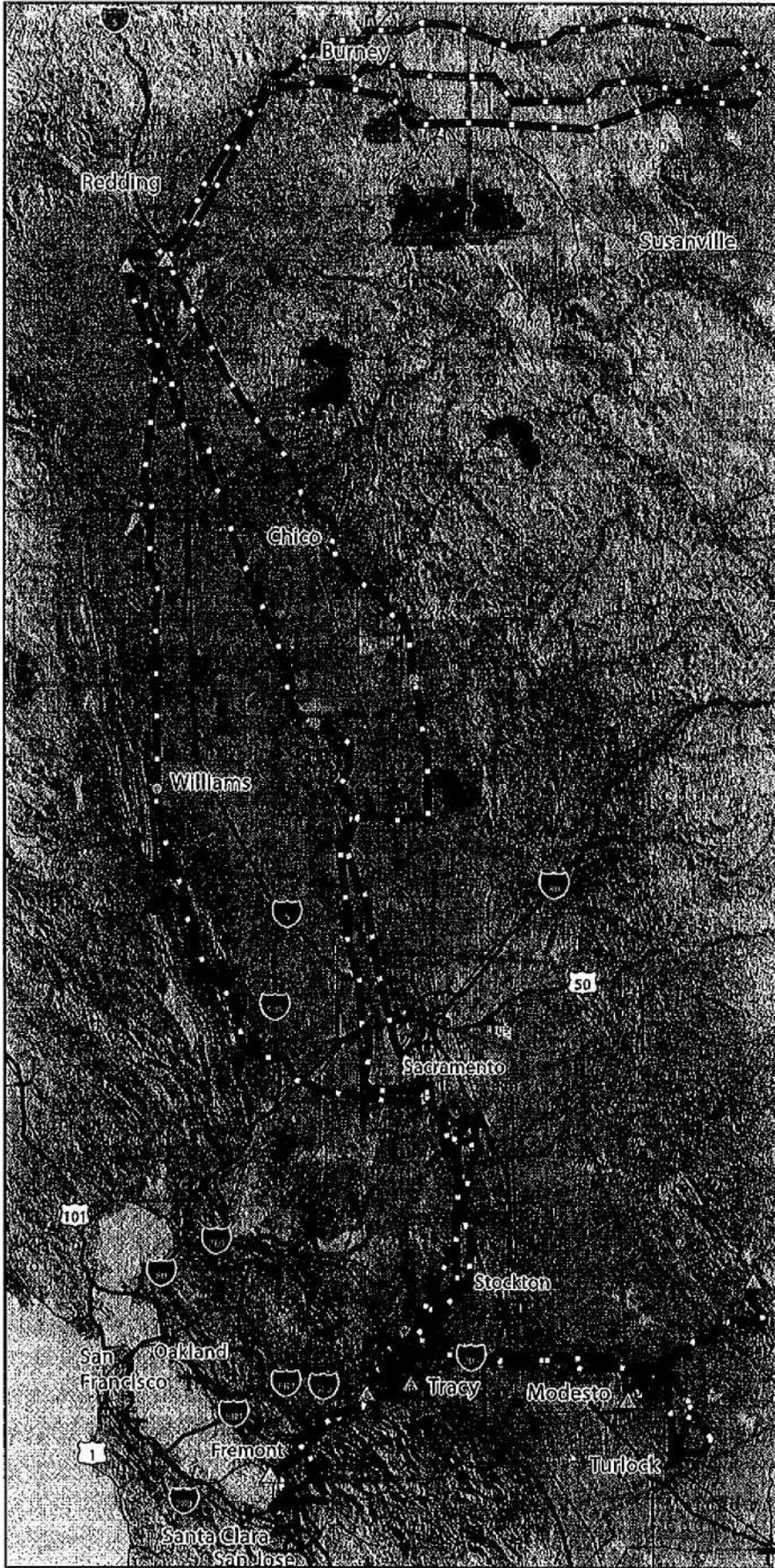
One of the proposed segments of the project could pass through the Winters area in both Solano and Yolo counties. It would extend along the northwest side of the City at the base of the Berryessa mountain range.

The project is currently in the public scoping process. A series of scoping meetings are scheduled throughout California to gather comments from the public on significant issues that should be analyzed during the environmental review process. Several members of the Winters community attended the scoping meeting that was held in Sacramento on Thursday, March 26. There are no more scoping meetings planned in the vicinity of Winters; however, written comments on the project will be accepted until 5 p.m. on April 30, 2009. Some of the potential environmental issues or impacts of the project that have been identified include: aesthetics/visual, agricultural resources, air quality, biological resources, cultural resources, electric and magnetic fields, geology and soils, hazards and hazardous materials, hydrology and water quality and land use and recreation.

The City has invited representatives from TANC to present more information to the City Council and members of the public. More information about the project and TANC is available at www.tanc.us

FISCAL IMPACT: None identified.

Preliminary Proposed TTP Routes



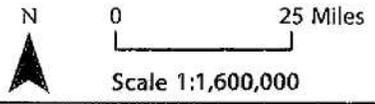
- TANC Infrastructure**
- ▲ Proposed Substations
 - △ Existing Substations
 - Undergrounding Points
 - Midpoint Stations
 - Preliminary Proposed TTP Routes

- Public Land Ownership**
- ▨ BLM Lands
 - ▤ BLM Areas of Critical Env. Concern
 - ▧ BLM Wilderness Study Areas
 - ▩ Wilderness Areas
 - US Forest Service Lands
 - National Park Service Lands
 - ▬ US Fish & Wildlife Lands
 - ▭ Dept. of Defense Lands
 - ▮ Other Federal Lands
 - ▯ East Bay Regional Park District
 - ▰ Other Public Lands
 - ▱ RETI CREZ

- Major Highways
- ✈ Airports
- Railroads
- County Boundaries
- ▭ Urban Areas



Date of Routes: 2/5/2009



Transmission line routes and substation sites are preliminary and intended for planning and discussion purposes only.

Please join us!

Public scoping meetings regarding

The Transmission Agency of Northern California Transmission Project

The Transmission Agency of Northern California (TANC) and the Western Area Power Administration (Western) are conducting twelve public scoping meetings consistent with the National Environmental Policy Act and the California Environmental Quality Act about the proposed TANC Transmission Project (TTP). These scoping meetings provide you with opportunities to provide comments on the environmental issues and alternatives that should be addressed in the Joint Environmental Impact Report/Environmental Impact Statement (EIR/EIS) that TANC and Western will be preparing for the TTP.

Please review the attached fact sheet for further information about TANC and the TTP.

Why should I attend a meeting?

The specific purpose of the meetings is to provide an opportunity for you to learn more about where the proposed project may be sited and what the project will mean for your community. At the meetings you can also provide comments on the environmental issues to be addressed in the EIR/EIS. We hope you will come to ask your questions, submit your comments, and learn more about the TTP.

When are the meetings?

TANC is holding twelve public scoping meetings at the following locations. All meetings will be held from 5:30 p.m. to 8:30 p.m. We encourage you to attend.

Sacramento Thursday, March 26, 2009 Radisson Hotel 1400 Bluff Street Sacramento, CA 95811	Yuba City Thursday, April 2, 2009 101 Broadway 100 South Broadway Yuba City, CA 95688	Tracy Friday, April 3, 2009 P. D. Driscoll Community Center 100 West 11th Street Tracy, CA 95376
Albany Monday, March 30, 2009 Senior Center at the Church Hall 107 East 7th Street Albany, CA 94701	Colusa Monday, April 6, 2009 Colusa Mason Family Center 100 West 1st Avenue Colusa, CA 95624	Colusa Monday, March 30, 2009 100 West 1st Avenue Colusa, CA 95624
Burney Monday, March 30, 2009 Burney Community 2700 Main Street Burney, CA 95921	Grass Valley Tuesday, April 7, 2009 Josephine High School Gymnasium 39300 Hill Avenue Grass Valley, CA 95943	Williams Tuesday, April 7, 2009 Central School 1000 Street Williams, CA 95975
State Center Wednesday, April 8, 2009 Hwy. 99 Community Center 100 West American Highway State Center, CA 95959	Madison Wednesday, April 8, 2009 Glenbrook 101 West Street Madison, CA 95650	Redwood Wednesday, April 8, 2009 Community Center 100 West 1st Street Redwood, CA 95468

All community members are encouraged to attend. All meeting locations will be wheelchair accessible.

To request special accommodations, or for more information, please contact the project hotline at 916-353-4777 or visit www.tanc.us.

To submit scoping comments please visit www.wapa.gov/transmission/tip.htm.

Por favor acompañenos:

Reuniones públicas sobre el alcance

del Proyecto de la Agencia de Transmisión del Norte de California

La Agencia de Transmisión del Norte de California (TANC, por sus siglas en inglés) y la Administración de Energía Eléctrica del Área Occidental (en adelante denominada como Western), están organizando doce reuniones públicas acerca del alcance del proyecto de Transmisión TANC (TTP, por sus siglas en inglés) consistentes con la Ley de Política Ambiental Nacional y la Ley de Calidad Ambiental de California. Estas reuniones le ofrecen a usted la oportunidad de proveer comentarios sobre los problemas ambientales y las alternativas que deberían ser consideradas en el Reporte de Impacto Ambiental/Declaración de Impacto Ambiental (EIR/EIS, por sus siglas en inglés) documento conjunto que TANC y Western estarán preparando para el TTP.

Por favor revise la hoja informativa anexa para más información acerca de TANC y el TTP.

Por qué debería asistir a una reunión?

El propósito específico de las reuniones es brindarle a usted la oportunidad de aprender más acerca del lugar donde el proyecto propuesto se llevaría a cabo y lo que el proyecto significará para su comunidad. En las reuniones, usted también puede dar sus comentarios sobre los problemas ambientales a ser considerados en el EIR/EIS. Nosotros esperamos que usted vendrá a la reunión para hacer sus preguntas, dar sus comentarios y conocer más acerca del TTP.

Cuándo son las reuniones?

TANC está realizando doce reuniones públicas en los siguientes lugares. Todas las reuniones serán de 5:30 p.m. a 8:30 p.m. Nosotros lo invitamos a participar.

Sacramento Miércoles, 26 de marzo del 2009 Radisson Hotel 5000 Leisureland Sacramento, CA 95818	Turlock Miércoles, 2 de abril del 2009 6th Broadway 162 South Broadway Turlock, CA 95380	Tracy Miércoles, 2 de abril del 2009 Hawthorne Conference Center 4020 Santa Fe Avenue Tracy, CA 95378
Aldridge Viernes, 30 de marzo del 2009 Sacramento Catholic Church/Hall 6074 S. Main Street Aldridge, CA 95808	Union Viernes, 3 de abril del 2009 Catholic Middle Family Center 10100 S. Main Avenue Union, CA 95974	Redding Viernes, 3 de abril del 2009 Redding Hotel 330 E. Hill Street Redding, CA 96002
El Dorado Viernes, 3 de abril del 2009 El Dorado Hotel 3700 Main Street El Dorado, CA 95804	Sureka Viernes, 3 de abril del 2009 Henschel-Hessler Community Center 1900 S. Hill Avenue Sureka, CA 95954	Willits Viernes, 3 de abril del 2009 El Dorado Hotel 1000 Main Street Willits, CA 95989
Santa Clara Miércoles, 2 de abril del 2009 Hilton Garden Inn Santa Clara 1000 Granddaddy Parkway Santa Clara, CA 95050	Hollister Miércoles, 2 de abril del 2009 Hollister Inn 1001 S. Hollister Hollister, CA 95023	Stockton Miércoles, 2 de abril del 2009 Hilton Garden Inn 1000 Main Street Stockton, CA 95210

Todos los miembros de la comunidad están invitados a atender.

Los lugares donde las reuniones se llevarán a cabo son accesibles a personas en silla de ruedas.

Para solicitar acomodaciones especiales o para más información,

por favor deje un mensaje en nuestra línea directa del proyecto: 916-353-4777 o visite www.tanc.us.

Para someter sus comentarios sobre el alcance del proyecto, por favor visite www.wapa.gov/transmission/ttp.htm.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE : April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Shelly Gunby, Director of Financial Management
SUBJECT: Water Meter Installation

RECOMMENDATION:

Review proposed water meter program and direct staff on implementing water meter installation for both commercial and residential properties.

BACKGROUND:

In January 2009, Council approved increases in the water and sewer rates and was advised by our consultant that we should implement metering for our commercial accounts as soon as possible, and develop a program for implementing metering for residential accounts as well. Since the implementation of the water and sewer rates, we have had 4 requests to install meters for commercial accounts so that the amount of water being used can be monitored and the businesses can be billed on actual consumption instead of the flat rate.

Currently we have 59 commercial accounts that are metered, 12 of which we estimate will need to have the meter replaced with a new meter with radio read capability. 47 of the existing meters need to retrofit with radio read capability. The cost of the retrofit of the existing meters is \$17,440.00 to be funded with water bond proceeds.

62 commercial accounts require meter installation; some of the accounts already have the pit dug and require the installation of the meter only. The cost to a commercial account will vary from \$249.00 for an account with an existing pit for a ¾" meter to \$7,796 for a 6" compound meter that requires a pit as well as the meter and radio transmitter. These costs will be paid by the commercial customer. Staff recommends that a payment plan be implemented for these customers allowing the cost of the meter installation to be paid over a period of six months to three years depending on the cost of the meter installation. Staff recommends implementing a plan to get all commercial properties metered by January 2010.

In addition to the meters, staff recommends purchase of Radix handheld reader, Orion Laptop system and Accounting integration software at a cost of \$24,000, also to be funded from water bond proceeds. Staff will use the commercial accounts to get the new radio read system installed and "debugged" before moving forward with residential

metering.

Residential accounts requiring meters would cost approximately \$689-\$723 for installation of a meter requiring a pit (based on a ¾" or 1" connection). Staff recommends implementing a plan to get all residential properties metered by January 2012. Staff recommends that a payment plan be put in place allowing the cost of the meter installation to be paid over a period of 3 years. Additionally, staff recommends allowing those qualifying for affordable housing to elect to have a lien placed on their property for the amount of the meter installation cost that would be paid to the city upon change of ownership of the property.

Should City Council agree with this plan, staff will return with an updated ordinance to allow for the installation of water meters as presented.

FISCAL IMPACT:

Funding


CITY OF
WINTERS
CALIFORNIA
CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Kate Kelly, Contract Planner
SUBJECT: Introduce and Waive First Reading of Ordinance No. 2009-03 - An Ordinance of the City of Winters Rezoning the Property for the St. Anthony's Church and Rectory Project (Assessor Parcel Number 003-120-03) to Single-Family Planned Development Zone (R-2-PD). Project Located at 511 Main Street (APN 003-120-03). Applicant: Roman Catholic Bishop of Sacramento/McCandless & Associates Architecture, Inc.

RECOMMENDATION: Staff recommends that the City Council take the following action:

1. Receive the Staff Report.
2. Introduce and Waive First Reading of Ordinance No. 2009-03 - An Ordinance of the City of Winters Rezoning the Property for the St. Anthony's Church and Rectory Project (Assessor Parcel Number 003-120-03) to Single-Family Planned Development Zone (R-2-PD).
3. Schedule Second Reading and Public Hearing for Ordinance No. 2009-03 for April 21, 2009.

BACKGROUND: The project proposes to construct a 13,813 square foot, 700 seat church and a future 2,900 square foot rectory with a two car garage at the southeast corner of Grant Avenue (State Route 128) and West Main Street.

The site development started in the late 1980's with the construction of the existing 13,235 square foot St. Anthony's Parish Community Center and associated parking areas and improvements on the north and north eastern portion of the property. A future church, rectory, and ancillary building were anticipated at that that time but were not developed. In May 2008, the applicant submitted a conceptual design and site plan for the proposed 700 seat church and rectory. The proposed site plan and architectural style was presented to the Planning Commission for Conceptual Design Review on May 27, 2008. The Planning Commission indicated their general support for the proposal.

An application for the proposed church and rectory project including a Planned Unit Development Overlay (to modify parking and height limits), Conditional Use Permit (religious institution in an R-2 zone), and Design Review (construction of non-residential

building over 500 square feet) was submitted on October 16, 2008 and was deemed "Complete" on January 16, 2009. An Initial Study and proposed Mitigated Negative Declaration was prepared and circulated for a 30-day public review and comment between February 13, 2009 and March 16, 2009. No comments were received.

On March 9, 2009 the applicant informed the City that the Parish had purchased the adjoining residence (507 Main Street) for use as a rectory and would not be proceeding with the proposed rectory on the project site in the foreseeable future. Due to the shortage of required on-site parking staff, requested the site plan be revised to include parking where the rectory was proposed to be located. Revised site plans were submitted on March 11, 2009.

On March 24, 2009 the Planning Commission considered the project and took the following actions:

- Adopted the Mitigated Negative Declaration and Mitigation Monitoring Plan for the purposes of the Conditional Use Permit and Design Review
- Recommended the City Council adopt a Planned Development Overlay Zone and approve a Planned Development Permit to increase building height limit to 52' and reduce on-site parking requirements to 90% of that required by the Winters Municipal Code
- Approved a Conditional Use Permit for a religious institution in R-2 zone
- Approved the Design Review required for construction of nonresidential building/structures exceeding 500 square feet

PROPOSED PROJECT: The property is 5.56+/- acres and is currently developed with a 13,235+/- square foot community center, 827 +/- square foot auxiliary building; a storage shed, and associated parking and landscaping. The parcel is generally square with frontage on Grant Avenue, and West Main Street. The frontage along Grant Avenue is 478+/- feet in length and the frontage on West Main Street is approximately 472+/- feet. The parcel abuts Waggoner Elementary School to the east and a residential neighborhood to the south.

The church is a 13,813 square foot Spanish Colonial style building which would seat 700 and includes space for a lobby, acolytes-altar servers, vestry-dressing room, confessionals, restrooms, arts-eucharist preparation, storage, sacristy-religious storage, sanctuary-alter, choir, sound system, electrical-mechanical service, music room, janitorial, and bride's room. The building is single story and is located in the west central portion of the parcel. Due to the roofline, the building is proposed to be 43' 10" tall with total height of 52' including the roof mounted cross.

The future rectory is proposed to be a 2,900 square foot three bedroom, four bath residential unit which would include a study, living/dining areas, kitchen and an attached two car garage. The rectory is proposed to be developed at an unknown future date at

the southeast corner of the parcel with frontage on West Main Street and the garage located on the east side which would be accessed via the site's interior roadway and parking areas.

The applicant has requested a Planned Development Overlay to modify the height restriction and parking requirements. The maximum height in the R-2 zone is 30 feet. The church is proposed to be 43' 10" tall at the peak of the roof and 52' tall at the top of the roof mounted cross.

The total onsite parking required for the site developed with the existing community center, existing auxiliary building, proposed church and proposed rectory would be 273 spaces per the parking standards in Section 17.72.020 of the City of Winters Municipal Code. The proposed project, as redesigned to provide parking where the rectory was proposed to be located, provides 251 spaces which amounts to 92% of the required spaces.

POLICY ANALYSIS: The project site is designated in the General Plan as Medium Density Residential (MR). This designation provides for single-family detached and attached homes, public and quasi-public uses and similar and compatible uses. Religious institutions are considered a quasi-public use per Section 17.08.060.k of the Winters Municipal Code. For all policies, the staff believes a finding of consistency can be made for the proposed project as conditioned.

The project site is zoned Single Family Residential 6,000 Square Foot Average Minimum (R-2). Religious Institutions are a conditional use in the R-2 zone and are subject to obtaining a Use Permit from the Planning Commission per Chapter 17.52.020 of the Winters Municipal Code.

DISCUSSION:

Planned Development Overlay Zone and Planned Development Permit: The applicant has requested a Planned Development Overlay Zone and Planned Development Permit to modify on-site parking and maximum height requirements.

On-Site Parking - The project site currently has a 13,235 square foot community center and an 827 square foot auxiliary building. The useable square footage of these two structures would require 142 on-site spaces per 17.72.020 of the Municipal Code. Currently there are 85 paved, developed parking spaces on-site. This represents 60% of the required parking for the current uses. Events at the community center generate overflow parking onto the undeveloped portion of the project site and onto adjacent neighborhood streets and vacant lots due to the lack of on-site parking.

The project, as originally proposed with the church and rectory, would require:

Building	On-Site
----------	---------

	Parking Spaces
Existing Community Center (6,950 sq. ft. of assembly area @ 1/50 sq. ft. of assembly area)	139
Existing Auxiliary Building (827 sq. ft. @ 1/250 sq ft.)	3
Proposed Church (6,450 square feet of assembly area @ 1/50 sq. ft. of assembly area)	129
Proposed Rectory (single family residential @ 2/unit)	2
Total	273

The site plan as originally submitted, inclusive of the rectory, provided 236 on-site spaces which would be 86% of the required on-site parking. The development of the remainder of the site with church and parking lots removes the vacant portions of the site which has served as an ad hoc parking area. While the new parking lots will reduce the on-site parking shortage, the lack of on-site parking is expected to continue to generate overflow parking onto adjacent neighborhood streets.

The applicant has since acquired the house immediately adjacent to the project site for use as a rectory and has indicated to staff that the proposed on-site rectory would not be developed until some future date. Given the on-site parking shortage staff requested the site plan be revised to provide parking where the rectory was proposed.

Based upon the revised project with the rectory deferred for future development and the site plan revised accordingly to provide parking, the on-site parking calculations would be:

Building	On-Site Parking Spaces
Existing Community Center (6,950 sq. ft. of assembly area @ 1/50 sq. ft. of assembly area)	139
Existing Auxiliary Building (827 sq. ft. @ 1/250 sq ft.)	3
Proposed Church (6,450 square feet of assembly area @ 1/50 sq. ft. of assembly area)	129
Total	271

Removing the rectory from the current construction phase and incorporating that area into additional parking has added 15 on-site spaces and reduced the required spaces by 2 for a total gain of 17 spaces. The revised site plan provides 251 parking spaces which is 92% of the required on-site parking.

The applicant has requested a modification to the parking requirements as part of the proposed Planned Development Overlay. The usage patterns for both the church and the community center are intermittent throughout the day and week. The project site is adjacent to both other public and quasi-public uses and a residential neighborhood.

Given the surrounding land uses and intermittent hours and usage patterns of the community center and church, staff is generally supportive of a 10% reduction in the parking requirement for this project. This reduction would provide for the proposed site development including, with some additional design effort, the future rectory without being detrimental to the adjacent neighborhood.

Building Height - The building height limit in the R-2 zone is 30 feet. The church is proposed to be 43' 10" at the peak of the roof and 52' to the top of the roof mounted cross. The applicant has requested modification to the height limit as part of the proposed Planned Development Overlay.

The project site is located adjacent to existing one and two story residential development to the north and south and an existing elementary school to the east. A residential subdivision has been approved for the vacant parcel located across the street from the proposed project at the southeast corner of West Main and Grant Avenue. The City's new 36,500 +/- square foot Public Safety Center which would house both the Fire Department and the Police Department has been approved for the vacant parcels across the street from the proposed project on the northwest corner of West Main and Grant. The main Public Safety Center building will be 42 feet tall and the project also includes a 140 foot tall communication tower.

The proposed project is architecturally consistent with the existing community center and the site features mature landscaping and street trees, as does the adjacent neighborhood. Given the site characteristics and the height of the future Public Safety Center, staff supports the Planned Development Overlay modification to increase the height for this site to a maximum of 52' for the church building inclusive of the roof mounted cross.

CEQA CLEARANCE: A Mitigated Negative Declaration (attached) was circulated on February 13, 2009, for a 30-day comment period extending through March 16, 2009. No comments were received.

FISCAL IMPACT: Neutral

ATTACHMENTS:

1. Ordinance No. 2009-03 - An Ordinance of The City of Winters Rezoning the Property for the St. Anthony's Church and Rectory Project (Assessor Parcel Number 003-120-03) to Single-Family Planned Development Zone (R-2-PD)
2. Findings and Conditions of Approval
3. Site Plan
4. Building Elevations
5. Initial Study/Mitigated Negative Declaration
6. Mitigation Monitoring Program

ORDINANCE NO. 2009-03
AN ORDINANCE OF THE CITY OF WINTERS REZONING
THE PROPERTY FOR THE ST. ANTHONY'S CHURCH AND
RECTORY PROJECT (ASSESSOR PARCEL NUMBER 003-120-03)
TO SINGLE-FAMILY PLANNED DEVELOPMENT ZONE (R-2-PD)

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

SECTION 1. Recitals

a. The Roman Catholic Bishop of Sacramento, a corporation sole ("Applicant"), has submitted an application for a Conditional Use Permit, Design Review approval, and approval to rezone approximately 5.56 acres located at 511 Main Street, Winters, CA 95694 (Assessor Parcel Number 003-120-03) ("Project Site") by adding a Planned Development Overlay Zone. Applicant proposes to build a religious institution, as defined by Section 17.08.060.K of Chapter 17.08 of Title 17 of the Winters Municipal Code, consisting of 13,813 square feet on the Project Site. The approvals and proposed development are collectively known as the "St. Anthony's Church and Rectory Project" or the "Project."

b. The underlying zoning district or base zone of the Project Site is the "single-family, 6000 square foot average minimum (R-2) zone."

c. The R-2 Zone has a structural height limit of 30 feet pursuant to Section 17.56.010 of Chapter 17.56 of Title 17 of the Winters Municipal Code. The proposed religious institution has a proposed height of 52 feet, thereby exceeding the structural height limit of the underlying zoning district.

d. The Project Site is currently developed with a 13,235 square foot community center with 6,950 square feet of assembly area and an 827 square foot auxiliary building. The Project proposes to develop a 13,813 square foot church (religious institution) which would have 6,450 square feet of seating area and a 2,900 square foot rectory.

e. The community center has an off-street parking requirement of one space for every 50 square feet of assembly area; the auxiliary building has an off-street parking requirement of 1 space per 250 square feet; a religious institution has an off-street parking requirement of 1 parking space for every 50 feet of seating space; and the rectory has an off-street parking requirement of two spaces, which results in a total of 273 required off-street parking spaces for the Project Site pursuant to Section 17.72.020 of Chapter 17.72 of Title 17 of the Winters Municipal Code.

f. The Project Site can only accommodate 251 parking spaces, which is approximately 92% of the total required number of parking spaces. .

g. The Planning Commission held a properly noticed public hearing on the Project on March 24, 2009, pursuant to Section 17.16.040 of Chapter 17.16 and 17.48.050.A.1 of Chapter 17.48 of Title 17 of the Winters Municipal Code. After considering all of the evidence, the Planning Commission voted to recommend approval of the Project to the City Council.

h. The City Council has, prior to this approval, considered, approved and ratified a Mitigated Negative Declaration and adopted a Mitigation Monitoring Plan for the Project pursuant to Section 15074 of the California Environmental Quality Act Guidelines. No additional environmental review of the Project is required by law, ordinance, or regulation.

i. The City Council held a properly noticed public hearing on the Project on _____, 2009. The Council's findings herein are based on its review and consideration of the recommendation of the Planning Commission, staff reports, all evidence and testimony submitted at the public hearing, and all related documentation in the record.

SECTION 2. Findings

The City Council hereby finds as follows:

- a. The Project is consistent with the City of Winters General Plan.
- b. The Project is consistent with the purposes of Title 17 of the Winters Municipal Code and the purpose of Chapter 17.48, Planned Development Overlay Zone.
- c. The Project complies with most of the applicable provisions of the R-2 Zone and general standards of the Zoning Ordinance (Title 17 of the Winters Municipal Code) and any deviations from the provisions of the R-2 Zone and general standards of the Zoning Ordinance are justified as necessary to achieve a consistent architectural style and compact site design, which is an improved design for the Project.
- d. The Project is desirable to the public comfort and convenience because the Project Site is in a residential area, which makes the religious institution and its activities easily accessible and convenient to the residents in the area and the community as a whole.
- e. The Project, including the proposed deviations from the height limit of the R-2 Zone and the off-street parking requirement, will not impair the integrity or character of the neighborhood nor be detrimental to the public health, safety or general welfare.
- f. Adequate utilities, access roads, sanitation and other necessary facilities and services will be provided and are available to the Project Site.

g. The Project will not create an adverse fiscal impact for the City in providing necessary services.

SECTION 3.

Pursuant to the provisions of Chapter 17.48 of Title 17 of the Winters Municipal Code and California Government Code Section 65853, the Project Site is hereby rezoned to include a Planned Development Overlay Zone and be reclassified as Single-Family, 6000 square foot average minimum, Planned Development (R-2-PD) Zone.

SECTION 4.

Pursuant to Section 17.48.080 of Chapter 17.48 of Title 17 of the Winters Municipal Code, the Official Zoning Map of the City of Winters is hereby directed to be amended with the rezoning approved by this Ordinance.

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 _____, 2009, and was passed and adopted at a regular meeting of the City Council held on _____, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk

FINDINGS OF FACT AND CONDITIONS OF APPROVAL FOR THE ST. ANTHONY'S CHURCH AND RECTORY PROJECT

FINDINGS OF FACT

Findings for Adoption of Mitigated Negative Declaration

1. The Planning Commission has considered the proposed Mitigated Negative Declaration before making a decision on the project.
2. The Planning Commission has considered comments received on the Mitigated Negative Declaration during the public review process.
3. The Planning Commission finds that the environmental checklist/initial study identified potentially significant effects, but: a) mitigation measures agreed to by the Applicant before the mitigated negative declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant impact would occur; and b) there is no substantial evidence, in light of the whole record before the City, that the project as revised to include the mitigation measures may have a significant effect on the environment.
4. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Winters.
5. The Mitigated Negative Declaration has been prepared in compliance with CEQA and the State CEQA Guidelines, and as amended/revised is determined to be complete and final.
6. The custodian of the documents, and other materials, which constitute the record of proceedings is the Community Development Director. The location of these items is the office of the Community Development Department at City Hall, 318 First Street, Winters, California 95694.
7. The Mitigation Monitoring Plan is hereby adopted to ensure implementation of mitigation measures identified in the Mitigated Negative Declaration. The Planning Commission finds that these mitigation measures are fully enforceable as conditions of approval of the project, and shall be binding on the Applicant, future property owners, and affected parties.
8. The Planning Commission hereby adopts St. Anthony's Church and Rectory Project Mitigated Negative Declaration.

Findings for Planned Development Overlay

1. The property is designated Medium Density Residential. This designation provides for single-family detached and attached homes, public and quasi-public uses and similar and compatible uses. Religious institutions are considered a quasi-public use per Section 17.08.060.k of the Winters Municipal Code. The proposed public and quasi-public development of the site with a church is consistent with the General Plan.
2. Given the existing site development, the proposed modifications to the maximum height restriction and on-site parking requirements are necessary to achieve a consistent architectural style and compact site design.
3. The proposed development of the church at this location provides for a comfortable, cohesive campus that is convenient for the Parish's activities and for the community as a whole.
4. The proposed plan will not impair the integrity or character of the neighborhood nor be detrimental to the public health, safety or general welfare.
5. Adequate utilities, access roads, sanitation and other necessary services are provided and available.

Findings for Conditional Use Permit for a Religious Institution in an R-2 Zone

1. The property is designated Medium Density Residential. This designation provides for single-family detached and attached homes, public and quasi-public uses and similar and compatible uses. Religious institutions are considered a quasi-public use per Section 17.08.060.k of the Winters Municipal Code. Churches are a common component of such uses and, as conditioned, would be in conformity with the General Plan.
2. The project site is zoned Single Family Residential 6,000 Square Foot Average Minimum (R-2). Religious Institutions are a conditional use in the R-2 zone and are subject obtaining a Use Permit from the Planning Commission per Chapter 17.52.020 of the Winters Municipal Code.
3. Religious institutions including churches are consistent with the intent and purposes of the C-2 zone. The property is located on the Grant Avenue corridor adjacent to two other public and quasi-public uses and, as conditioned, will not detrimentally impact the character of the neighborhood.
4. The requested use, as conditioned, will not be detrimental to the public health, safety or general welfare.
5. As provided for via the conditions of approval, adequate utilities, access roads, drainage, sanitation and/or other necessary facilities or services will be provided.
6. The requested use, as conditioned, will not create a nuisance or enforcement problem within the neighborhood.
7. The requested use, as conditioned, will not result in a negative fiscal impact to the City.

Findings for Design Review

1. The overall visible mass of the structures is appropriate and consistent with the existing architectural style for the site.
2. The proposed use and quality of the exterior construction material provides long-term compatibility with the general setting of the property and the visual character of the general neighborhood.
3. The architectural design of the buildings provides visual interest and varied detail to provide overall character and consistency with the existing development of the site.
4. Per site design, and as required by the conditions of approval, ground and roof mounted equipment is screened from public view.
5. Per the conceptual landscaping plan, and as required by the conditions of approval, the landscaping, site details, and amenities such as plazas, meditation garden, and pedestrian areas are consistent with the Winters Municipal Code

CONDITIONS OF APPROVAL

The following conditions of approval are required to be satisfied by the Applicant/Developer prior to Final Map, unless otherwise stated.

General

1. In the event any claim, action or proceeding is commenced naming the City or its agents, officers, and employees as defendant, respondent or cross defendant arising or alleged to arise from the City's approval of this project, the project Applicant shall defend, indemnify, and hold harmless the City or its agents, officers and employees, from liability, damages, penalties, costs or expense in any such claim, action, or proceeding to attach, set aside, void, or annul an approval of the City of Winters, the Winters Planning Commission, any advisory agency to the City and local district, or the Winters City Council. Project Applicant shall defend such action at Applicant's sole cost and expense which includes court costs and attorney fees. The City shall promptly notify the Applicant of any such claim, action, or proceeding and shall cooperate fully in the defense. Nothing in this condition shall be construed to prohibit the City of Winters from participating in the defense of any claim, action, or proceeding, if City bears its own attorney fees and cost, and defends the action in good faith. Applicant shall not be required to pay or perform any settlement unless the subdivider in good faith approves the settlement, and the settlement imposes no direct or indirect

cost on the City of Winters, or its agents, officers, and employees, the Winters Planning commission, any advisory agency to the City, local district and the City Council.

2. All conditions identified herein shall be fully satisfied prior to acceptance of the first Final Map unless otherwise stated.
3. The project is as described in the March 24, 2009 Planning Commission staff report. The project shall be constructed as depicted on the maps and exhibits included in the March 24, 2009 Planning Commission staff report, except as modified by these conditions of approval. Substantive modifications require public hearing(s) and Planning Commission action.

Negative Declaration Mitigation Measures

4. Mitigation Measure Aesthetics 1 – Outdoor light fixtures shall be low-intensity, shielded and/or directed away from adjacent areas and the night sky. All light fixtures shall be installed and shielded in such a manner that no light rays are emitted from the fixture at angles above the horizontal plane. Lighting plans with certification that adjacent areas will not be adversely affected and that offsite illumination will not exceed 2-foot candles shall be submitted to the City for review and approval as part of improvement plans.

Prior to issuance of a building permit, the applicant shall submit a photometric and proposed lighting plan for the project to the satisfaction of the Community Development Department to ensure no spillover light and glare onto adjoining properties.

5. Mitigation Measure Air 1
 - a. Construction equipment exhaust emissions shall not exceed District Rule 2-11 Visible Emission limitations.
 - b. Construction equipment shall minimize idling time to 5 minutes or less. Catalyst and filtration technologies shall be incorporated where feasible.
 - c. The prime contractor shall submit to the District a comprehensive inventory (i.e. make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower or greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy-duty equipment on the inventory list.
 - i. An enforcement plan shall be established to weekly evaluate project-related on-and-off-road heavy-duty vehicle engine emission opacities, using standards as defined in California Code of Regulations, Title 13, Sections 2180 - 2194. An Environmental Coordinator, CARB-certified to perform Visible Emissions Evaluations (VEE), shall routinely evaluate project related off-road and heavy duty on-road equipment emissions for compliance with this requirement. Operators of vehicles and equipment found to exceed opacity limits will be notified and the equipment must be repaired within 72 hours.
 - ii. Construction contracts shall stipulate that at least 20% of the heavy-duty off-road equipment included in the inventory be powered by CARB certified off-road engines, as follows:

1. 175 hp - 750 hp	1996 and newer engines
2. 100 hp - 174 hp	1997 and newer engines
3. 50 hp- 99 hp	1998 and newer engines
 - iii. In lieu of or in addition to this requirement, the applicant may use other measures to reduce particulate matter and nitrogen oxide emissions from project

construction through the use of emulsified diesel fuel and or particulate matter traps. These alternative measures, if proposed, shall be developed in consultation with District staff.

6. Mitigation Measure Air 2

- a. Nontoxic soil stabilizers according to manufacturer's specifications shall be applied to all inactive construction areas (previously graded areas inactive for ten days or more).
- b. Ground cover shall be reestablished in disturbed areas quickly.
- c. Active construction sites shall be watered at least three times daily to avoid visible dust plumes.
- d. Paving, applying water three times daily, or applying (non-toxic) soil stabilizers shall occur on all unpaved access roads, parking areas and staging areas at construction sites
- e. Enclosing, covering, watering daily, or applying non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) shall occur.
- f. A speed limit of 15 MPH for equipment and vehicles operated on unpaved areas shall be enforced.
- g. All vehicles hauling dirt, sand, soil, or other loose materials shall be covered or shall be maintained at least two feet of freeboard.
- h. Streets shall be swept at the end of the day if visible soil material is carried onto adjacent public paved roads.

7. Mitigation Measure Biological 1 – The project proponent shall mitigate for potential project-related impacts to burrowing owl by conducting a pre-construction survey no more than 30 days prior to the initiation of construction activity. The pre-construction survey shall be conducted by a qualified biologist familiar with the identification of burrowing owls and the signs of burrowing owl activity. If active burrows are found on the project site, the California Department of Fish and Game (CDFG) shall be consulted regarding appropriate mitigation measures for project-related impacts to burrowing owl. Pursuant to the CDFG document entitled "Staff Report on Burrowing Owl Mitigation" (September 25, 1995), it is likely that replacement habitat will be required by CDFG. The guidelines include specific mitigation to protect nesting and wintering owls and to compensate for loss of breeding sites. In general, if the project would remove habitat of an occupied breeding site (e.g., if an active nest and surrounding habitat are removed), the project proponent will be required to compensate by preserving equivalent suitable habitat for each active nest site. In addition, the project proponent must install artificial burrows to offset the direct loss of the breeding site. Mitigation shall be consistent with the City's adopted Habitat Mitigation Program. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

8. Mitigation Measure Biological 2 -- The project proponent shall mitigate for potential project-related impacts to nesting raptors (Swainson's Hawk, White-tailed Kite, Northern Harrier, and Loggerhead Shrike) by conducting a pre-construction survey of all trees suitable for use by nesting raptors on the subject property or within 0.25 mile of the project boundary as allowable. The preconstruction survey shall be performed no more than 30 days prior to the implementation of construction activities. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of raptors known to occur in the vicinity of the City of Winters. If active special-status raptor nests are found during the preconstruction survey, a 0.25-mile (1,320-feet) buffer zone shall be established around the nest and no construction activity shall be conducted within this zone during the raptor nesting season. The buffer zone shall be marked with flagging, construction lathe, or other means to mark the boundary of the buffer zone. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of

this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

9. Mitigation Measure Biological 3 -- The project proponent shall mitigate for potential project-related impacts to migratory birds by conducting a pre-construction survey for nests on the site. The preconstruction survey shall be performed no more than 14 days prior to the onset of vegetation and/or tree removal. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of migratory bird known to occur in the vicinity of the City of Winters. If active migratory bird nest(s) are found onsite during the preconstruction survey, the nest(s) shall not be disturbed or removed until the young have fledged and the nest is no longer active. A buffer may be required. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

Alternatively, potential impacts to nesting birds or unfledged young would be avoided if vegetation and/or tree removal occurred only between September 1 and January 21.

10. Mitigation Measure Biological 4 -- Any mitigation required shall be implemented in a manner consistent with requirements, purpose and intent of the City of Winters' Habitat Mitigation Program.
11. Mitigation Measure Cultural 1 -- If cultural resources (historic, archeological, paleontological, and/or human remains) are encountered during construction, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the situation. Project personnel shall not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies.
12. Mitigation Measure Cultural 2 - Should human remains be discovered, no further site disturbance shall occur until the county coroner has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and the remains are recognized to be those of a Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.
13. Mitigation Measure Geology 1 -- The applicant shall submit a soils and geotechnical report upon submittal of the initial improvement plans package. The improvement plans shall be signed by the soils engineer for conformance to the geotechnical report prior to approval by the City.
14. Mitigation Measure Land Use 1 -- All aspects of the project shall be subject to design review to ensure compatibility with the surrounding area and satisfaction of the Community Design Guidelines and other applicable principles of good community design.
15. Mitigation Measure Land Use 2 -- The proposed project height and parking provisions are subject to approval of a Planned Development Overlay for the subject property.
16. Mitigation Measures Noise 1- The project applicant shall submit a construction noise mitigation plan to the City of Winters for review and approval. The plan shall depict the location of construction equipment and describe how noise would be mitigated through methods such as, but not limited to, locating stationary noise-generating equipment (such as pumps and generators) as far as possible from nearby noise-sensitive receptors. Where practicable, noise-generating equipment will be shielded from nearby noise-sensitive receptors by noise-attenuating buffers such as structures or haul trucks. Onsite noise sources such as heavy equipment located less than 200 feet from noise-sensitive receptors will be equipped with noise-reducing engine housings. Portable acoustic barriers able to attenuate at least 6 dB will be placed around noise-generating equipment located within 200

feet of existing residences. Water tanks and equipment storage, staging, and warm-up areas shall be located as far from noise-sensitive receptors as possible. All noise attenuation measures identified in the plan shall be incorporated into the project.

17. Mitigation Measure Noise 2 - Construction activities shall adhere to the following noise requirements:

All construction equipment shall utilize noise reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer.

Hours of construction shall comply with those established in Chapter 8.20.100 of the Winters Municipal Code. Those hours are weekdays from 7:00 a.m. through 7:00 p.m. Construction is prohibited on weekends and federal holidays.

18. Mitigation Measure Utilities 1 -- The proposed systems for conveying project sewage, water, and drainage shall be finalized and approved by the City Engineer prior to approval of improvement plans. The project is required to fund and construct off-site improvements necessary to support the development. Such improvements could include, but not be limited to a water well, water lines, sewer lines and storm drainage lines. Should property acquisition or additional CEQA clearance be required for off-site improvements, this will be the responsibility of the developer.

19. Mitigation Measure Utilities 2 -- A Certificate of Occupancy shall be issued only after the City Engineer has established that water supply will be available to serve the building.

Planned Development Overlay Zone and Planned Development Permit Conditions

20. Future site development shall be subject to Design Review by the Planning Commission or Zoning Administrator.

Conditional Use Permit for Religious Institution in a R-2 Zone

21. The applicant shall submit a landscape, irrigation, lighting, and fencing plan to City for review and approval prior to approval of the improvement plans.

22. ~~The applicant shall install a 6-foot tall masonry block wall along the south boundary of the project that backs up to the residential housing.~~ The applicant shall install 6 foot tall wall along the south boundary of the project that backs up to the residential housing to minimize noise and light impacts and provide privacy for the adjoining residences. Construction materials and design of the wall shall be subject to the review and approval of the Community Development Director.

Design Review Conditions

23. Building design and theme shall be the Spanish Colonial style as approved by the Planning Commission on March 24, 2009.

24. Light fixtures attached to buildings shall be designed as an integral part of the building facades to highlight building forms and architectural details.

25. Lighting plan shall be subject to approval by the Community Development Director.

26. Exterior building colors and materials shall be consistent with the color schemes and materials approved by Planning Commission on March 24, 2009.

27. Landscaping and signage shall be consistent with the applicable requirements of Chapters 17.76 (Landscaping and Design) and 17.80 (Signs) of the Winters Municipal Code. Signage and landscaping shall be subject to approval by the Community Development Director.

28. Prior to the issuance of a building permit, the Community Development Director and Public Works Director shall review and approve the design and siting of trash facilities. Trash and recycling facilities shall be enclosed. The trash and solid waste facilities shall incorporate design features for the project that are conducive to collecting and storing recyclables and shall incorporate recycling collection at a designated facility within the site area at appropriate locations.
29. Prior to issuance of a certificate of occupancy, the project landscape architect shall confirm to the Community Development Director that all on-site landscaping is completed and in accordance with the final building permit and improvement plans, including off-site and public improvements, or that other acceptable arrangements acceptable have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit to cover all costs of the unfinished work plus 25 percent.
30. Prior to issuance of a certificate of occupancy, the project landscape architect shall confirm to the Public Works Director that all off-site landscaping is completed and in accordance with the final building permit and improvement plans, including off-site and public improvements, or that other acceptable arrangements acceptable have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit to cover all costs of the unfinished work plus 25 percent.
31. Prior to issuance of a certificate of occupancy, the Community Development Director shall confirm that all mechanical equipment, including electrical and gas meters, heating/air conditioning or ventilation units, radio/TV antennas or satellite dishes shall be appropriately screened from off-site view, and electrical transformers shall be either placed underground or appropriately screened.

Community Development Conditions

32. Foundations shall be poured in place, onsite. No pre-cast foundations will be permitted. This shall be stipulated in all construction contracts.
33. All address numbering shall be clearly visible from the street fronting the property. All buildings shall be identified by either four (4) inch illuminated numbers or six (6) inch non-illuminated numbers on contrasting background. Address for each unit shall be clearly visible for each unit and shall be architecturally consistent with building design.
34. The Applicant shall pay all development impact fees, fees required by other entities, and permit fees.
35. The Applicant shall be responsible for any additional costs associated with the processing of this project including but not limited to: plan check, inspections, materials testing, construction monitoring, and other staff review and/or oversight including staff time necessary to ensure completion/satisfaction of all conditions of approval and mitigation measures. The Applicant shall, on a monthly basis, reimburse the City for all such costs. Project Applicant shall pay all development impact fees adopted by the City Council and shall pay fees required by other entities.
36. The main electrical panel for each building shall be located at the exterior of the building and capable of total electrical disconnect by a single throw. This same requirement shall apply to each sub-unit or office suite unless waived by the Fire and Community Development Departments.
37. Each building shall be wired for security and fire alarm systems.
38. Buildings shall be wired to enable WiFi security monitoring of project site.

39. There shall be no outside storage of any type in parking areas. Those areas shall be kept free of obstruction and available for their designated use.
40. The site and improvements shall be well maintained and kept free of litter, debris, weeds and graffiti. Any graffiti shall be removed within 72 hours of discovery in a manner which retains the existing color and texture of the original wall or fence as most practically feasible.
41. The project shall operate in a manner to limit noise exposure to those levels set forth in the Winters Municipal Code and General Plan.
42. Bike racks shall be provided per Winters Municipal Code and be located adjacent to each building. Locations shall be approved by the Community Development Department.

Public Works Department/City Engineering Conditions

43. Project applicant shall pay all development impact fees adopted by the City Council at the rate in effect at the time of building permit issuance and shall pay fees required by other entities.
44. The applicant shall satisfy all agencies of jurisdiction and satisfy all City of Winters requirements for development.
45. The applicant shall enter into a guarantee improvement agreement with the City of Winters to address the public improvements and pay all fees associated therewith.
46. Proposed improvements, including but not limited to, grading, streets, utilities, and landscape have not been reviewed in detail and are not approved at this time. The City Engineer shall review the design of all improvements, during the plan check process and shall be revised, as needed, at the discretion of the City Engineer.
47. The applicant shall, on a monthly basis, reimburse the City for all costs which are not otherwise provided for in the approval of this project including permit fees, inspections for work in public right-of-way, materials testing, construction monitoring, plan checks and reviews, and other hard costs incurred by the project.
48. Grant Avenue (SR128) - The Applicant shall construct/widen Grant Avenue. Improvements shall include, but not be limited to, frontage improvements to include street pavement widening, landscaping, 10 foot pedestrian/Bike path, driveway, and undergrounding overhead utilities. See previously submitted Preliminary Civil Design Review Set of Improvement Plans, dated 12-17-08, prepared by Bryan Bonino on behalf of McCandless Architects for a general description of public improvements. The applicant shall be responsible for all costs associated with Grant Avenue frontage improvements.
49. West Main Street- The Applicant shall construct street frontage improvements to include landscaping, 8 foot sidewalk, driveway, and undergrounding overhead utilities. See previously submitted Preliminary Civil Design Review Set of Improvement Plans, dated 12-17-08, prepared by Bryan Bonino on behalf of McCandless Architects for a general description of public improvements. The applicant shall be responsible for all costs associated with West Main Street frontage improvements.
50. A signage and striping plan is required and shall be approved by the City Engineer and the Fire Chief. All striping shall be thermoplastic.
51. The internal roadway shall have a minimum clear width of 25-feet, free of any obstructions, and signed/striped for "FIRE LANE, NO PARKING". The internal roadway shall also have a vertical clearance of at least 14-feet.

52. The internal roadway and vehicle parking areas shall be designed and constructed to support vehicles with 40,000-pound loads.
53. Forty-eight hours notice shall be given to the Winters Fire Department prior to any site inspections.
54. The applicant shall contact the City Engineer and Fire Chief prior to beginning construction for a pre-construction meeting.
55. Turning radiuses within the development shall be of a standard in effect at the time of improvement plans submittal, jointly agreed to by the City Engineer and Fire Chief.
56. Based on City water modeling, a new well is needed to serve new development in the City. A Certificate of Occupancy shall be issued only after the City has established that water supply will be available to serve the development.
57. The applicant shall install one or more fire hydrants pursuant to City of Winters Public Works Department Improvement Standards. The number and location of the fire hydrants shall be determined by the Fire Chief. The installation of the fire hydrants shall comply with the specifications of the City of Winters Public Works Improvement Standards and Construction Specifications. Prior to hydrant approval, the water system shall be flushed to remove foreign matter in the system. All unfinished installation water mains or their appendages or openings shall be covered in such a manner that foreign matter does not enter the water system.
58. All water lines and fire hydrant systems must be approved by the Fire Chief and operating prior to any combustibles being placed on the site. Prior to issuance of building permits, water flow must be measured and certified for adequacy by the Fire Chief. The following minimum water flows, with 20-PSI residual pressure, shall be acceptable unless otherwise determined due to the type of construction material used.

a. Development Category	Gallons Per Min (gpm)
Single-Family Residential	1,500
Multi-Family Residential	1,500
Central Business District	2,000
Industrial and Other Business Districts	3,000

 - b. Other habitable buildings can require up to 3,500 gpm maximum, and will be reviewed on a case-by-case basis by the Fire Chief.
 - c. In other areas where there are existing water system deficiencies, new development will be required to install all on-site water system improvements necessary to achieve the above fire-flow rate.
59. The Fire Chief shall be supplied with three sets of plans for any installation of any fire hydrant system in the City of Winters. Plans are to reflect all aspects of the installation, including but not limited to the size of the City of Winters water main and the type and elevation of the fire hydrant.
60. All final plans for fire hydrant systems and private water mains supplying a fire hydrant system shall be submitted to the Fire Chief for approval prior to construction of the system. All fire protection systems and appurtenances thereto shall be subject to such periodic tests as required by the Fire Chief.
61. Any fire hydrant installed will require, in addition to the blue reflector noted in Standard Drawings, an additional blue reflector and glue kit that is to be supplied to the Winters Fire Department for replacement purposes.

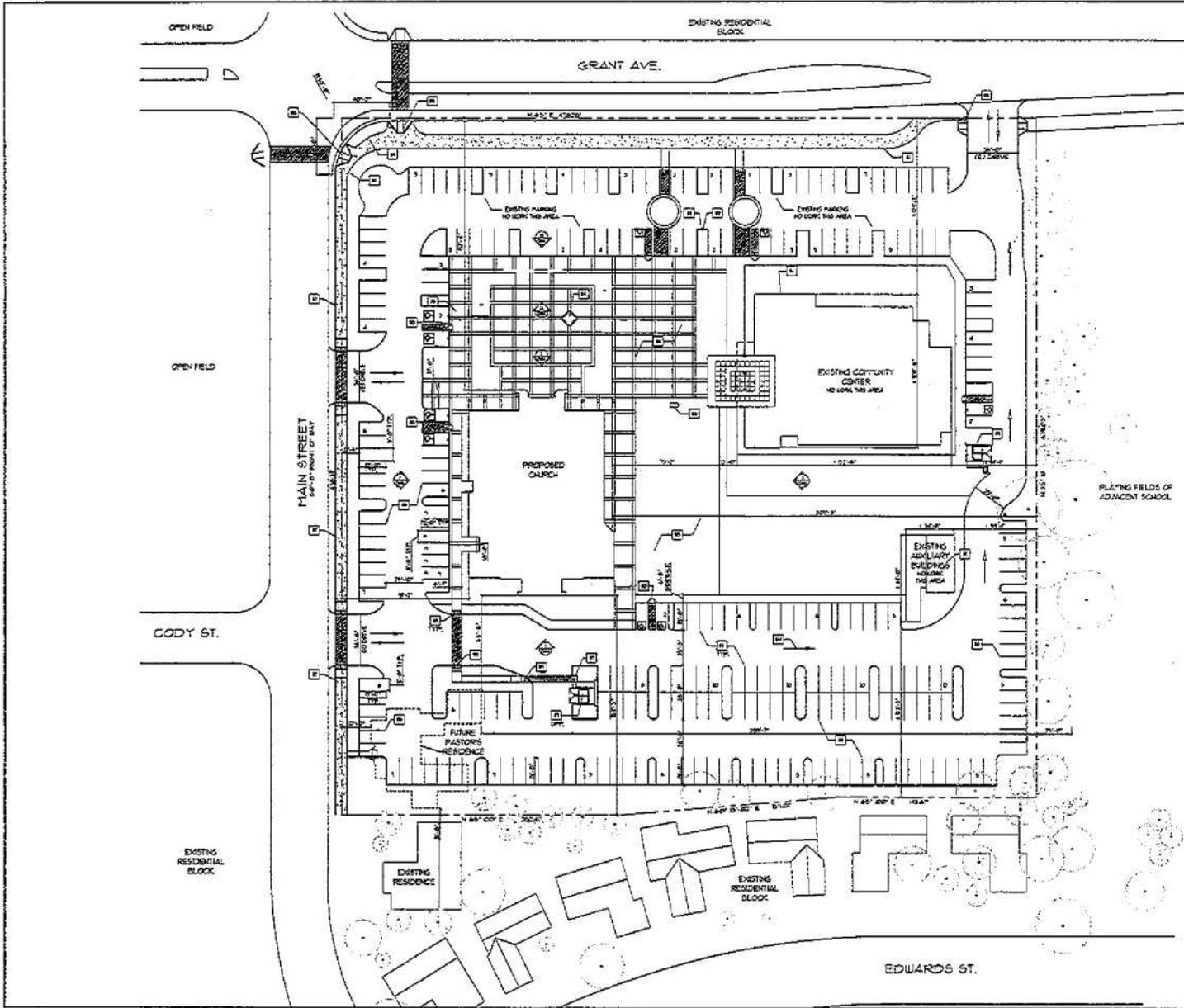
62. The water used in the course of construction shall be metered and the applicant shall pay for the water at a cost adopted annually the Winters City Council.
63. The City Engineer and Fire Chief shall review and approve the location, number, and specifications of the backflow devices.
64. Water meters shall be installed on all water services to the satisfaction of the City Engineer.
65. The applicant shall submit to the City Engineer for review and approval a storm drainage plan for the project area, prior to the approval of the improvement plans. The applicant shall be responsible for acquisition of all storm drain or other easements from adjacent property owners, if applicable, which are required for the construction and maintenance of perimeter and off-site improvements.
66. All perimeter parcels and lots shall be protected against surface runoff from adjacent properties in a manner acceptable to the City Engineer.
67. At the time of making the survey for the development, the engineer or surveyor shall set sufficient durable monuments to conform to the standards described in Section 8771 of the Business and Professions Code. All monuments necessary to establish the exterior boundaries of the project shall be set or referenced prior to final acceptance of project.
68. Grading shall be done in accordance with a grading plan prepared by the applicant's civil engineer and approved by the City Engineer. The amount of earth removed shall not exceed that specified in the approved grading plan. All grading work shall be performed in one continuous operation. The grading plans shall be included in the improvement plans. In addition to grading information, the grading plan shall indicate all existing trees and trees to be removed as a result of the proposed development, if any.
69. If disposal and sharing of the excavated soil from the construction of the Development occurs, prior to grading, Applicant shall prepare a written agreement with the other participating property owners and submit to the City.
70. The development shall include implementation of post-construction best management practices (BMP). Post construction BMP's shall be identified on improvement plans and approved by the City Engineer.
71. Construction of the project disturbing more than one acre of soil shall require a National Pollution Discharge Elimination System (NPDES) construction permit.
72. Construction of the project disturbing less than one acre of soil shall implement BMP's to prevent and minimize erosion. The improvement plans for construction of less than 1 acre shall include a BMP to be approved by the City Engineer.
73. An erosion and sedimentation control plan shall be included as part of the improvement plan package. The plan shall be prepared by the applicant's civil engineer and approved by the City Engineer. The plan shall include but not be limited to interim protection measure such as benching, sedimentation basins, energy dissipation structures, and check dams. The erosion control plan shall also include all necessary permanent erosion control measures, and shall include scheduling of work to coordinate closely with grading operations. Replanting of graded areas and cut and fill slopes is required and shall be indicated accordingly on plans, for approval by the City Engineer.
74. Applicants for projects draining into water bodies shall obtain a National Pollutant Discharge Elimination System (NPDES) Permit from the Regional Water Quality Control Board prior to commencement of grading.
75. All utilities within 100 feet of the project boundary shall be installed underground per the Ordinance No. 95-03, "An Ordinance Amending Article 6, Chapter 3, Title VII, Underground Utility Lines, of the

Winters Municipal Code", and shall meet the policies, ordinances, and programs of the City of Winters and the utility providers. All utility services extended into the project site shall be underground.

76. On site utilities shall be privately owned.
77. Final Joint Trench utility plans shall be included with the improvement plans, prior to approval by the City Engineer.
78. Existing public and private facilities damaged during the course of construction shall be repaired by the applicant, at the applicant's sole expense, to the satisfaction of the City Engineer.
79. Occupancy of the residential unit and proposed church shall not occur until off-site improvements (water, sewer, streets, etc.) have been constructed and approved by the City Engineer, and the City has approved as-built drawings, and the unit has been issued a Certificate of Occupancy by the Building Official.
80. Appropriate easements and rights of way shall be required for City maintained facilities located outside of City-owned property or the public right-of-way. The applicant shall facilitate, with City cooperation, the abandonment of all City easements and dedications currently held but no longer necessary as determined by the Public Works Department.
81. All work within public right-of-way or easement shall comply with the City of Winters Public Works Improvement Standards and Construction Specifications, subject to the approval of the City Engineer.
82. The applicant shall provide a 10-foot public utility easement (PUE) along the frontage of the parcels.
83. The applicant/property owner shall agree to grant all public easements as determined by the City for public purposes.
84. The applicant shall abandon any well, septic tank, and leach field located on the property. The applicant shall provide a letter from the Yolo County Environmental Health Department giving location and filling specifications for all water wells or septic tanks within the project boundaries. If there are no wells or septic tanks, the applicant shall provide a letter so stating from the Yolo County Environmental Health Department.
85. The owner of the property shall annex into the City-Wide Maintenance Assessment District in order to maintain and provide for the future needs of parks, open spaces, street lighting, landscaping and other related aspects and impacts from new development. The applicant shall fulfill this condition prior to or concurrent with the approval of the improvement plans.
86. All public landscape areas shall include water laterals with meters and PG&E power service points for automatic controllers.
87. Developer shall pay appropriate reimbursements for benefiting improvements installed by others, in the amount and at the time specified by existing reimbursement agreements.
88. The applicant shall submit a soils and geotechnical report upon submittal of the initial improvement plans package. The improvement plans shall be signed by the soils engineer for conformance to the geotechnical report prior to approval by the City.
89. The applicant shall minimize the dust generated by construction of the project. Dust generated from construction shall not exceed standards established by the Yolo-Solano Air Quality Management District and the Community Development Department.
90. Tarpaulins or other effective covers should be used for haul trucks.

91. All inactive portions of the construction site, which have been graded will be seeded and watered until vegetation is grown.
92. Grading shall not occur when wind speeds exceeds 15 MPH over a one hour period.
93. Construction vehicle speed on unpaved roads shall not exceed 15 MPH.
94. Construction equipment and engines shall be properly maintained.
95. If air quality standards are exceeded in May through October, the construction schedule will be arranged to minimize the number of vehicles and equipment operating at the same time.
96. Construction practices should be augmented to minimize vehicle idling.
97. Potentially windblown materials will be watered or covered.
98. Construction areas and streets will be wet swept on a daily basis.
99. Applicant shall provide refuse enclosure detail showing bin locations, pad detail, and recycling facilities to the approval of the Public Works Department.
100. U.S. Post Office mailbox location shall be approved by the Winters Postmaster and shown on the improvement plans submitted to the City Engineer.

SITE PLAN



- KEY NOTES:**
- EXISTING BUILDING TO REMAIN
 - NO SIDEWALK
 - NO MONUMENT SIGN
 - NO FOUNTAIN
 - NO PLAZA
 - INSTALLING SIGN SETBACK PER MUNICIPAL CODE PARAGRAPH ARTICLE 14
 - NO TRASH ENCLOSURE, TYP. OF 3. SEE DETAIL 30-0014
 - NO PARKING STALL STRIPING
 - NO ACCESSIBLE RAMP
 - RAMPED PLATFORM
 - RE-FIRE HYDRANT
 - RE-FIRE WAY OUTLET
 - NO CURB CUT
 - PROPOSED DIRECTION OF TRAFFIC
 - NO VEGETATION GUIDELINE
 - RELOCATED STAIRWAY

- SITE LEGEND:**
- EXISTING PROPERTY LINE
 - COMPACT PARKING STALL
 - INTERNATIONAL SIGN OF ACCESSIBILITY
 - BOX

REVISIONS

PROPOSED PROJECT:
ST. ANTHONY
 511 MAIN STREET
 BENTERS, CALIFORNIA 95824

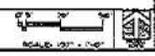
PREPARED BY: **ASSOCIATES ARCHITECTS, INC.**
 1000 UNIVERSITY AVENUE
 SUITE 1000
 BERKELEY, CALIFORNIA 94704
 PHONE: (415) 841-1200
 FAX: (415) 841-1208



DESIGN REVIEW SET

DESIGN	
PREPARED	
DRAWN	
SCALE	1" = 10'-0" (AS SHOWN)
DATE	05-28-04
JOB	05-28-04
SHEET	DR1

1 ADJACENT LAND USE PLAN



ELEVATION N/S

MATERIAL	
1	CLAY TILE TO MATCH HISTORIC PURPOSE BUILDING
2	PANORAMA GUTTER
3	BRICK
4	TETAL ROOFING
5	CEMENT
6	SHAKED WOOD DOOR
7	DECORATIVE WOOD
8	WOODS WITH UNGLAZED PINK GLAZE
9	POLYURETHANE
10	STATUARY
11	GLAZING
12	SPY
13	WOODS WITH UNGLAZED PINK GLAZE

FINISH	
A	DAVE EDWARDS 'SADDLE CROWN' DE 504
B	DAVE EDWARDS 'SADDLE CROWN' DE 14
C	CURRENT PAINT
D	BLACK
E	NAPA VALLEY CAST STONE
F	CLEAR

NOTES:

- BUILDING BRICKS TO BE PAINTED B
- ALL WOOD DOORS TO BE PAINTED A
- GLAZING TO HAVE TEGGED COAT PAINTED D.

5 SOUTH CHURCH ELEVATION SCALE: 1/8" = 1'-0"

2 NORTH CHURCH ELEVATION SCALE: 1/8" = 1'-0"

1B NORTH ELEVATION - ENTRY SCALE: 1/8" = 1'-0"

1A SOUTH ELEVATION - ENTRY SCALE: 1/8" = 1'-0"

PROPOSED PROJECT:
ST. ANTHONY
 511 MAIN STREET
 BENTERS, CALIFORNIA 95824

FIGUEROA & ASSOCIATED ARCHITECTS, INC.
 1415 CALIFORNIA STREET
 SAN FRANCISCO, CALIFORNIA 94109
 TEL: 415.774.1111
 FAX: 415.774.1112

DESIGN REVIEW SET

DESIGNED BY	DR4
CHECKED BY	
DATE	01-18-2008
SCALE	AS SHOWN
NOTED	
DATE	06-20-04
PROJECT	DR4

ENVIRONMENTAL CHECKLIST AND INITIAL STUDY

Project Title: St. Anthony's Church and Rectory Project

Lead Agency: City of Winters
Community Development Department
318 First Street
Winters, CA 95694

Lead Agency Contact: Kate Kelly, Contract Planner
(530) 902-1615

Project Location: 511 Main Street, Assessor Parcel Number APN 003-120-03

The project site is located on the west side of the City of Winters on the southeast corner of West Main Street and Grant Avenue (SR 128).

Project Sponsor's: Roman Catholic Bishop of Sacramento
2110 Broadway
Sacramento, CA 95818

Bill McCandless + Associates
666 Dead Cat Alley
Woodland, CA 95695

General Plan Designation(s): Medium Density Residential (MR)

Zoning: Single Family Residential 6,000 sq. ft. average minimum (R-2)

Existing Conditions:

Surrounding land uses include:

North – Single Family Residential and vacant – future City Public Safety Center

West – Vacant – future single family residential

East – Waggoner Elementary School

South – Single Family Residential

Project History: The site development started in the late 1980's with the construction of the existing 13,235 square foot St. Anthony's Parish Community Center and associated parking areas and improvements on the north and north eastern portion of the property. A future church, rectory, and ancillary building were anticipated that that

time but were not developed. The applicant submitted a conceptual design and site plan in May 2008 which was presented to the Planning Commission for Conceptual Design Review on May 27, 2008. An application for Planned Unit Development Overlay (modified parking and height limits), Conditional Use Permit (religious institution in an R-2 zone), and Design Review (construction of non-residential building over 500 square feet) on October 16, 2008 and was deemed "Complete" on January 16, 2009 for the purposes of this CEQA analysis.

Previous Relevant Environmental Analysis:

Winters Highlands, Callahan Estates, Ogando-Hudson & Creekside Estates Traffic Impact Study, Prepared for the City of Winters, Prepared by Grandy & Associates/Fehr and Peers Associates, Inc, July 2004

Description of the Project:

This project proposes to construct a 13,813 square foot, 700 seat church and a 2,900 square foot rectory with a two car garage at the southeast corner of Grant Avenue (State Route 128) and West Main Street. The property is 5.56+/- acres and is currently developed with a 13,235+/- square foot community center, 827 +/- square foot auxiliary building, a storage shed, and associated parking and landscaping. The parcel is generally square with frontage on Grant Avenue, and West Main Street. The frontage along Grant Avenue is 478+/- feet in length and the frontage on West Main Street is approximately 472+/- feet. The parcel abuts Waggoner Elementary School to the east and a residential neighborhood to the south.

Land Use Changes

The parcel is currently designated Medium Density Residential (MR) in the General Plan and is zoned Single Family Residential 6,000 sq. ft. average minimum (R-2). The applicant has requested a Planned Development Overlay to modify the height restriction and parking requirements. The maximum height in the R-2 zone is 30 feet. The proposed church is 41' 4" tall at the peak of the roof and 51' tall at the top of the roof mounted cross.

The total onsite parking required for the site developed with the existing community center, existing auxiliary building, proposed church and proposed rectory would be 271 spaces per the parking standards in Section 17.72.020 of the City of Winters Municipal Code. The proposed project provides 236 spaces which amounts to 87% of the required spaces.

Proposed Buildings

Church is a 13,813 square foot Spanish Colonial style building which would seat 700 and includes space for a lobby, acolytes-altar servers, vestry-dressing room, confessionals, restrooms, arts-eucharist preparation, storage, sacristy-religious storage, sanctuary-alter, choir, sound system, electrical-mechanical service, music room,

janitorial, and bride's room. The building is single story and is located in the west central portion of the parcel. Due to the roofline, the building is 41' 4" tall with total height of 51' including the roof mounted cross.

Rectory - a 2,900 square foot three bedroom, four bath residential unit which also has a study, living/dining areas, kitchen and an attached two car garage. The rectory is proposed for the southeast corner of the parcel with frontage on West Main Street and the garage located on the east side which would be accessed via the site's interior roadway and parking areas.

Sewer Conveyance

Sanitary sewer service for the church is proposed to be provided via an 8" main which would be constructed across the central portion of the site and would connect to an existing 8 inch municipal sanitary sewer line located at the western boundary of the property. Sanitary sewer service for the rectory would be provided via connections to the existing 8 inch municipal sanitary sewer line located at the western boundary of the property.

Sewer Treatment

The City's Wastewater Treatment Plant (WWTP) has a capacity of 0.92 million gallons per day (mgd). Space remains for approximately 600 additional residential hook-ups. The City's recent project approvals exceed this amount and expansion of the plant is planned. The Phase 2 expansion will bring the capacity to between 1.2 and 1.6 mgd.

Water Conveyance

Municipal water is proposed to be provided to the property via the existing 12 inch water main on the north side of the property and the 10 inch water main on the west side of the property, and the 6 inch water main on the south side of the property. Water would be conveyed within the property via 8, 6, 4 and 3 inch lines which are proposed to connect to the municipal lines on the north and west south sides of the property.

Drainage Conveyance

Storm water is proposed to be collected on site via a series of grated intakes in parking and driveway areas conveyed off site via a east-west running storm drainage line to the western edge of the property where it would connected to an existing 24 inch municipal storm water drain line located in West Main Street.

Off-Site Infrastructure

The project would be required to fund and construct off-site improvements necessary to support the development. Such improvements would include, but not be limited to traffic control, water lines, sewer lines and storm drainage lines. To the extent that acquisition or subsequent CEQA clearance is necessary for such work, that would be the responsibility of the developer.

Flooding

The project does not fall within the City's General Plan Flood Overlay Area. The project site lies in FEMA Flood Zone X (un-shaded) based on the FEMA Flood Insurance Rate Map (map revised November 20, 1998, Community-Panel Number 060425 0001 C). Zone X (un-shaded) is a flood insurance rate zone assigned to property that is determined to be outside the 500-year floodplain.

Architecture

The new church and rectory are in a Spanish Colonial style which is reflective of the community center building which was constructed on the property in the late 1980s. The new church and rectory show a simplified mission style. Materials will be painted stucco, stained wood and red clay tile roofing to match the existing community center.

Entitlements

The project requires the following approvals from the City:

- Planned Development Overlay (building height and parking requirements)
- Conditional Use Permit for Church (religious institution in R-2 zone)
- Design Review (construction of nonresidential building/structures exceeding 500 square feet)

Other public agencies whose approval may be required (e.g., permits, financing approval, or participation agreement): Encroachment permit from Caltrans for project interface with State Highway 128/Grant Avenue.

Other Project Assumptions: The Initial Study assumes compliance with all applicable State, Federal, and local codes and regulations including, but not limited to, City of Winters Improvement Standards, the California Building Code, the State Health and Safety Code, and the State Public Resources Code.

Technical Studies: The following technical and other site-specific studies and reports have been prepared for the project and are relied upon in this analysis:

Cultural Resources Survey – *Far Western Anthropological Research Group (August 2008)* Record search and field survey. No cultural resources were identified in either the literature for this location or on the surface of the property.

Geotechnical Engineering Report – Laver L. Roper and Associates (July 1988) and *Raney Geotechnical (October 2008)*

The site and soil conditions were investigated in 1988 for the initial proposed development which included the community center, church, rectory, and auxiliary building by Laver Roper. Raney Geotechnical reviewed the Laver Roper report, conducted a site visit, obtained soil samples, conducted an Atterberg Limits test to assess plasticity properties and provided recommendations for the site preparation and construction of the proposed project.

Noise Analysis for the St. Anthony's Church Expansion in Winters, California – Michael Brandman Associates (June 2008)

This report provides the results of noise monitoring and modeling performed for the proposed project. The report identifies areas of noise impact resulting from expected on-site operational noise generators such as church activities, roof top HVAC units, parking lot use and delivery trucks.

Air Quality Analysis for the St. Anthony's Church Expansion in Winters, California – Michael Brandman Associates (June 2008)

The analysis was prepared to evaluate potential air quality impacts from the proposed project and to address potential Global Climate Change impacts related to the proposed project.

These reports are on file at the Community Development Department at the City of Winters.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below potentially would be significantly affected by this project, as indicated by the checklist on the following pages.

- | | |
|---|--|
| <input checked="" type="checkbox"/> Aesthetics | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Agricultural Resources | <input checked="" type="checkbox"/> Noise |
| <input checked="" type="checkbox"/> Air Quality | <input type="checkbox"/> Population and Housing |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Public Services |
| <input checked="" type="checkbox"/> Cultural Resources | <input type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Geology and Soils | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Hazards and Hazardous Materials | <input checked="" type="checkbox"/> Utilities and Service Systems |
| <input type="checkbox"/> Hydrology/Water Quality | <input checked="" type="checkbox"/> Mandatory Findings of Significance |
| <input checked="" type="checkbox"/> Land Use and Planning | <input type="checkbox"/> None Identified |

DETERMINATION:

On the basis of this initial evaluation:

- I find that the Proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the Proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the Proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the Proposed Project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis described in the attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the Proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to the earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the Proposed Project. Nothing further is required.

Signature

Kate Kelly, Contract Planner
Printed Name

February 12, 2009

Date

Community Development Department
Lead Agency

ENVIRONMENTAL CHECKLIST

Introduction

Following is the environmental checklist form presented in Appendix G of the CEQA Guidelines. The checklist form is used to describe the impacts of the Proposed Project. A discussion follows each environmental issue identified in the checklist. Included in each discussion are project-specific mitigation measures recommended as appropriate as part of the Proposed Project.

For this checklist, the following designations are used:

Potentially Significant Impact: An impact that could be significant, and for which no mitigation has been identified. If any potentially significant impacts are identified, an EIR must be prepared.

Potentially Significant Unless Mitigation Incorporated: An impact that requires mitigation to reduce the impact to a less than significant level.

Less Than Significant Impact: Any impact that would not be considered significant under CEQA relative to existing standards.

No Impact: The project would not have any impact.

Instructions

1. A brief evaluation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, potentially significant unless mitigation is incorporated, or less than significant. "Potentially significant impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4. "Potentially Significant Unless Mitigation Incorporated" means "Less Than Significant With Mitigation Incorporated". It applies where incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact". The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from earlier analyses may be cross-referenced).
5. Earlier analyses may be used where, pursuant to tiering, a program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration (Section 15063(c)(3)(D)). In this case, a brief discussion should identify the following:
 - a. Earlier Analysis Used – Identify and state where available for review.
 - b. Impacts Adequately Addressed – Identify which effects from the above checklist were within the scope of and adequately addressed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. Mitigation Measures – For effects that are "Potentially Significant Unless Mitigation Incorporated" describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting Information Sources in the form of a source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
9. The explanation of each issue area should identify: a) the significance criteria or threshold, if any, used to evaluate each question; and b) the mitigation measures identified, if any, to reduce the impact to less than significant.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
1. AESTHETICS. <i>Would the project:</i>				
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion

- a. The proposed project would change the visual characteristics of the project site, however, this site is planned for urban development. Existing and planned residential and public/quasi-public uses surrounds the site. For these reasons, the proposed project would not substantially or adversely affect views of a scenic vista, and this impact would be less than significant.
- b. The proposed project site does not contain any protected scenic resources. The adjoining roadways are not listed or designated as a "scenic highway" and are not designated as scenic resources by the General Plan. As such, there would be no impact.
- c. The proposed project would not significantly degrade the visual surroundings of the area. The project site is located adjacent to existing residential development to the north and south, an existing elementary school to the east. A residential subdivision has been approved for the vacant parcel located across street from the proposed project at the southeast corner of West Main and Grant Avenue. The City's new 36,500 +/- square foot Public Safety Center which would house both the Fire Department and the Police Department has been approved for the vacant parcels across the street from the proposed project on the northwest corner of West Main and Grant. The main Public Safety Center building will be 42 feet tall and the project also includes a 140 foot tall communication tower.
- The General Plan anticipates that the proposed church and rectory project site would develop at a residential density of 5.4 to 8.8 dwelling units to an acre which would result in over 100,000 square feet of residential development based on a minimum of 45% lot coverage per 17.56.010 of the Winters Municipal Code. The proposed project, including the existing community center and auxiliary

building, would result in 30,775 square feet of public/quasi-public development with remainder of the site improved with landscaped outdoor areas and parking. This proposed site density is considerably less than that of residential development. The development of the site and the proposed church are subject to design review approval by the City of Winters to for consistency with the City's Design Guidelines, which are intended to ensure that new development is compatible with the City's small-town heritage (see Section 9, Land Use and Planning). With implementation of Mitigation Measure Land Use 1 requiring design review of the project, the change in visual character would be a less than significant impact.

- d. The proposed project would provide additional light and glare in the area. If unshielded, lighting can spill onto adjacent projects, and disturb adjacent residential uses.

The proposed church would be constructed with exterior materials common to residential and public/quasi-public development in the area. Architectural materials include painted stucco, stained wood and red clay tile roofing. The proposed project buildings do not include large glass walls or highly reflective exteriors. Therefore, the proposed project would not produce substantial glare. With the applicant's agreement to accept and implement the following mitigation measure, lighting impacts would be reduced to a less than significant level, because light would be focused downward. Therefore, spillover onto other properties would not occur, and the amount of light visible from offsite would be minimized.

Mitigation Measure Aesthetics 1 – Outdoor light fixtures shall be low-intensity, shielded and/or directed away from adjacent areas and the night sky. All light fixtures shall be installed and shielded in such a manner that no light rays are emitted from the fixture at angles above the horizontal plane. Lighting plans with certification that adjacent areas will not be adversely affected and that offsite illumination will not exceed 2-foot candles shall be submitted to the City for review and approval as part of improvement plans.

Prior to issuance of a building permit, the applicant shall submit a photometric and proposed lighting plan for the project to the satisfaction of the Community Development Department to ensure no spillover light and glare onto adjoining properties.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
<p>2. AGRICULTURE RESOURCES: <i>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:</i></p>				
<p>a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>c. Involve other changes in the existing environment which, due to their location or nature, could result in loss of Farmland, to non-agricultural use?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

- a. The project site is not designated as Prime Farmlands, Unique Farmlands, or Farmlands of Local Importance on the City's Important Farmlands Map (1992 General Plan Background Report, Figure VIII-2). The Yolo County Important Farmland Map (California Department of Conservation, 2006) designates the project site as Urban and Built-Up Land. This is a less than significant impact.
- b. No part of the project site is under a Williamson Act contract nor immediately adjacent to any lands under Williamson Act contract. In addition, the project site is not located immediately adjacent to any lands zoned for agricultural uses. Therefore, there would be no impact on Williamson Contract land or other agriculturally zoned land.
- c. Development of the property will have no impact on the conversion of other properties to non-agricultural uses or loss of farmland in general. The project site is located in an urbanized area and is not adjacent to actively producing agricultural or farmland. The subject site is an infill property and development of a church and rectory on this property has been anticipated for at least 20 years. For this reason, no impact will occur in this category.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
3. AIR QUALITY. <i>Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:</i>				
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

The Yolo Solano Air Quality Management District (YSAQMD) is responsible for developing rules that regulate stationary sources, area sources, and certain mobile sources. In addition, the YSAQMD establishes permitting requirements for stationary sources, enforces air quality rules, and maintains air quality monitoring stations in Yolo County and the Solano County. The YSAQMD is responsible for developing and updating the state attainment plans and triennial assessments.

Air Quality Analysis for the proposed project was prepared by Michael Brandman Associates (June 2008) to evaluate whether the expected air pollutant emissions generated from the proposed project would cause significant impact to air resources in the project area. Their assessment was conducted within the context of CEQA and the methodology followed the Handbook for Assessing and Mitigating Air Quality Impacts (CEQA Handbook) prepared by the Yolo-Solano Air Quality Management District (YSAQMD). The CEQA Handbook sets forth recommended thresholds of significance, screening criteria, analysis methodologies, and provides guidance on mitigating significant impacts. In addition to the YSAQMD thresholds, their analysis addressed the qualitative questions from Appendix G of the State CEQA Guidelines and provides a Global Climate Change threshold and determination.

- a. The Yolo-Solano Air Quality Management District is currently a non-attainment for ozone (State and Federal ambient standards) and Particulate Matter (State ambient standards). While air quality plans exist for ozone, none exists (or is currently required) for PM₁₀.

Based on consistency with the regional air plan, the YSAQMD CEQA guidance provides that a development project would have a cumulatively significant impact with respect to a non-attainment pollutant if the project requires a change in the existing land use designation (i.e., general plan amendment), and projected emissions of ozone precursors for the proposed project are greater than the emissions anticipated for the site if developed under the existing land use designation. The project site is designated as Medium Density Residential (MR) by the City of Winters General Plan, and is currently zoned Single-Family Residential (R-2). Per the Land Use / Circulation Diagrams and Standards Section of the General Plan, the MR designation provides for, "single-family detached and attached homes, public and quasi-public uses, and similar and compatible uses." Churches are considered a quasi-public use under the General Plan. Therefore, construction and operation of the project is consistent with the General Plan, and by extension air quality attainment plans and the state implementation plan. As a result, the impact would be less than significant.

- b. The YSAQMD has developed screening sizes for various land uses to identify projects that would likely exceed the CEQA Handbook's thresholds for criteria pollutants. Table 2 of the CEQA Handbook contains the land use categories and relative sizes reasonably expected to exceed the thresholds for 2007 and 2010. The project screening sizes listed in the table are larger in 2010 than 2007 due to the cleaner emission factors for future years. This project is expected to be constructed in 2009 and operational by 2010. The table lists the square footage for places of worship that may exceed YSAQMD thresholds for ROG, NO_x and PM₁₀ at 440,000 square feet for 2007 and 560,000 for 2010. The proposed St. Anthony's expansion at 16,713 square feet is well below the screening sizes listed in the CEQA Handbook.

CO Screening Criteria - The YSAQMD's CEQA Handbook states that a project can be said to have the potential to create a violation of the CO standard (and thus need a local CO hotspot analysis) if either of the following criteria are true for any intersection affected by the project:

- A traffic study for the project indicates that the peak-hour Level of Service (LOS) on one or more streets or at one or more intersections in the project vicinity will be reduced to an unacceptable LOS (typically LOS E or F); or
- A traffic study indicates that the project will substantially worsen an already existing peak-hour LOS F on one or more streets or at one or more intersections in the project vicinity. "Substantially worsen" includes situations where delay would increase by 10 seconds or more when

project-generated traffic is included.

A traffic study was not prepared for this project. This project will contribute to trips in the project area; however, at the Institute of Transportation Engineers' (ITE) trip generation rates for 'Place of Worship' and 'Single-Family Housing', the project would only contribute approximately 112 trips per day for the church expansion and 10 trips per day for the Rectory. This low level of trip generation is not likely to impact the LOS of nearby intersections. Therefore, the project impact is less than screening criteria established by YSAQMD and no further analysis is required. Nonetheless, for purposes of consistency the City is imposing the same air quality mitigations measures on this project as it has on other recently projects approved by the City. Additionally it should be pointed out that General Plan Policy VI.E.6 requires controls for construction-related dust.

With the applicant's agreement to accept and implement the following mitigation measure, NO_x emissions would be minimized and this impact would be held to a less than significant level.

Mitigation Measure Air 1

- a. *Construction equipment exhaust emissions shall not exceed District Rule 2-11 Visible Emission limitations.*
- b. *Construction equipment shall minimize idling time to 5 minutes or less. Catalyst and filtration technologies shall be incorporated where feasible.*
- c. *The prime contractor shall submit to the District a comprehensive inventory (i.e. make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower or greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy-duty equipment on the inventory list.*

An enforcement plan shall be established to weekly evaluate project-related on-and-off-road heavy-duty vehicle engine emission opacities, using standards as defined in California Code of Regulations, Title 13, Sections 2180 - 2194. An Environmental Coordinator, CARB-certified to perform Visible Emissions Evaluations (VEE), shall routinely evaluate project related off-road and heavy duty on-road equipment emissions for compliance with this requirement. Operators of vehicles and equipment found to exceed opacity limits will be notified and the equipment must be repaired within 72 hours.

Construction contracts shall stipulate that at least 20% of the heavy-duty off-road equipment included in the inventory be powered by CARB certified off-road engines, as follows:

<i>175 hp - 750 hp</i>	<i>1996 and newer engines</i>
<i>100 hp - 174 hp</i>	<i>1997 and newer engines</i>
<i>50 hp- 99 hp</i>	<i>1998 and newer engines</i>

In lieu of or in addition to this requirement, the applicant may use other measures to reduce particulate matter and nitrogen oxide emissions from project

construction through the use of emulsified diesel fuel and or particulate matter traps. These alternative measures, if proposed, shall be developed in consultation with District staff.

With the applicant's agreement to accept and implement the following mitigation measure, PM₁₀ emissions would be minimized and this impact would be held to a less than significant level.

Mitigation Measure Air 2

- a. *Nontoxic soil stabilizers according to manufacturer's specifications shall be applied to all inactive construction areas (previously graded areas inactive for ten days or more).*
 - b. *Ground cover shall be reestablished in disturbed areas quickly.*
 - c. *Active construction sites shall be watered at least three times daily to avoid visible dust plumes.*
 - d. *Paving, applying water three times daily, or applying (non-toxic) soil stabilizers shall occur on all unpaved access roads, parking areas and staging areas at construction sites*
 - e. *Enclosing, covering, watering daily, or applying non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) shall occur.*
 - f. *A speed limit of 15 MPH for equipment and vehicles operated on unpaved areas shall be enforced.*
 - g. *All vehicles hauling dirt, sand, soil, or other loose materials shall be covered or shall be maintained at least two feet of freeboard.*
 - h. *Streets shall be swept at the end of the day if visible soil material is carried onto adjacent public paved roads.*
- c. Project traffic emissions would have an effect on air quality outside the project vicinity. Trips to and from the project and area sources associated with the proposed uses would result in air pollutant emissions within the air basin. The YSAQMD considers any project that would individually have a significant air quality impact to also have a significant cumulative impact. As described under Questions A, B, and D, the project would not individually exceed any project-level threshold. As a result, project regional (operational) air quality impacts would be less than significant.
- d. Construction activities such as clearing, excavation and grading operations, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that would temporarily affect local air quality for adjacent land uses.

Localized air impacts occur when a sensitive receptor is exposed to substantial air pollution, often as a result of land use conflicts. Unlike ozone precursors,

which have a regional air quality impact, emissions of CO, TACs, odor and dust affect the land uses in close vicinity of the emitting source. Two situations have the potential to cause localized impacts to sensitive receptors:

- 1) A source of localized air pollutants is proposed to be located near existing or planned sensitive receptors, or
- 2) A sensitive receptor land use is proposed near an existing or planned source of localized air pollutants.

The project will construct a quasi-public facility that is compatible with the adjacent residential and other quasi public land uses. As discussed under Question B, the project will likely not affect the LOS of adjacent intersections. Therefore, the project does not have the potential to contribute to a CO Hotspot. Churches are not a known source of TACs or objectionable odors.

Therefore, the operation of the project will not expose nearby sensitive receptors to unacceptable levels of TACs, CO or odors, or substantially contribute to air-related sensitive receptor impacts. During construction, due to the short duration, low number of diesel vehicles and distance between equipment and nearby receptors, health risks from construction emissions of diesel particulate would be a less than significant impact. The mitigation requirement contained in Mitigation Measure Air 1 would mitigate the dust generated from construction of the project to a less than significant impact.

- d. During construction the various diesel-powered vehicles and equipment in use on the site would create odors. These odors are temporary and not likely to be noticeable much beyond the project boundaries. The potential for diesel odors impacts is less than significant. As discussed above, churches are not known sources of objectionable odors.

CLIMATE CHANGE ANALYSIS

Regulatory History

There has been significant legislative activity regarding global climate change and greenhouse gases in California. Although it was not originally intended to reduce greenhouse gases, the California Code of Regulations Title 24 Part 6: California's Energy Efficiency Standards for Residential and Nonresidential Buildings, was first adopted in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods. The latest amendments were made in October 2005 and currently require new homes to use half the energy they used only a decade ago. Energy efficient buildings require less electricity, and electricity production by fossil fuels results in greenhouse gas emissions. Therefore, increased energy efficiency results in decreased greenhouse gas emissions. California Assembly Bill 1493 (Pavley), enacted on July 22, 2002, required the CARB to develop and adopt regulations that reduce greenhouse gases emitted by passenger vehicles and light duty trucks.

Regulations adopted by the California Air Resources Board (CARB) would apply to 2009 and later model year vehicles. The CARB estimates that the regulation would reduce climate change emissions from the light-duty passenger vehicle fleet by an estimated 18 percent in 2020 and by 27 percent in 2030.

California Governor Arnold Schwarzenegger announced on June 1, 2005, through Executive Order S-3-05, the following greenhouse gas emission reduction targets:

- 1) by 2010, reduce greenhouse gas emissions to 2000 levels;
- 2) by 2020, reduce greenhouse gas emissions to 1990 levels; and
- 3) by 2050, reduce greenhouse gas emissions to 80 percent below 1990 levels (CA 2005).

To meet these targets, the Governor directed the Secretary of the Cal EPA to lead a California Climate Action Team (CAT) made up of representatives from the Business, Transportation and Housing Agency; the Department of Food and Agriculture; the Resources Agency; the Air Resources Board; the Energy Commission; and the Public Utilities Commission. The CAT's Report to the Governor in 2006 contains recommendations and strategies to help ensure the targets in Executive Order S-3-05 are met (CAT 2006).

The 2006 CAT Report contains baseline emissions as estimated by the CARB and the California Energy Commission. The emission reduction strategies reduce greenhouse gas emissions to the targets contained in AB 32.

Also in 2006, the California State Legislature adopted AB 32, the California Global Warming Solutions Act of 2006, which charged the CARB to develop regulations on how the state would address global climate change. AB 32 focuses on reducing greenhouse gas emissions in California. Greenhouse gases, as defined under AB 32, include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. AB 32 requires that greenhouse gases emitted in California be reduced to 1990 levels by the year 2020. CARB is the state agency charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases. AB 32 requires that by January 1, 2008, CARB must determine what the statewide greenhouse gas emissions level was in 1990, and it must approve a statewide greenhouse gas emissions limit so it may be applied to the 2020 benchmark. CARB adopted the 1990 GHG emission inventory / 2020 emissions limit of 427 million metric tons of carbon dioxide equivalent (MMTCO_{2e}) on December 6, 2007.

Analysis

DISCUSSION

This project would result in the construction and operation of a church and rectory in Winters, California that would result in approximately 122 trips per day. Based on the size of the project and discussions with the YSAQMD, it is determined that it is unlikely that a project of this size would significantly contribute GHGs to California's emission

inventory. The YSAQMD does not require projects of this size to quantify their generation of GHGs (Jones, pers. comm.). Therefore, it is unlikely that the project would hinder or delay the State's ability to meet the reduction targets contained in AB 32. The URBEMIS2007 v9.2.4 (URBEMIS) model was used to determine the amount of trips the project will likely contribute to local roadways for the CO impact screening, as described in Question B above.

URBEMIS also contains a CO₂ output that includes CO₂ generation from the project's consumption of natural gas, hearth emissions, landscape equipment combustion, and mobile vehicle emissions. Although the URBEMIS model does not account for all GHG pollutants and emissions sources related to the project, it does include the main sources of CO₂ from the development – on-road mobile vehicles. As such, it can be used as a rough tool to ascertain the project's relative contribution of GHGs. According to the modeling conducted, the project may contribute 192.3 tons of CO₂ from operational activities in 2009, which is approximately 174.5 metric tons of CO₂, or 0.0002 MMTCO₂e. As such, the project may contribute 0.000041 percent of California's 2020 GHG emission limit of 427 MMTCO₂e. Furthermore, the emissions estimate provided above is for the 2009 modeling year. With advancements in technology and implementation of existing and proposed state regulations, the project's emissions in 2020 will be lower than the 2009 estimates.

SUMMARY

The analysis supports the following conclusions:

- The project will not exceed the YSAQMD's regional and localized thresholds;
- The project will not result in a significant impact for the CEQA Guidelines Appendix G criteria; and
- The project will not significantly hinder or delay the State's ability to meet the emission reduction targets contained in AB 32.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
4. BIOLOGICAL RESOURCES. <i>Would the project:</i>				
a. Have a substantial adversely effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Have a substantial adverse impact on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion

a. & d. Approximately a third of the 5.56 acre site is developed with an existing community center, associated parking lots and commercial landscaping. The remainder of the site where the church, new parking and rectory are proposed to be located is vacant land with annual grassland vegetation that is disked and/or mowed periodically. The site is bounded by single family homes to the south, playfields of the elementary school to the east. The area proposed for the church and rectory is used for overflow parking on a regular basis for community center events. A number of relatively small trees are scattered along the southern and western property lines.

Wildlife use of the project area is limited as a result of the disturbed habitat conditions, small size, and the site's location within an urbanized area. The property lacks wetlands, vernal pools, and it has been the repeatedly disked and mowed.

The area also receives substantial human disturbance due to its close proximity to the community center, neighboring residential areas, and the elementary school.

The following Special-Status Wildlife potentially occur in the Winters area:

- Valley Elderberry Longhorn Beetle (VELB)
- Vernal Pool Fairy Shrimp
- Vernal Pool Tadpole Shrimp

The site does not contain blue elderberry (*Sambucus mexicana*) upon which VELB is dependent. Nor does it support vernal pool species. Therefore, VELB and vernal pool species will not be impacted by the proposed project.

- Northwestern Pond Turtle
- Tiger Salamander
- California Tiger Salamander
- California Red-legged Frog
- Giant Garter Snake

Pond turtles, giant garter snakes, and California red-legged frogs require slow-moving rivers, streams, or ponds with permanent or near permanent water sources. These habitats do not occur on the site, therefore, these species will not be impacted by the proposed project.

California tiger salamanders require seasonal wetland features such as vernal pools for egg laying and during their development stages. Due to the lack of wetlands on the property, this species will not be impacted by the proposed project.

- Bald Eagle
- Yellow Breasted Chat
- Western Burrowing Owl
- Swainson's Hawk
- White-tailed Kite

Bald eagles nest in mountainous areas near large, permanent water bodies such as lakes reservoirs, and river systems. The lack of suitable habitat on the site precludes the presence of this species. Therefore, this species will not be impacted by the proposed project.

Yellow-breasted chats inhabit riparian thickets. Given that there is no riparian vegetation on the site, this species will not be impacted by the proposed project.

Western burrowing owls require relatively open grassland habitat with suitable natural burrows or artificial burrows such as pipes, culverts, and debris piles that

can be used for nesting. While habitat conditions are considered marginal due to the extent of human disturbance, Burrowing Owl could potentially nest and forage in the project area. With the applicant's agreement to accept and implement the following mitigation measures, impacts on special status species would be less than significant.

Mitigation Measure Biological 1 – *The project proponent shall mitigate for potential project-related impacts to burrowing owl by conducting a pre-construction survey no more than 30 days prior to the initiation of construction activity. The pre-construction survey shall be conducted by a qualified biologist familiar with the identification of burrowing owls and the signs of burrowing owl activity. If active burrows are found on the project site, the California Department of Fish and Game (CDFG) shall be consulted regarding appropriate mitigation measures for project-related impacts to burrowing owl. Pursuant to the CDFG document entitled "Staff Report on Burrowing Owl Mitigation" (September 25, 1995), it is likely that replacement habitat will be required by CDFG. The guidelines include specific mitigation to protect nesting and wintering owls and to compensate for loss of breeding sites. In general, if the project would remove habitat of an occupied breeding site (e.g., if an active nest and surrounding habitat are removed), the project proponent will be required to compensate by preserving equivalent suitable habitat for each active nest site. In addition, the project proponent must install artificial burrows to offset the direct loss of the breeding site. Mitigation shall be consistent with the City's adopted Habitat Mitigation Program. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.*

Swainson's Hawk could potentially forage in the grassland and seasonal wetland habitats, but no potential nesting trees are available onsite or in the immediate vicinity. Typically, CDFG considers annual grassland habitat within 10 miles of an active Swainson's Hawk nest to be potential foraging habitat for the species. However, the CDFG staff report regarding mitigation for impacts to Swainson's Hawk in the Central Valley acknowledges that projects that support less than 5 acres of foraging habitat and are surrounded by existing development do not provide the foraging habitat requirements needed to sustain the reproductive efforts of a Swainson's Hawk pair, unless there is a known nest within a ¼ mile of the project. Consequently, CDFG does not recommend that the CEQA lead agency require foraging mitigation for these types of projects.

Although the conditions on site and adjacent to the site provide limited nesting habitat for raptors, there is some potential for a raptor to nest on the site or within close proximity. With the applicant's agreement to accept and implement the following mitigation measures, impacts on special status raptors would be less than significant.

Mitigation Measure Biological 2 -- *The project proponent shall mitigate for potential project-related impacts to nesting raptors (Swainson's Hawk, White-tailed Kite, Northern Harrier, and Loggerhead Shrike) by conducting a pre-construction survey of all trees suitable for use by nesting raptors on the subject property or within 0.25 mile of the project boundary as allowable. The preconstruction survey shall be performed no more than 30 days prior to the implementation of construction activities. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of raptors known to occur in the vicinity of the City of Winters. If active special-status raptor nests are found during the preconstruction survey, a 0.25-mile (1,320-feet) buffer zone shall be*

established around the nest and no construction activity shall be conducted within this zone during the raptor nesting season. The buffer zone shall be marked with flagging, construction lathe, or other means to mark the boundary of the buffer zone. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

The trees and grassland on the site provide suitable nesting habitat for a number of common and special-status birds protected solely by the Migratory Bird Treaty Act (MBTA) which prohibits the killing of migratory birds. Therefore, if any vegetation or tree removal occurs during the typical avian nesting season (February 1 to August 31), a pre-construction survey is necessary. With the applicant's agreement to accept and implement the following mitigation measures, impacts on migratory birds would be less than significant.

***Mitigation Measure Biological 3** -- The project proponent shall mitigate for potential project-related impacts to migratory birds by conducting a pre-construction survey for nests on the site. The preconstruction survey shall be performed no more than 14 days prior to the onset of vegetation and/or tree removal. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of migratory bird known to occur in the vicinity of the City of Winters. If active migratory bird nest(s) are found onsite during the preconstruction survey, the nest(s) shall not be disturbed or removed until the young have fledged and the nest is no longer active. A buffer may be required. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.*

Alternatively, potential impacts to nesting birds or unfledged young would be avoided if vegetation and/or tree removal occurred only between September 1 and January 21.

b. & c. Sensitive habitats include those that are of special concern to resource agencies or those that are protected under CEQA, Section 1600 of the California Fish and Game Code, or Section 404 of the Clean Water Act. There are no wetlands, riparian areas, or sensitive habitats located on or adjacent to the site. Therefore, the proposed project will not impact these resources.

e. The trees on the site are not listed on the City's Historic Tree list, the site does not contain wetlands, and with compliance with the above mitigation measures for burrowing owl, Swainson's Hawk, raptors, and migratory birds would be consistent with the natural resources policies contained in the City's General Plan. This impact is less than significant.

f. No Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan has been adopted for the project site. The County and cities are in the process of

developing a countywide plan, but it is not complete. The City's Habitat Management Program requires "on the ground" mitigation to be located within 7 miles of Winters in order to provide locally beneficial mitigation. With compliance with the Winters Habitat Mitigation Program, this impact is less than significant.

Mitigation Measure Biological 4 -- Any mitigation required shall be implemented in a manner consistent with requirements, purpose and intent of the City of Winters' Habitat Mitigation Program.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
5. CULTURAL RESOURCES. <i>Would the project:</i>				
a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion

a. & b. A cultural resources assessment was prepared for this site by Far Western Anthropological Research Associates (August, 2008). The assessment provides the results from the research of existing cultural resources data bases, review of historic maps, and a field survey performed by a qualified archeologist. The entire property was inspected. No evidence of cultural resources was observed.

Although no evidence of cultural resources was observed in the study area, there is always the possibility that unidentified resources could be encountered on or below the surface during grading and construction. With the applicant's agreement to accept and implement the following mitigation measure related to unknown sub-surface cultural resources, the potential for impact would be mitigated to a less than significant level by ensuring that such resources are evaluated and protected as appropriate.

Mitigation Measure Cultural 1 – If cultural resources (historic, archeological, paleontological, and/or human remains) are encountered during construction, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the situation. Project personnel shall not collect cultural

resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies.

- c. No paleontological resources are known or suspected and no unique geologic features exist on the project site. However, the potential exists during construction to uncover previously unidentified resources. Implementation of Mitigation Measure Cultural 1 will mitigate this concern to less than significant levels.
- e. No human remains are known or predicted to exist in the project area. However, the potential exists during construction to uncover previously unidentified resources. Compliance with Section 7050.5 of the California Health and Safety Code will reduce the potential impact to a less than significant level.

Mitigation Measure Cultural 2 - Should human remains be discovered, no further site disturbance shall occur until the county coroner has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and the remains are recognized to be those of a Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
6. GEOLOGY AND SOILS. <i>Would the project:</i>				
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault as delineated on the most recent Alquist - Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- | | | | | |
|---|--------------------------|-------------------------------------|--------------------------|-------------------------------------|
| b. Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Be located on expansive soils, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion

The subject site is situated geologically in the Sacramento Valley, within the westerly portion of the Great Valley geomorphic province of California. Sands, silts, and clays encountered in the near vicinity are recognized as the upper member of the Quaternary-aged Modesto Formation. The soils of this unit are characterized as arkosic alluvium deposits.

According to the soil survey maps of the Natural Resources Conservation District (NRCS) (formerly the USDA Soil Conservation Service) the soil on the site is Brentwood silty clay loam, 0-2 percent slopes.

- ai, ii. There are no known faults within the City of Winters. The site is located approximately 6 km (3.7 miles) from the Great Valley Thrust Fault, as shown on recent maps by the U.S. Geological Survey and the California Geological Survey.

The Alquist-Priolo Special Studies Zones Act of 1972 regulates development near active faults to mitigate the hazard of surface fault rupture and prohibits the development of structures for human occupancy across the traces of active faults. The project site is not located within an Alquist-Priolo Special Studies Zone.

The City is located in an area of relatively low seismic activity. According to the Seismic Risk Map of the United States, Winters is in Zone 3. Within Zone 3, the potential for earthquakes is low; however, there is the possibility for major damage (VIII to X on the Modified Mercalli Scale from a nearby earthquake). A rating of VIII to X on the Modified Mercalli Scale generally means the Richter scale magnitude would be between 6.0 to 7.9. Effects associated with this intensity range from difficulty standing to broken tree branches to damage to foundations and frame structures to destruction of most masonry and frame structures.

Any major earthquake damage on the project site is likely to occur from ground shaking and seismically-related ground and structural failures. Local soil conditions, such as soil strength, thickness, density, water content, and firmness of underlying bedrock affect seismic response. Seismically-induced shaking and some damage should be expected to occur during an event, but damage should be no more severe in the project area than elsewhere in the region. Framed construction on proper foundations constructed in accordance with California Building Code requirements is generally flexible enough to sustain only minor structural damage from ground shaking. Therefore, people and structures would not be exposed to potential substantial adverse effects involving strong seismic ground shaking, and this would be a less than significant impact.

- a.iii, c,d. A Foundation Report was prepared for the previously proposed project by Laver L. Roper & Associates in 1988 and was updated by Raney Geotechnical in October 2008. The geologic investigation, which included 13 test borings throughout the project site in 1988 surface soil samples in 2008, found that surface and near-surface soils on the project site are capable of supporting public/quasi-public and residential structures of the type proposed for the project provided specified conditions are implemented. With the applicant's agreement to accept and implement the following mitigation measure, impacts of geologic hazards will be reduced to a less than significant level.

Mitigation Measure Geology 1 – The applicant shall submit a soils and geotechnical report upon submittal of the initial improvement plans package. The improvement plans shall be signed by the soils engineer for conformance to the geotechnical report prior to approval by the City.

- a.iv, b. The site topography is essentially flat with an elevation of 128 above mean sea level. Surface runoff flows toward either the existing storm water drain grates in the community center parking lots or to the surrounding streets. There are no steep slopes within the project site. There are no drainages with steep slopes running through or adjacent to the project site. Because the site conditions would not result in landslides or potential for substantial erosion or loss of topsoil, there would be no impact for this category.
- f. The project would construct sewer pipelines that connect to wastewater treatment facilities and would not involve the construction of septic tanks. Therefore, there would be no impact.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
7. HAZARDS AND HAZARDOUS MATERIALS. <i>Would the project</i>				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Expose people or structures to the risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

a, b, & c. During construction, oil, diesel fuel, gasoline, hydraulic fluid, and other liquid hazardous materials would be used at the project site. Similarly, paints, solvents, and various architectural finishes would be used during construction.

If spilled, these substances could pose a risk to the environment and to human health. In the event of a spill, the City of Winters Fire Department is responsible

for responding to non-emergency hazardous materials reports. The use, handling, and storage of hazardous materials are highly regulated by both the Federal Occupational Safety and Health Administration (Fed/OSHA) and the California Occupational Safety and Health Administration (Cal/OSHA). Cal/OSHA is responsible for developing and enforcing workplace safety regulations. Both federal and State laws include special provisions/training for safe methods for handling any type of hazardous substance. The City currently complies with the City's Emergency Response Plan, and the Yolo County Hazardous Waste Management Plan.

Because the types of uses associated with the proposed church and rectory do not typically use, transport or dispose of large amounts of hazardous materials, and the routine transport, use, and disposal of hazardous materials are regulated by federal, State, and local regulations, this impact is considered less than significant.

- d. The project is not located on a site that is included on a list of hazardous materials sites compiled by the CA Department of Toxic Substances Control EnviroStor Database list pursuant to Government Code 65962.5. Therefore, no impact would occur.
- e. The project site is not within two miles of a public airport, and is not within the runway clearance zones established to protect the adjoining land uses in the vicinity from noise and safety hazards associated with aviation accidents. Therefore, there would be no impact.
- f. There are no private airstrips in proximity of the project site, so there would be no impact.
- g,h. The proposed project would have no effect on any emergency plan, because it would not significantly alter the existing street system, and would provide street connections to and through the project site. The project area does not qualify as "wildlands" where wildland fires are a risk. For these reasons, no impact would occur in these categories.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
8. HYDROLOGY AND WATER QUALITY				
<i>Would the project:</i>				
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems to control?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Place within a 100-year floodplain structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

- a.f. Surface water quality can be adversely affected by erosion during project construction, or after the project is completed, if urban contaminants in storm water runoff are allowed to reach a receiving water (e.g. Putah Creek). Construction activities disturbing one or more acres are required by the Central Valley Regional Water Quality Control Board (CVRWQCB) to obtain a General

Construction Activity Stormwater Permit and a National Discharge Elimination System (NPDES) permit. These permits are required to control both construction and operation activities that could adversely affect water quality. Permit applicants are required to prepare and retain at the construction site a Stormwater Pollution Prevention Plan (SWPPP) that describes the site, erosion and sediment controls, means of waste disposal, implementation of approved local plans, control of post-construction sediment and erosion control measures and maintenance responsibilities, and non-stormwater management controls. Dischargers are also required to inspect construction sites before and after storms to identify stormwater discharge from construction activity, and to identify and implement controls where necessary.

The proposed project is composed of approximately 5.56 acres, and thus would fall subject to these requirements. Compliance with these required permits would ensure that runoff during construction and occupation of the project site would ensure that runoff does not substantially degrade water quality. Therefore, this is a less than significant impact.

- b. The proposed project would construct impervious surfaces over portions of the project site that are currently undeveloped. However, the site is not identified as a recharge area and has been planned for development since at least the late 1980s. The majority of groundwater recharge in Winters occurs along drainages. Therefore, it can be concluded that development of the project site would not substantially affect the aquifer.

The City of Winters would supply groundwater to the proposed project. As discussed in more detail in Item 16(d), while the proposed project would contribute to an increase in municipal groundwater use, total groundwater use within the City would exceed historic water use levels only slightly in wet years, and would be lower than historic pumping levels in wet years. Groundwater levels have been fairly stable in the City of Winters, even with the highest historic pumping levels. Therefore, impacts on groundwater would be less than significant.

- c,d,e. The proposed project would nominally change absorption rates, drainage patterns, and the rate and amount of surface runoff, but would not alter the course of a river or stream. The City's storm drainage system has been planned to accommodate development of the General Plan, including the project site. Because the proposed project can be accommodated within the City's planned storm drain system, the increase in runoff is considered less than significant.
- g,h. The project does not fall within the City's General Plan Flood Overlay Area. The site is designated on federal floodplain maps as Zone X (outside of the 100-year floodplain). As such impacts related to flooding are considered less than significant.

- i. The project site is located approximately 10 miles east of the Monticello Dam on Lake Berryessa. Failure or overtopping of the dam could result in severe flooding of the Winters' area and loss of life. However, this occurrence, which is addressed in the Yolo County Emergency Plan, is not considered a likely or substantial risk. Therefore, the proposed project would not expose individuals to a substantial risk from flooding as a result of the failure, and the impact would be less than significant.
- j. The project area is not located near any large bodies of water that would pose a seiche or tsunami hazard. In addition, the project site is relatively flat and is not located near any physical or geologic features that would produce a mudflow hazard. Therefore, no impact would occur.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
9. LAND USE AND PLANNING.				
<i>Would the project:</i>				
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with any applicable land use plans, policies, or regulations of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating on environmental effect?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural communities conservation plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion

- a. Development of the project site is consistent with the City General Plan and has been the long-term plan for the property. The project would fill in and connect the established residential community of the City, not divide it. Therefore, no impact would occur.
- b. The General Plan and zoning ordinance currently designates the project site for medium density residential uses which includes quasi-public uses such as churches.

The applicant has applied for Design Review approval which includes an analysis of compliance with lot development standards, and a review of building and

landscape design, facades, and elevations to ensure that the proposed project will be compatible with existing development in Winters and that it satisfies the Community Design Guidelines.

The proposed church exceeds the R2 30 foot height limit. The building is single story and is located in the west central portion of the parcel. Due to the roofline, the building is 41' 4" tall with total height of 51' including the roof mounted cross.

The total onsite parking required for the site developed with the existing community center, existing auxiliary building, proposed church and proposed rectory would be 271 spaces per the parking standards in Section 17.72.020 of the City of Winters Municipal Code. The proposed project provides 236 spaces which amounts to 87% of the required spaces.

The applicant has requested a Planned Development Overlay as part of the project entitlements to modify the height restrictions and parking requirements for this property. Approval of the Planned Development Overlay will be necessary to accommodate the proposed project design.

With the applicant's agreement to accept and implement the following mitigation measures, this potential impact would be mitigated to a less than significant level.

***Mitigation Measure Land Use 1** - All aspects of the project shall be subject to design review to ensure compatibility with the surrounding area and satisfaction of the Community Design Guidelines and other applicable principles of good community design.*

***Mitigation Measure Land Use 2** - The proposed project height and parking provisions are subject to approval of a Planned Development Overlay for the subject property.*

- c. No Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan has been adopted for the project site. The County and cities are in the process of developing a countywide plan, but it is not complete. The City's Habitat Management Program requires "on the ground" mitigation to be located within 7 miles of Winters in order to provide locally beneficial mitigation. With compliance with the Winters Habitat Mitigation Program per Mitigation Measure Biological 4 this impact is less than significant.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
10. MINERAL RESOURCES. <i>Would the project:</i>				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

a,b. The project site is not designated as a mineral resource zone or locally important mineral resource recovery site. The construction of the proposed project would not result in the loss of any known mineral resources. Impacts would be less than significant.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
11. NOISE. <i>Would the project result in:</i>				
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

Discussion

Michael Brandman Associates prepared a noise analysis for the proposed project which included discussion of existing noise levels, sensitive receptors, and predicted noise level for both short-term and long-term activities associated with the project.

- a. Noise levels in the project area would be influenced by construction activity in the short term and by traffic, church activity (including church bells), parking lot, and HVAC noise in the long term.

Short-term Noise

Construction noise represents a short-term increase in ambient noise levels. Noise impacts from construction activities associated with the project would be a function of the noise generated by construction equipment, equipment location, the sensitivity of nearby land uses, and the timing and duration of the construction activities. Title 8, Health and Safety, of the Winters Municipal Code (WMC), Chapter 8.20 Noise Control, includes exterior noise levels limits similar to those established in the City of Winters General Plan Health and Safety Section (see Long-term Noise below). However, WMC Chapter 8.20.120 Exemptions, states that construction activity is exempt from the noise standards (provided it takes place on weekdays between 7:00 am and 7:00 pm per WMC Chapter 8.20.100 Prohibited Acts). Therefore, although there are no construction standards for noise generation, all construction activity is required to be conducted in accordance with the WMC, and therefore construction noise would not expose persons to or generate noise levels in excess of standards.

Long-term Noise

Traffic, church activity (including church bells), parking lot and HVAC noise all represent long-term sources of ambient noise in the project area. The City of Winters Land Use Compatibility Standards in Table II-2 of the General Plan Health and Safety Section establish the acceptable range of ambient noise levels for residential and schools within the City of Winters. Noise levels are normally acceptable at 60 Ldn dBA for residential uses, and 65 Ldn dBA for public buildings, including schools and churches. Noise levels are conditionally acceptable at 65 and 70 Ldn dBA for residences and public buildings, respectively.

Based on the project trip generation as discussed in the Air Quality analysis, increases in traffic from both the church and the rectory would result in an imperceptible increase in noise levels, less than 1 dB. Therefore, noise levels

would remain at 66 dB or less, as measured in April 2007. Although these noise levels are greater than the conditionally acceptable standard for residences, the project would not contribute to increased noise levels, and would not directly cause an exceedance of the standards. Other long-term noise as a result of the project, including church activities, parking lot noise, and HVAC operation, would also not result in exceedances of the standards. WMC Chapter 8.20.100 includes provisions for permitting the sounding of any electronically amplified signal from any stationary bell or chime, but indicates that houses of religious worship are exempt from this provision.

On the basis of short-term and long-term noise level estimates, the project would not result in noise levels that exceed City of Winters noise standards. Therefore, impacts would be less than significant.

- b. Construction activities can produce vibration that may be felt by adjacent uses. The construction of the proposed project would not require the use of equipment such as jackhammers and pile drivers, which are known to generate substantial construction vibration levels. The primary sources of vibration during construction would be from bulldozers, backhoes, crawler tractors, and scrapers. A vibratory roller would produce the greatest amount of vibration on the project site, with a 0.210 PPV at 25 feet. The nearest construction activities would be approximately 100 feet from the residences to the north of the project site, across West Grant Avenue, 175 feet from the residences to the south of the project site, and 350 feet from the school to the east of the project site. Construction vibration levels are expected to be 0.05 PPV, 0.03 PPV, and 0.015 PPV at the three nearest receptors, respectively. The maximum vibration the nearest residential receptor would be expected to experience is 0.05 PPV, which is below the 0.5 PPV significance level for potential structural damage. Therefore, construction-related vibration impacts from the project on existing sensitive receptors would be less than significant.

Operational Vibration

The project consists of the expansion of an existing church site, and it would not be expected to result in increased vibration in the project area, except for an occasional delivery truck, which would be expected for any public building. Therefore, operational vibration impacts from the project on existing sensitive receptors would be less than significant.

- c. The ongoing operation of the project would be affected by long-term ambient noise sources such as traffic (mobile), and church activity, parking lot and HVAC noise (stationary). Existing noise sources in the project area, which are limited to traffic, would not impact new receptors at the church.

Mobile Noise

Long-term noise impacts would result from vehicle traffic associated with the project. The City of Winters Land Use Compatibility Standards in Table II-2 of the General Plan Health and Safety Section establish the acceptable range of ambient noise levels for residential and schools within the City of Winters. Noise levels are normally acceptable at 60 Ldn dBA for residential uses, and 65 Ldn dBA for public buildings, including schools and churches. Noise levels are conditionally acceptable at 65 and 70 Ldn dBA for residences and public buildings, respectively.

A traffic study was not prepared for this project, and therefore traffic volumes were not available for traffic noise prediction. Based on the project trip generation as discussed in the Air Quality analysis, increases in traffic from both the church and the Rectory would result in an imperceptible increase in noise levels, less than 1 dB. Therefore, noise levels would remain at 66 dB or less, as measured in April 2007. Although these noise levels are greater than the conditionally acceptable standard for residences, the project would not contribute to increased noise levels, and therefore not result in a substantial noise increase. Noise levels from increased traffic as a result of the project would not result in significant impacts.

Stationary Noise

The principal onsite stationary noise impacts would occur as a result of the activities within the church and rectory buildings (including church bells), parking lot noise, and the operation of HVAC equipment. Church activity would increase over time as the new church would be built with a 700-seat capacity to accommodate future growth. Music and singing would be the sources of noise from church activity, and would not be expected to reach 65 dBA at nearby receptors. In addition, music and singing are not typically perceived as unwanted noise. Church bells would ring as follows: 5 to 10 times before each weekend mass (Saturday at 5:00 pm and Sunday at 10:45 am, 12:30 pm and 5:00 pm). Church bell noise is exempt from City of Winters noise standards, and like music and signing, is not typically perceived as unwanted noise. Parking lot noise, consisting of car doors slamming, and garden/landscape maintenance activities are considered intermittent noise events and would not represent a substantial contribution to the ambient noise levels. Rooftop mechanical equipment on the church and rectory buildings could be as close as 50 feet from the nearest residences. Predicted noise from HVAC equipment would be less than 60 dBA, based on information from other similar projects, and therefore would not expose nearby residents or receptors at the church to noise levels exceeding noise standards for both types of receptors. It is not expected that activities would take place at the church and adjacent community center simultaneously, however if this would occur, the nature of the activities would not be expected to result in significant impacts. The noise standards for the community center would be the

same as those for the church, and both facilities would be required to adhere to the noise limits. Impacts would be less than significant.

- d. Construction noise represents a short-term increase in ambient noise levels. Noise impacts from construction activities associated with the project would be a function of the noise generated by construction equipment, equipment location, the sensitivity of nearby land uses, and the timing and duration of the construction activities. Short-term noise impacts could occur during construction activities either from the noise impacts created from the transport of workers and movement of construction materials to and from the project site, or from the noise generated onsite during demolition, ground clearing, excavation, grading, and construction activities. The worst-case construction noise levels for the project would be 90 dBA at 50 feet. Construction activities are carried out in discrete steps, each of which has a unique mix of equipment and, consequently, unique noise characteristics. These sequential phases would change the character of the noise levels surrounding the construction site as work progresses. Despite the variety in the type and size of construction equipment, similarities in the dominant noise sources and patterns of operation allow noise ranges to be categorized by work phase.

On the basis of their proximity to the project site, the residential land uses adjacent the project site are the sensitive receptors of most concern as they relate to construction noise. Estimated noise levels are 84, 80, and 74 dBA at the three nearest receptors, respectively. It should be noted that construction noise often varies significantly on a day-to-day basis, and the noise levels predicted represent a worst-case scenario. Although construction noise would last the duration of construction, it would be the most noticeable during building construction, and because the site is developed, grading activity would be minimized. These estimated noise levels represent a potentially significant impact.

In order to minimize disruption to existing residents, all construction activity would be performed in accordance with the Winters Municipal Code Noise requirements. Additionally, mitigation is proposed below that would require noise attenuation measures incorporated into the project. Noise levels from construction after the application of mitigation measures that can be quantified, including distance requirements for construction activity and staging, and the use of portable acoustic barriers, would be approximately 78, 74, and 68 dBA at the three nearest receptors, respectively. The actual levels would be expected to be lower based on attenuation measures that cannot be quantified. Although there are no noise standards for construction activity, and construction activity is exempt from noise standards, the implementation of the noise attenuation measures in the mitigation below would result in noise levels still greater than the residential standards, but not at the school. However, impacts would be

considered less than significant following the implementation of mitigation.

Mitigation Measures Noise 1- *The project applicant shall submit a construction noise mitigation plan to the City of Winters for review and approval. The plan shall depict the location of construction equipment and describe how noise would be mitigated through methods such as, but not limited to, locating stationary noise-generating equipment (such as pumps and generators) as far as possible from nearby noise-sensitive receptors. Where practicable, noise-generating equipment will be shielded from nearby noise-sensitive receptors by noise-attenuating buffers such as structures or haul trucks. Onsite noise sources such as heavy equipment located less than 200 feet from noise-sensitive receptors will be equipped with noise-reducing engine housings. Portable acoustic barriers able to attenuate at least 6 dB will be placed around noise-generating equipment located within 200 feet of existing residences. Water tanks and equipment storage, staging, and warm-up areas shall be located as far from noise-sensitive receptors as possible. All noise attenuation measures identified in the plan shall be incorporated into the project.*

Mitigation Measure Noise 2 - *Construction activities shall adhere to the following noise requirements:*

All construction equipment shall utilize noise reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer.

Hours of construction shall comply with those established in Chapter 8.20.100 of the Winters Municipal Code. Those hours are weekdays from 7:00 a.m. through 7:00 p.m. Construction is prohibited on weekends and federal holidays.

- e. The nearest public airport is over 12 miles away and the project site is not within an airport land use plan. Therefore, project residents would not be exposed to excessive air traffic noise, thus there would be no impact.
- f. The project site is not located near a private airstrip and would not be exposed to noise from the private airstrip, so no impact would occur.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
12. POPULATION AND HOUSING. <i>Would the project:</i>				
a. Induce substantial growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

- a. The proposed project is generally consistent with the 1992 General Plan assumptions for the area. Religious facilities are not growth inducing and no additional infrastructure is required which could induce growth. Therefore, infrastructure, services, and utilities are master planned to accommodate the proposed level of growth. The proposed project is infill in an urbanized area and does not require the extension of roads and other infrastructure to the project site. Because the development of the project site is consistent with the planning assumptions of the General Plan, the proposed project would not induce growth.
- b,c. A portion of the project site is developed with an existing community center and associated landscaping and parking. The remainder of the site is an undeveloped field used for community center overflow parking. The project involves no displacement of housing or people. Thus, there would be no impact.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
13. PUBLIC SERVICES.				
<i>Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:</i>				
a. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

a. & b. The Winters Fire Protection District provides primary fire protection service to the project site. The City of Winters Police Department provides primary police protection service. The proposed project could nominally increase demand for these fire and police protection services by increasing the amount of development and businesses within the Departments' service areas. This increase in development is consistent with City plans for the project site, as reflected in the General Plan. Because the project site is already in the City, the proposed project would not increase the size of the service area of the Fire District or Police Department. Thus, the proposed project would have a less than significant adverse impact.

c, d, & e. The proposed project is for a church and a rectory. As such, it does not require trigger requirements for school services, parkland, or other public facilities.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
14. RECREATION.				
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

a & b. As discussed in Item 13(c,d and e), the proposed church and rectory would not generate recreational demands. This is a less than significant impact.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
15. TRANSPORTATION/CIRCULATION.				
<i>Would the project:</i>				
a. Cause an increase in traffic which is substantial in relation to the existing load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- e. Result in inadequate emergency access?
- f. Result in inadequate parking capacity?
- g. Conflict with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Discussion

The Winters Highlands, Callahan Estates, Ogando-Hudson & Creekside Estates Traffic Impact Study (July, 2004) was prepared to examine the impacts from proposed development projects in the City of Winters which would impact the area around the proposed church and rectory. The analysis provides information on the potential effects associated with increases in traffics volumes at eight local intersections as a result of anticipated development in Winters. Based on the findings of the Study, the following level of service (LOS) and traffic volumes were identified in the vicinity of the proposed church and rectory:

Intersection	Level of Service			
	AM Peak Hour		PM Peak Hour	
	Existing	Projected	Existing	Projected
Grant Avenue/Railroad Avenue	C	D	C	C
Grant Avenue/Hemenway Street	B	C	C	B
Grant Avenue/West Main Street	B	C	C	C
Grant Avenue/Valley Oak Drive	A	B	B	B

Roadway Segment	Traffic Volumes			
	Existing		Projected	
	General Plan Daily Threshold	Existing Volume	General Plan Daily Threshold	Forecast Volume
Grant Avenue: Railroad Avenue to W. Main Street	15,000	8,100	15,000	9,700
Grant Avenue: W. Main Street to Valley Oak Drive	15,000	4,500	30,000	6,300

The City of Winters' General Plan contains the following Policies regarding Level of Service:

Policy III.A.1 – The City shall endeavor to maintain a Level of Service "C" or better as defined by the 1985 Highway Capacity Manual or subsequent revision, on all streets and intersections within the City.

Policy III.A.8 – The City shall comply with and implement that program and policies of the Yolo County Congestion Management Plan (CMP).

The CMP identifies LOS D as the threshold for Grant Avenue and Railroad Avenue.

- a. & b. Existing and projected traffic volumes and levels of service are consistent with the City's General Plan Policies. Based upon the Institute of Transportation Engineers' (ITE) trip generation rates for 'Place of Worship' and 'Single-Family Housing', the project would only contribute approximately 112 trips per day for the church expansion and 10 trips per day for the Rectory. This low level of trip generation is not likely to impact the LOS of nearby intersections and would be a less than significant impact.
- c. The project site is not located near an airport and it does not include any improvements to airports or change in air traffic patterns. No impact would occur.
- d,e. The proposed project includes land uses that are similar to other development in the project vicinity. The circulation system does not include any tight curves or other design hazards. As discussed in Item 15a,b above, the minor amount of average daily trips would not substantially increase congestion on local roadways given the existing and projected traffic levels. For these reasons, there would be no adverse impacts related to roadway hazards or interference with emergency access.
- f. The existing community center, auxiliary building and proposed church and rectory would require a total of 271 parking spaces. There are currently 78 parking spaces on-site. The site plan provides for an additional 158 on-site spaces for a total of 236 spaces including 9 ADA spaces. Based upon the parking ratios listed in the City of Winters Municipal Code (17.72.020), the existing community center, auxiliary building and proposed church and rectory would require a total of 271 parking spaces. The 236 spaces proposed are approximately 87% of the required parking.

Currently, overflow parking on neighborhood streets and adjacent vacant lots occurs when large events are held at the community center. Development of the church and rectory will convert some of the ad hoc parking area. The development of additional on-site parking will be beneficial but overflow neighborhood parking is would continue to be expected during large events. This represents a status quo and as such is a less than significant impact.

- g. The project would not conflict with adopted policies, plans, or programs supporting alternative transportation. The project includes appropriate pedestrian and bicycle route connections. Therefore, this impact would be less than significant.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
16. UTILITIES AND SERVICE SYSTEMS. <i>Would the project:</i>				
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion

- a. Public sewer service is available adjacent to the project site. The proposed church and rectory will be required to connect to City sewage treatment plant for wastewater treatment. The City's plant is permitted by the State and must meet applicable water quality standards. As a public/quasi-public and residential development, the proposed project is not anticipated to generate wastewater that contains unusual types or levels of contaminants, so it would not inhibit the ability of the Winters Wastewater Treatment Plant (WWTP) to meet State water quality standards. For these reasons, this would be a less than significant impact.
- b,e. Municipal water is proposed to be provided to the site via the existing 12 inch water main on the north side of the property and the 10 inch water main on the west side of the property. Water would be conveyed within the site via an 8 and

4 inch lines which are proposed to connect to the municipal lines on the north and west sides of the property.

Sanitary sewer service for the church is proposed to be provided via an 8" main which would be constructed across the central portion of the site and would connect to an existing 8 inch municipal sanitary sewer line located at the western boundary of the property. Sanitary sewer service for the rectory would be provided via connections to the existing 8 inch municipal sanitary sewer line located at the western boundary of the property. The City's Wastewater Treatment Plant (WWTP) has a capacity of 0.92 million gallons per day (mgd). Space remains for this proposed project and approximately 600 additional residential hook-ups. The City's recent residential project approvals exceed this amount and expansion of the plant is planned. The City will continue to monitor the WWTP on an annual basis to assess available capacity. The Phase 2 expansion of the WWTP will bring the capacity to 1.2 mgd. The timing of this expansion is not set. The Phase 2 expansion will need to take place before full build out of the residential units

With the applicant's agreement to accept and implement the following mitigation measures, this potential impact would be mitigated to a less than significant level by ensuring that adequate wastewater treatment capacity is available.

Mitigation Measure Utilities 1 -- The proposed systems for conveying project sewage, water, and drainage shall be finalized and approved by the City Engineer prior to final map. The project is required to fund and construct off-site improvements necessary to support the development. Such improvements could include, but not be limited to a water well, water lines, sewer lines and storm drainage lines. Should property acquisition or additional CEQA clearance be required for off-site improvements, this will be the responsibility of the developer.

- c. The construction of impervious surfaces on the project site for the church, rectory and parking development would incrementally increase storm water runoff in the project vicinity. Stormwater drainage from the project site would be conveyed to the existing storm drainage main in West Main Street. The existing storm drainage system is designed to sufficiently handle the stormwater capacity that the project would create during a 100-year flood. Therefore, the project would not result in additional environmental effects beyond those analyzed in this document. This is a less than significant impact.
- d. The proposed project would be served by the City of Winters, which uses groundwater for municipal water supply. The City of Winters currently operates five groundwater wells to meet urban demand for water. Over the last ten years the City's pumping has ranged from a low of 1,540 acre-feet in 1995 to a high of 1,830 acre-feet in 2003. In 2003, production from the five wells dropped again to 1,565 acre-feet. In addition to the City's pumping, local agriculture, three local industries, one commercial enterprise, and several rural residences also pump water from the aquifer underlying the General Plan boundary. Over the last two years this additional pumping totaled approximately 90 acre-feet/year on top of the City's

pumping. In summary, currently between 1,655 and 1,920 acre-feet per year of groundwater are pumped to serve uses within the General Plan boundary. This compares to pumping in 1990 of about 2,660 acre-feet. The difference is due to whether or not surface water was available for agriculture. When less surface water is available, as was the case in 1990, there is greater groundwater pumping by agriculture.

By 2020, demand for groundwater within the City is estimated to increase to 3,620 acre-feet per year unrestricted and 3,250 acre-feet per year assuming a conservation scenario of six percent. The Proposed Project is estimated to generate a demand for municipal water of 6.42 acre-feet of water annually as shown in the table below.

Per the City Engineer the project would require 2,000 gallons per day per acre for a total site demand of 11,120 gallons per day. The increment of pumping needed to serve the proposed project would be available and would not adversely affect groundwater levels or storage underlying the City. This impact is less than significant. However, analysis for the City's Water Master Plan Update recommends that a new well will be required for any future development in the City. The City is in the process of bidding out the construction of a new that will be located near the intersection of West Grant Avenue and West Main Street.

With the applicant's agreement to accept and implement the following mitigation measure, the potential for impact associated with water supply and infrastructure will be mitigated to a less than significant level.

***Mitigation Measure Utilities 2** – A Certificate of Occupancy shall be issued only after the City Engineer has established that water supply will be available to serve the building.*

- f, g. Solid waste from the project site will be collected by the City of Winters and disposed of at the Yolo County Central Landfill, a 722-acre facility. The landfill has a capacity of 11 million tons with capacity for planned growth through 2025. The proposed project site has been planned for development since at least 1992. This project is part of the planned growth for which the landfill has been sized and therefore solid waste generated by the project would not have unanticipated impacts on the life of the landfill. Therefore, this impact is considered less than significant.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact
17. MANDATORY FINDINGS OF SIGNIFICANCE.				
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion

- a. No important examples of major periods of California history or prehistory in California were identified, and mitigation identified in Section 5 would ensure that subsurface resources, if present, would be protected. No wetlands or habitat for special-status species were identified on-site. Mitigation measures provided under Section 4 (Biological Resources) and Section 5 (Cultural Resources) of this Initial Study would ensure that impacts on biological resources would be less than significant.
- b. As discussed throughout this Initial Study, the proposed project is consistent with the Winters General Plan and assumptions made in the Winters General Plan EIR. Therefore cumulative impacts as analyzed in the 1992 General Plan EIR remain valid, and this project would not result in new or increased cumulative effects.
- c. As discussed in Sections 1 (Aesthetics), 3 (Air Quality), 6 (Geology and Soils), 9 (Land Use Planning), 11 (Noise), and 16 (Utilities and Service Systems) the potential for impacts on human beings would be reduced to less than significant levels by mitigation identified in these sections.

Summary of Mitigation Measures

Mitigation Measure Aesthetics 1 – Outdoor light fixtures shall be low-intensity, shielded and/or directed away from adjacent areas and the night sky. All light fixtures shall be installed and shielded in such a manner that no light rays are emitted from the fixture at angles above the horizontal plane. Lighting plans with certification that adjacent areas will not be adversely affected and that offsite illumination will not exceed 2-foot candles shall be submitted to the City for review and approval as part of improvement plans.

Prior to issuance of a building permit, the applicant shall submit a photometric and proposed lighting plan for the project to the satisfaction of the Community Development Department to ensure no spillover light and glare onto adjoining properties.

Mitigation Measure Air 1

- a. Construction equipment exhaust emissions shall not exceed District Rule 2-11 Visible Emission limitations.
- b. Construction equipment shall minimize idling time to 5 minutes or less. Catalyst and filtration technologies shall be incorporated where feasible.
- c. The prime contractor shall submit to the District a comprehensive inventory (i.e. make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower or greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy-duty equipment on the inventory list.

An enforcement plan shall be established to weekly evaluate project-related on-and-off-road heavy-duty vehicle engine emission opacities, using standards as defined in California Code of Regulations, Title 13, Sections 2180 - 2194. An Environmental Coordinator, CARB-certified to perform Visible Emissions Evaluations (VEE), shall routinely evaluate project related off-road and heavy duty on-road equipment emissions for compliance with this requirement. Operators of vehicles and equipment found to exceed opacity limits will be notified and the equipment must be repaired within 72 hours.

Construction contracts shall stipulate that at least 20% of the heavy-duty off-road equipment included in the inventory be powered by CARB certified off-road engines, as follows:

175 hp - 750 hp	1996 and newer engines
100 hp - 174 hp	1997 and newer engines
50 hp- 99 hp	1998 and newer engines

In lieu of or in addition to this requirement, the applicant may use other measures to reduce particulate matter and nitrogen oxide emissions from project construction through the use of emulsified diesel fuel and or particulate matter traps. These alternative measures, if proposed, shall be developed in consultation with District staff.

Mitigation Measure Air 2

- a. *Nontoxic soil stabilizers according to manufacturer's specifications shall be applied to all inactive construction areas (previously graded areas inactive for ten days or more).*
- b. *Ground cover shall be reestablished in disturbed areas quickly.*
- c. *Active construction sites shall be watered at least three times daily to avoid visible dust plumes.*
- d. *Paving, applying water three times daily, or applying (non-toxic) soil stabilizers shall occur on all unpaved access roads, parking areas and staging areas at construction sites*
- e. *Enclosing, covering, watering daily, or applying non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) shall occur.*
- f. *A speed limit of 15 MPH for equipment and vehicles operated on unpaved areas shall be enforced.*
- g. *All vehicles hauling dirt, sand, soil, or other loose materials shall be covered or shall be maintained at least two feet of freeboard.*
- h. *Streets shall be swept at the end of the day if visible soil material is carried onto adjacent public paved roads.*

Mitigation Measure Biological 1 – *The project proponent shall mitigate for potential project-related impacts to burrowing owl by conducting a pre-construction survey no more than 30 days prior to the initiation of construction activity. The pre-construction survey shall be conducted by a qualified biologist familiar with the identification of burrowing owls and the signs of burrowing owl activity. If active burrows are found on the project site, the California Department of Fish and Game (CDFG) shall be consulted regarding appropriate mitigation measures for project-related impacts to burrowing owl. Pursuant to the CDFG document entitled "Staff Report on Burrowing Owl Mitigation" (September 25, 1995), it is likely that replacement habitat will be required by CDFG. The guidelines include specific mitigation to protect nesting and wintering owls and to compensate for loss of breeding sites. In general, if the project would remove habitat of an occupied breeding site (e.g., if an active nest and surrounding habitat are removed), the project proponent will be required to compensate by preserving equivalent suitable habitat for each active nest site. In addition, the project proponent must install artificial burrows to offset the direct loss of the breeding site. Mitigation shall be consistent with the City's adopted Habitat Mitigation Program. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.*

Mitigation Measure Biological 2 -- *The project proponent shall mitigate for potential project-related impacts to nesting raptors (Swainson's Hawk, White-tailed Kite, Northern Harrier, and Loggerhead Shrike) by conducting a pre-construction survey of all trees suitable for use by nesting raptors on the subject property or within 0.25 mile of the project boundary as allowable. The preconstruction survey shall be performed no more than 30 days prior to the implementation of construction activities. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of raptors known to occur in the vicinity of the City of Winters. If active special-status raptor nests are found during the preconstruction survey, a 0.25-mile (1,320-feet) buffer zone shall be*

established around the nest and no construction activity shall be conducted within this zone during the raptor nesting season. The buffer zone shall be marked with flagging, construction lathe, or other means to mark the boundary of the buffer zone. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

Mitigation Measure Biological 3 -- The project proponent shall mitigate for potential project-related impacts to migratory birds by conducting a pre-construction survey for nests on the site. The preconstruction survey shall be performed no more than 14 days prior to the onset of vegetation and/or tree removal. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of migratory bird known to occur in the vicinity of the City of Winters. If active migratory bird nest(s) are found onsite during the preconstruction survey, the nest(s) shall not be disturbed or removed until the young have fledged and the nest is no longer active. A buffer may be required. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

Alternatively, potential impacts to nesting birds or unfledged young would be avoided if vegetation and/or tree removal occurred only between September 1 and January 21.

Mitigation Measure Biological 4 -- Any mitigation required shall be implemented in a manner consistent with requirements, purpose and intent of the City of Winters' Habitat Mitigation Program.

Mitigation Measure Cultural 1 -- If cultural resources (historic, archeological, paleontological, and/or human remains) are encountered during construction, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the situation. Project personnel shall not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies.

Mitigation Measure Cultural 2 - Should human remains be discovered, no further site disturbance shall occur until the county coroner has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and the remains are recognized to be those of a Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.

Mitigation Measure Geology 1 – The applicant shall submit a soils and geotechnical report upon submittal of the initial improvement plans package. The improvement plans shall be signed by the soils engineer for conformance to the geotechnical report prior to approval by the City.

Mitigation Measure Land Use 1 -- All aspects of the project shall be subject to design review to ensure compatibility with the surrounding area and satisfaction of the Community Design Guidelines and other applicable principles of good community design.

Mitigation Measure Land Use 2 – The proposed project height and parking provisions are subject to approval of a Planned Development Overlay for the subject property.

Mitigation Measures Noise 1- The project applicant shall submit a construction noise mitigation plan to the City of Winters for review and approval. The plan shall depict the location of construction equipment and describe how noise would be mitigated through methods such as, but not limited to, locating stationary noise-generating equipment (such as pumps and generators) as far as possible from nearby noise-sensitive receptors. Where practicable, noise-generating equipment will be shielded from nearby noise-sensitive receptors by noise-attenuating buffers such as structures or haul trucks. Onsite noise sources such as heavy equipment located less than 200 feet from noise-sensitive receptors will be equipped with noise-reducing engine housings. Portable acoustic barriers able to attenuate at least 6 dB will be placed around noise-generating equipment located within 200 feet of existing residences. Water tanks and equipment storage, staging, and warm-up areas shall be located as far from noise-sensitive receptors as possible. All noise attenuation measures identified in the plan shall be incorporated into the project.

Mitigation Measure Noise 2 - Construction activities shall adhere to the following noise requirements:

All construction equipment shall utilize noise reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer.

Hours of construction shall comply with those established in Chapter 8.20.100 of the Winters Municipal Code. Those hours are weekdays from 7:00 a.m. through 7:00 p.m. Construction is prohibited on weekends and federal holidays.

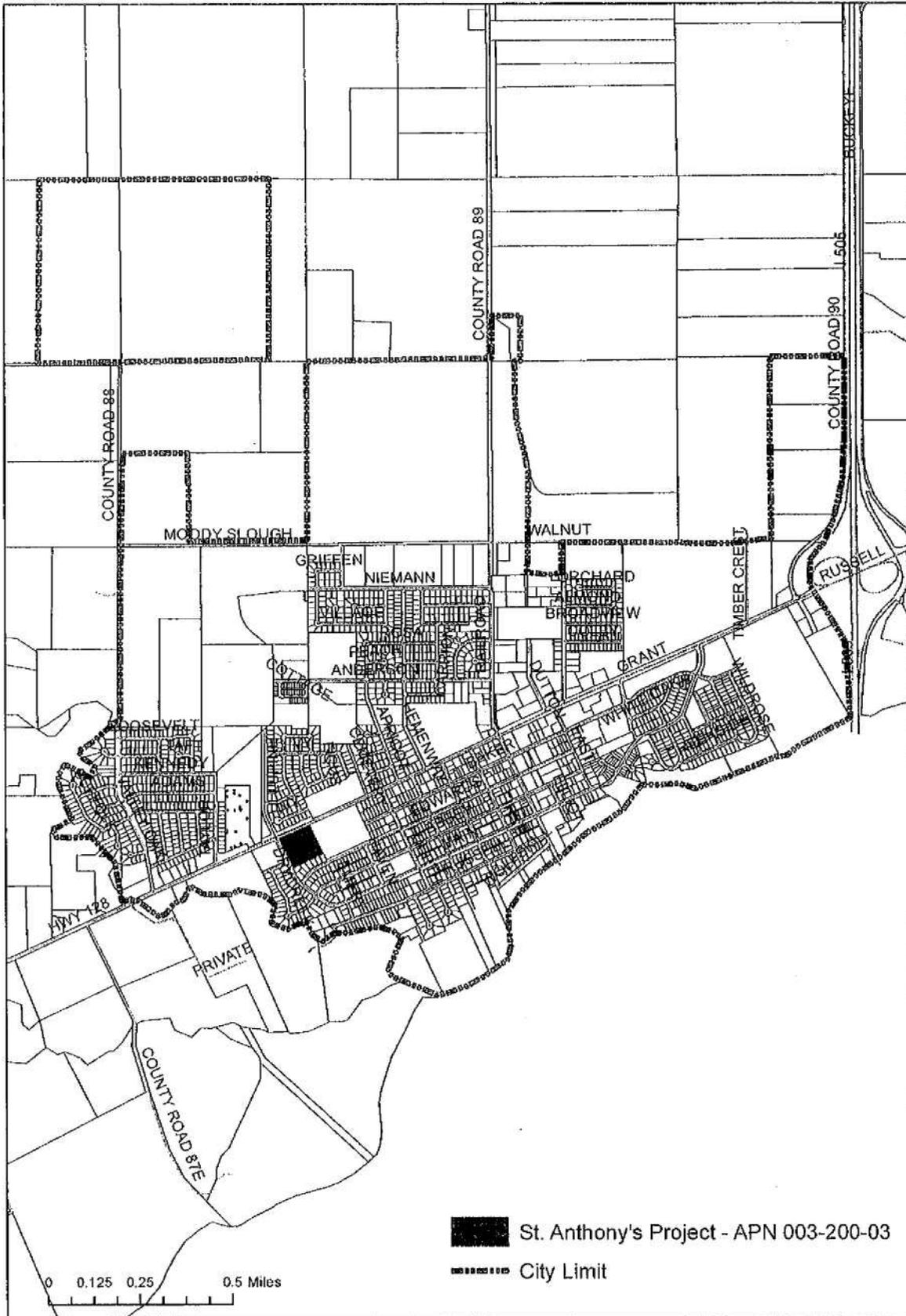
Mitigation Measure Utilities 1 -- The proposed systems for conveying project sewage, water, and drainage shall be finalized and approved by the City Engineer prior to approval of improvement plans. The project is required to fund and construct off-site improvements necessary to support the development. Such improvements could include, but not be limited to a water well, water lines, sewer lines and storm drainage lines. Should property acquisition or additional CEQA clearance be required for off-site improvements, this will be the responsibility of the developer.

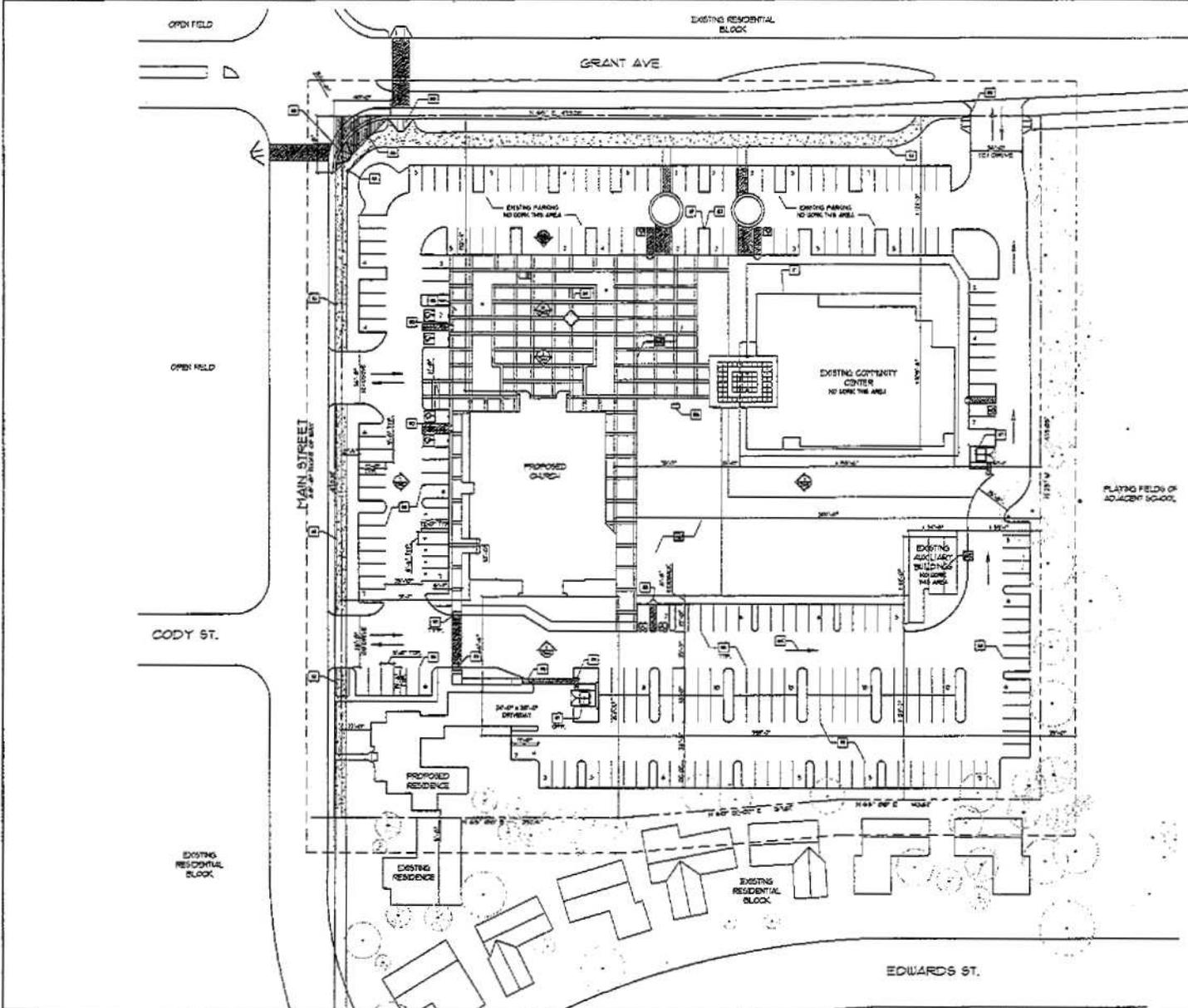
Mitigation Measure Utilities 2 – A Certificate of Occupancy shall be issued only after the City Engineer has established that water supply will be available to serve the building.

Attachments:

1. Location Map
2. Site Plan
3. Floor Plans
4. Building Elevations
5. Landscape Plan
6. Mitigation Monitoring Plan (MMP)

St Anthony's Project - APN 003-200-03





- KEY NOTES:**
- (A) EXISTING BUILDING TO REMAIN
 - (B) NO SIGNALLIC
 - (C) NO SIGNPOST SIGN
 - (D) NO SIGNAGE
 - (E) NO PLACA
 - (F) PRESTANDING SIGN SETBACK PER NATIONAL CODE STANDARD ARTICLE 5.
 - (G) NO TRUSS ENCLOSURE, TYP. OF 2. SEE DETAIL DRAWING
 - (H) NO PARKING STALL STOPPING
 - (I) NO ACCESSIBLE RAMP
 - (J) RAISED PLATFORM
 - (K) 2" X 4" FIRE HYDRANT
 - (L) 2" X 4" WAT. OUTLET
 - (M) NO CURB CUT
 - (N) PROPOSED DIRECTION OF TRAFFIC
 - (O) NO MEDICATION GARDEN
 - (P) RELOCATED STATUARY

SITE LEGEND:

- EXISTING PROPERTY LINE
- (C) COMPACT PARKING STALL
- (S) INTERNATIONAL SIGN OF ACCESSIBILITY
- (S) SIGN

REVISIONS

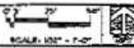
PROPOSED PROJECT:
ST. ANTHONY
 85 MAIN STREET
 WINTER, CALIFORNIA 95694

McCARDLESS & ASSOCIATES ARCHITECTS, INC.
 1711 14TH STREET
 SAN FRANCISCO, CALIFORNIA 94103
 TEL: 415.774.2211
 FAX: 415.774.2212



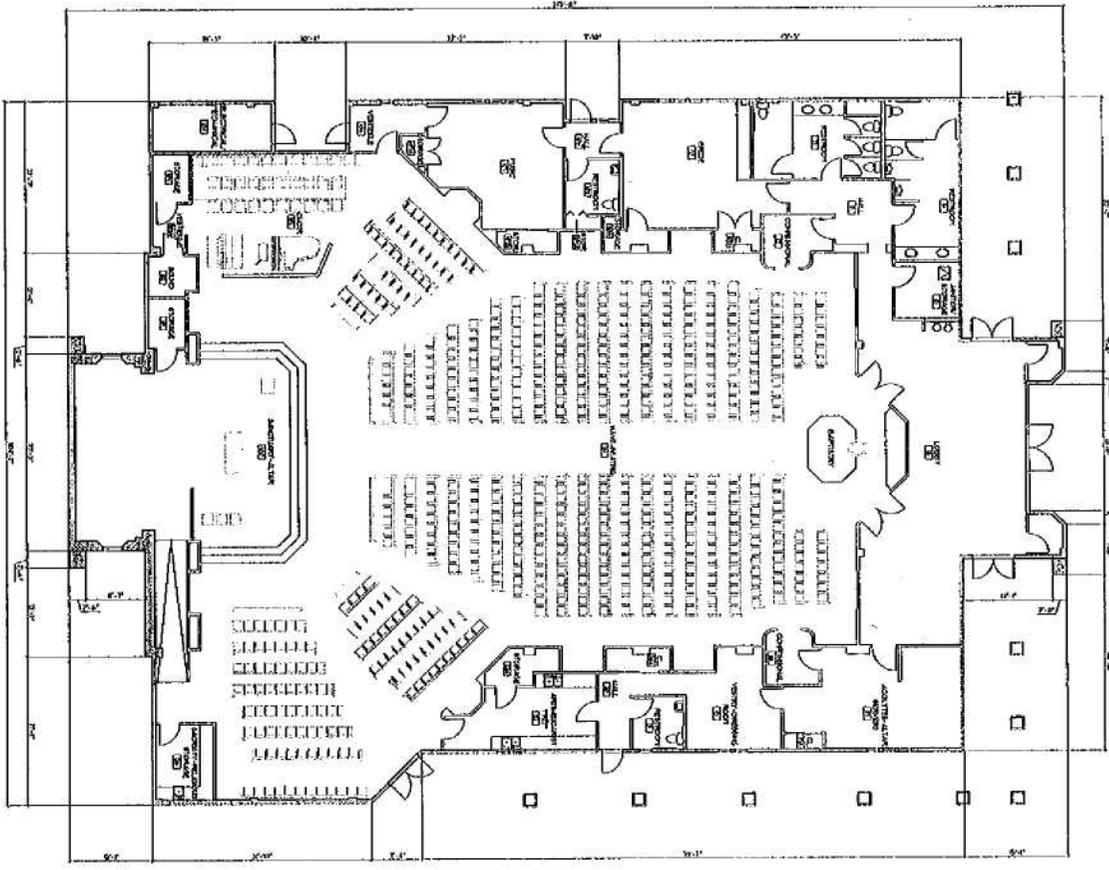
DESIGN REVIEW SET

DRAWN BY	
CHECKED BY	
DATE	04-10-2008
SCALE	AS SHOWN
COPY NO.	00-204
SHEET	DR 1



1 ADJACENT LAND USE PLAN

FLOOR PLAN



LEGEND:
 ELEVATOR UNDER
 NO. FLOOR SLAB
 NO. OFFICE SLAB



DATE: 11-15-2006
 SCALE: AS SHOWN
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO.: [Number]
 SHEET NO.: 66T

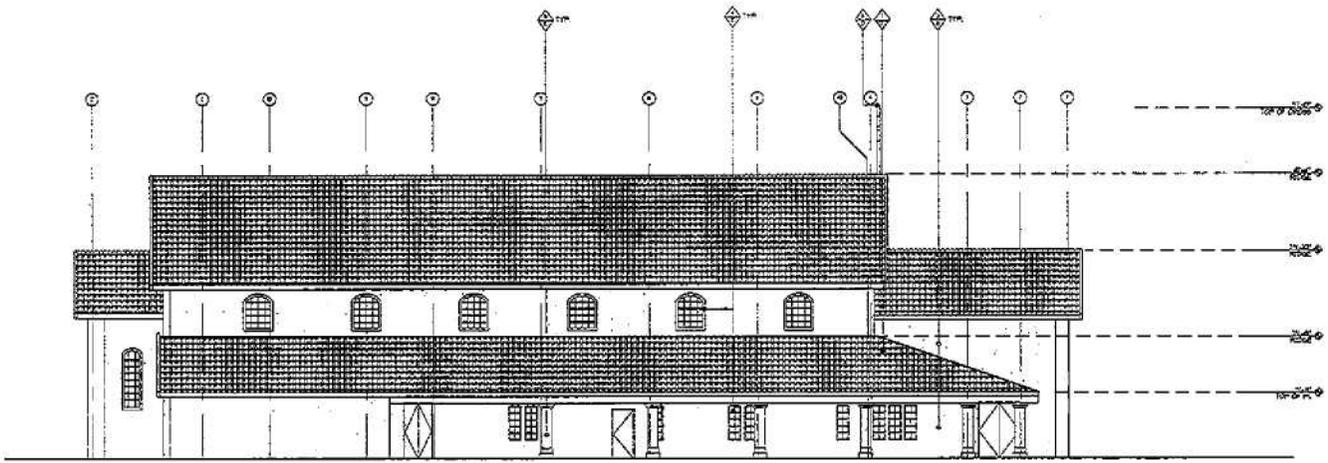
DESIGN REVIEW SET



McCANDLESS 4 ASSOCIATES ARCHITECTS, INC.
 4000 Grand Central Ave.
 San Francisco, CA 94131
 PH: 415.774.1300
 FAX: 415.774.1301

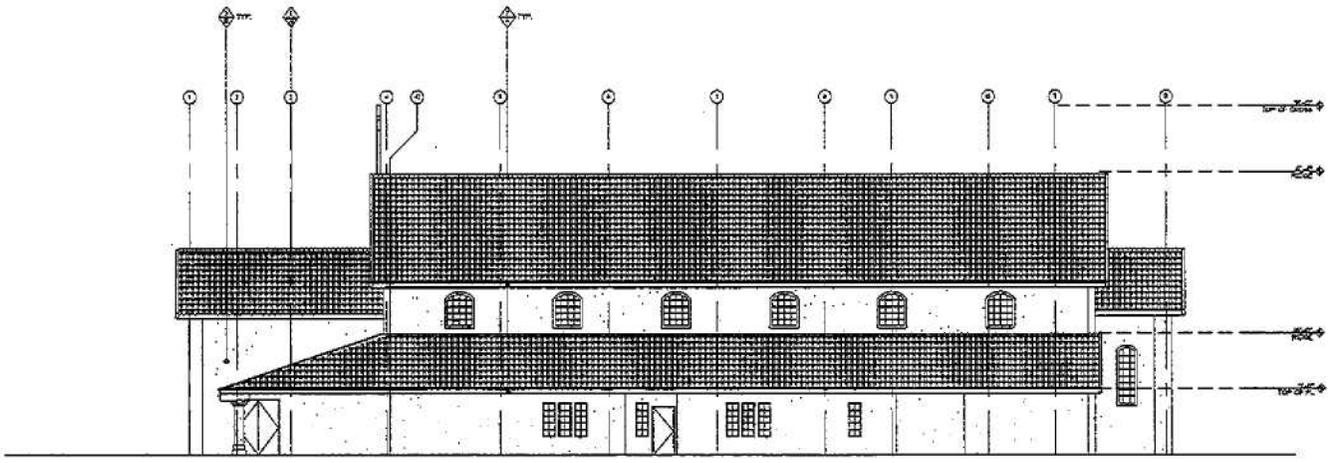
PROPOSED PROJECT:
ST. ANTHONY
 517 MAIN STREET
 BENTON, CALIFORNIA 95604

NO.	DESCRIPTION



2 WEST CHURCH ELEVATION

SCALE: 1/4" = 1'-0"



1 EAST CHURCH ELEVATION

SCALE: 1/4" = 1'-0"

MATERIAL

1	CLAY TILE TO MATCH REPLACEMENT BUILDING
2	KASPA / OUTLET
3	BRICK
4	RETAIL WOOD
5	COLUMN
6	STAINED WOOD DOOR
7	DECORATIVE BRICK
8	BROUGHT ROOF CROSS
9	ROOFING BRICK
10	STAIRWAY
11	GLAZING
12	OPEN

FINISH

A	DARK BROWN TRACERY BRICK BY S&H
B	BRICK
C	
D	
E	
F	

- 1. BRICKWORK TO BE PAINTED D
- 2. ALL WOOD DOORS TO BE PAINTED A
- 3. GLAZING TO HAVE BRICK COLORED PAINTED A

REVISIONS

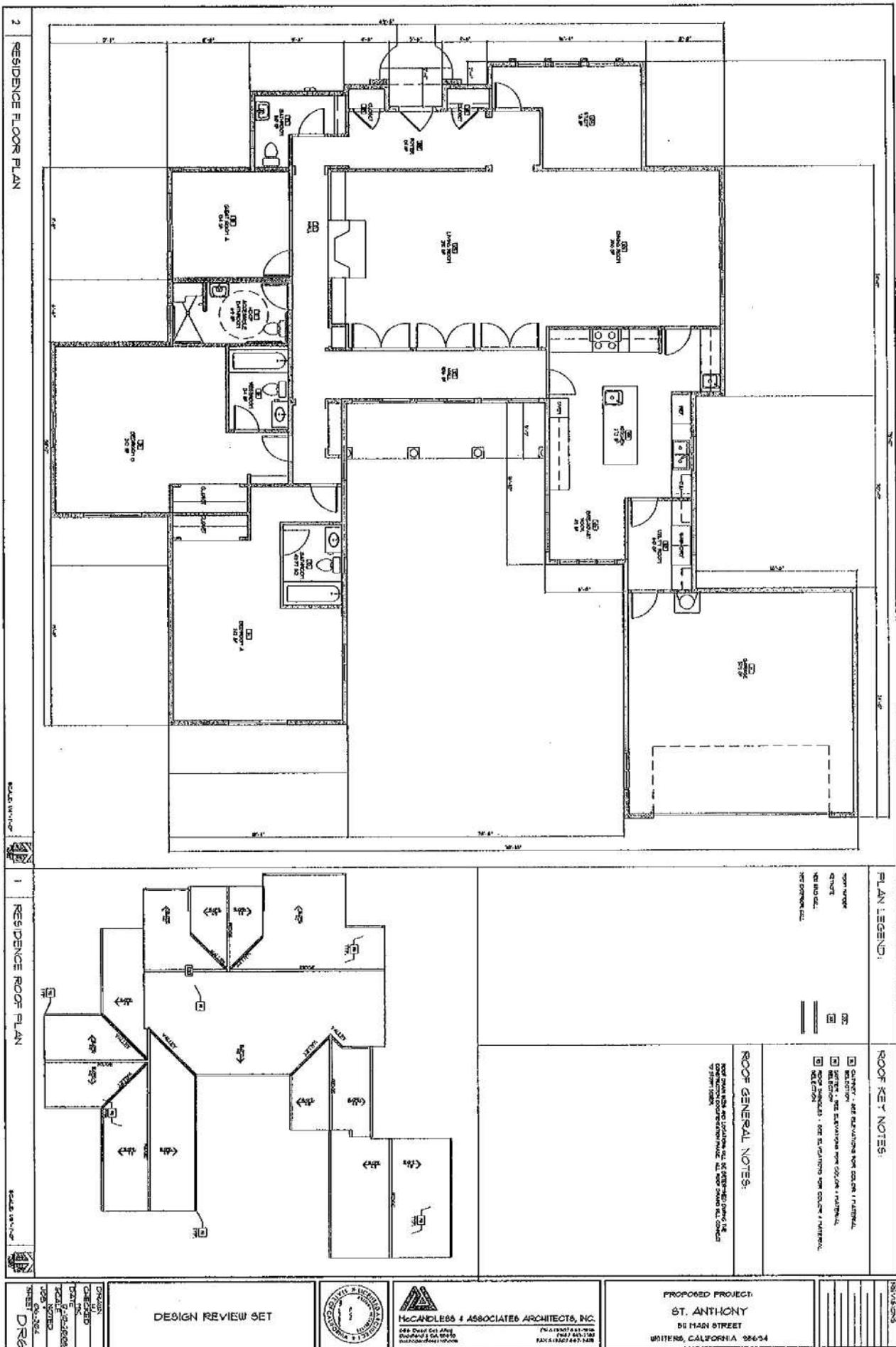
PROPOSED PROJECT
ST. ANTHONY
 511 MAIN STREET
 UNTERS, CALIFORNIA 95084

MCCANDLESS & ASSOCIATES ARCHITECTS, INC.
 200 DOWNEY AVENUE
 DOWNEY, CALIFORNIA 90242
 (714) 220-1200
 FAX: (714) 220-1208



DESIGN REVIEW SET

DRAWN	DRB
CHECKED	DRB
DATE	8-15-2006
SCALE	AS SHOWN
JOB NO.	06-204
PROJECT	DRB



DESIGN REVIEW SET
 DATE: 03-25-2008
 SCALE: AS SHOWN
 TYPED BY: JAC
 DRAWN BY: JAC

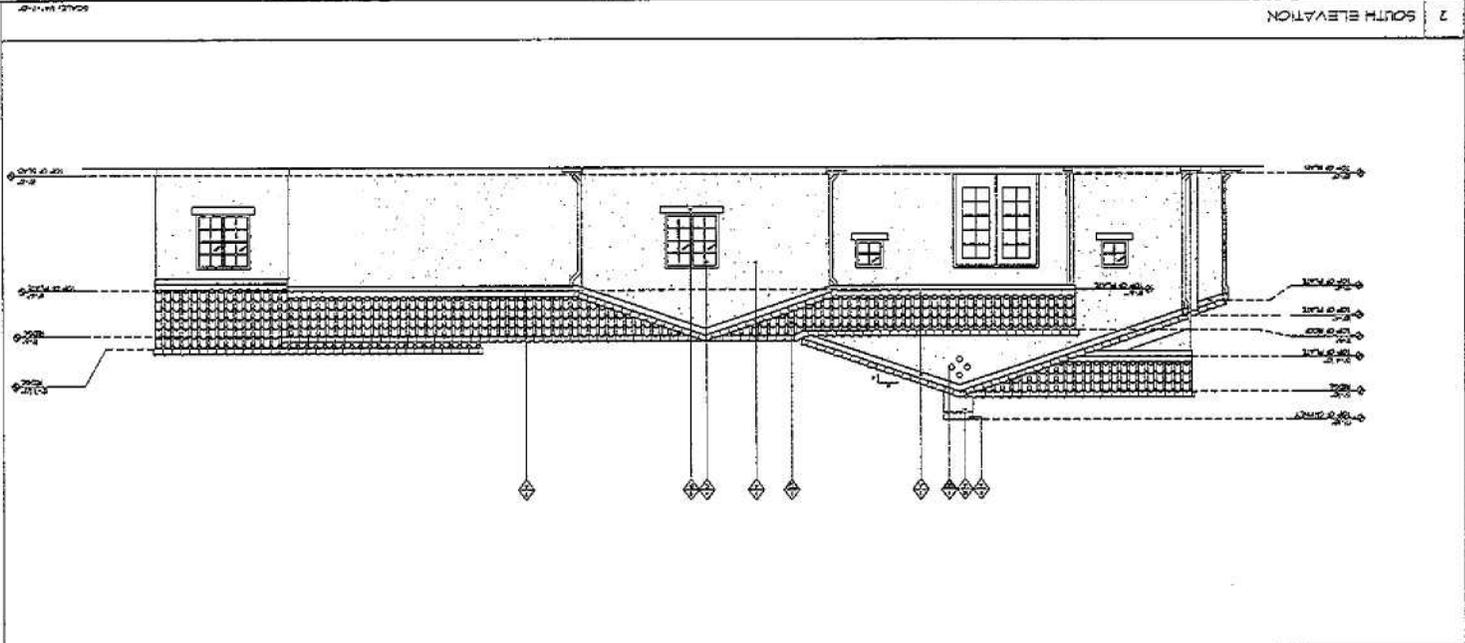


McCANDLESS & ASSOCIATES ARCHITECTS, INC.
 688 West 6th Street
 Suite 200
 San Francisco, CA 94111
 Tel: 415.774.1100
 Fax: 415.774.1100

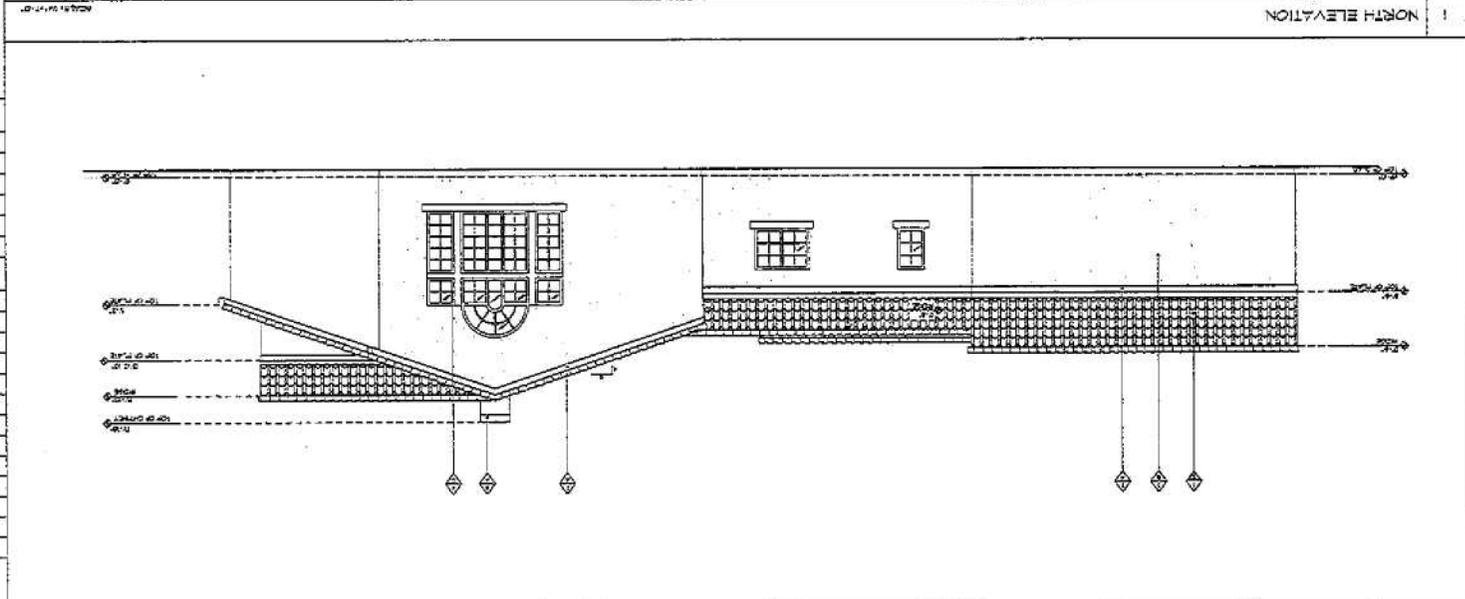
PROPOSED PROJECT:
ST. ANTHONY
 81 MAIN STREET
 WATERS, CALIFORNIA 92654

NO. 1	DATE	BY

2 SOUTH ELEVATION



1 NORTH ELEVATION



NOTES:
 1. FINISHES TO BE PAINTED
 2. ALL WOOD DOORS TO BE PAINTED
 3. DOORS TO HAVE STOOD CASE HANDLS
 4. ROOF SHEDS ARE SPECIFICALLY ANNOTATED THROUGHOUT

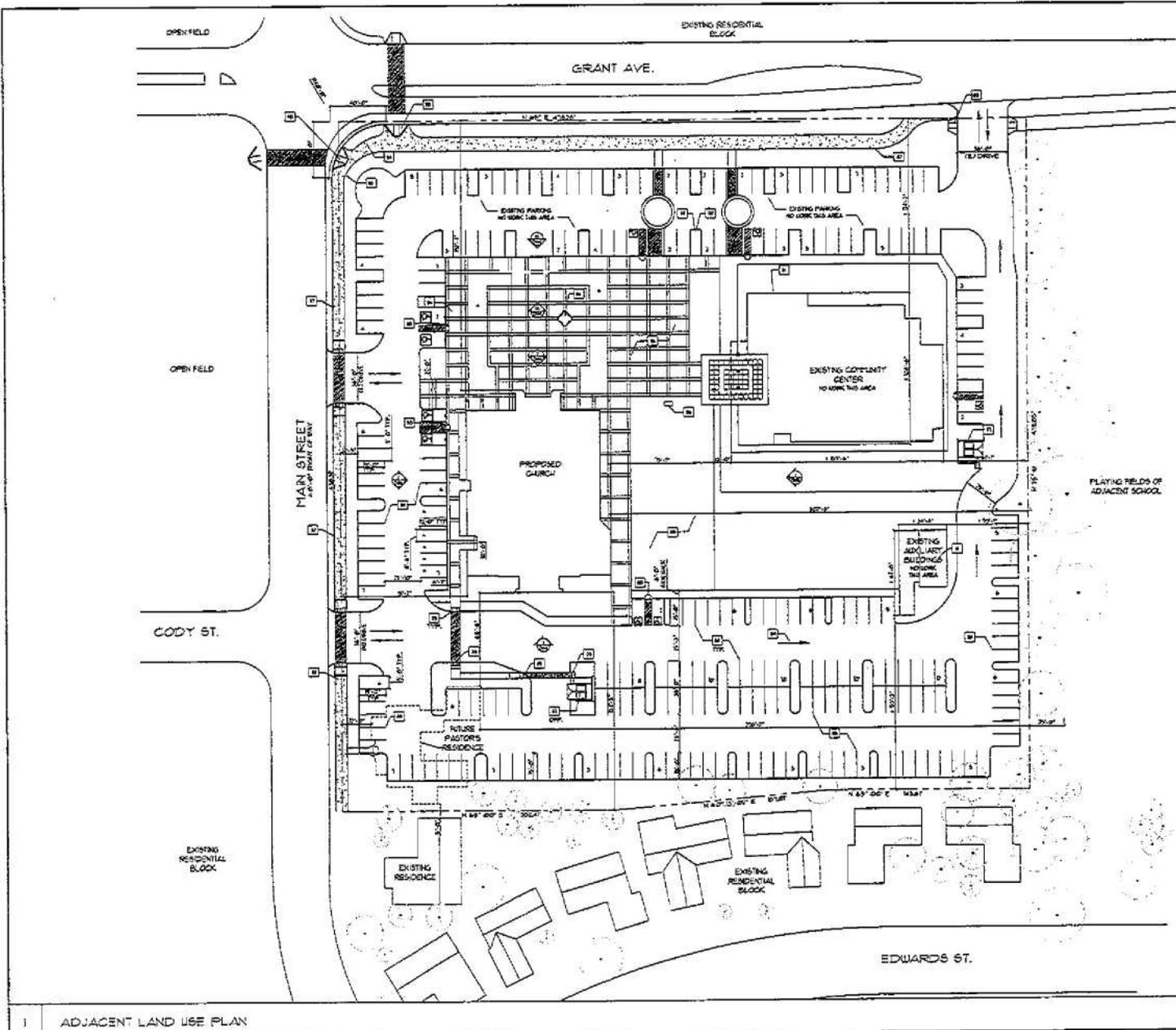
SYMBOL	DESCRIPTION
◇	MATERIAL
1	GLASS TO MATCH EXISTING WINDOW
2	WALL / CEILING
3	BRICK
4	CEILING
5	WOOD SHED ROOF
6	WOOD SHED WALL
7	WOOD SHED ROOF
8	WOOD SHED WALL
9	WOOD SHED ROOF
10	WOOD SHED WALL
11	WOOD SHED ROOF
12	WOOD SHED WALL
13	WOOD SHED ROOF
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49	WOOD SHED ROOF
50	WOOD SHED WALL

DATE: 10/15/11
 DRAWN BY: J. B. BROWN
 CHECKED BY: J. B. BROWN
 PROJECT NO: 11-001
 SHEET NO: 204

PROGRESS SET

J. B. BROWN ARCHITECTS, INC.
 1000 WEST 10TH AVENUE
 SUITE 100
 DENVER, CO 80202
 TEL: 303.733.1111
 FAX: 303.733.1112
 WWW.JBBARCHITECTS.COM

PROPOSED PROJECT:
PASTOR'S RESIDENCE
 541 MAIN STREET
 DENVER, CALIFORNIA 95841



KEY NOTES:

- EXISTING BUILDING TO REMAIN
- (N) SIDEWALK
- (N) FOOTWAY HIGH
- (N) FOOTWAY
- (N) PLAZA
- PREEXISTING SIGN DETACH PER MUNICIPAL CODE PARAGRAPH ARTICLE 16
- (N) TRAM ENCLOSURE, TYP. OF 2, SEE DETAIL TRENCH
- (N) PARKING STALL STRIP
- (N) ACCESSIBLE RAMP
- RAISED PLATFORM
- (E) FIRE HYDRANT
- (E) FIRE WAT OUTLET
- (N) CURB CUT
- PROPOSED DIRECTION OF TRAFFIC
- (N) VEGETATION GARDEN
- RELOCATED STATUARY

SITE LEGEND:

- EXISTING PROPERTY LINE
- C COMPACT PARKING STALL
- INFORMATIONAL SIGN OF ACCESSIBILITY
- SIGN

REVISIONS

PROPOSED PROJECT
ST. ANTHONY
 51 MAIN STREET
 UNTERS, CALIFORNIA 90488

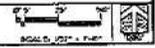
MCCARDLESS & ASSOCIATES ARCHITECTS, INC.
 444 WEST 10TH AVENUE
 SUITE 1000
 DENVER, COLORADO 80202

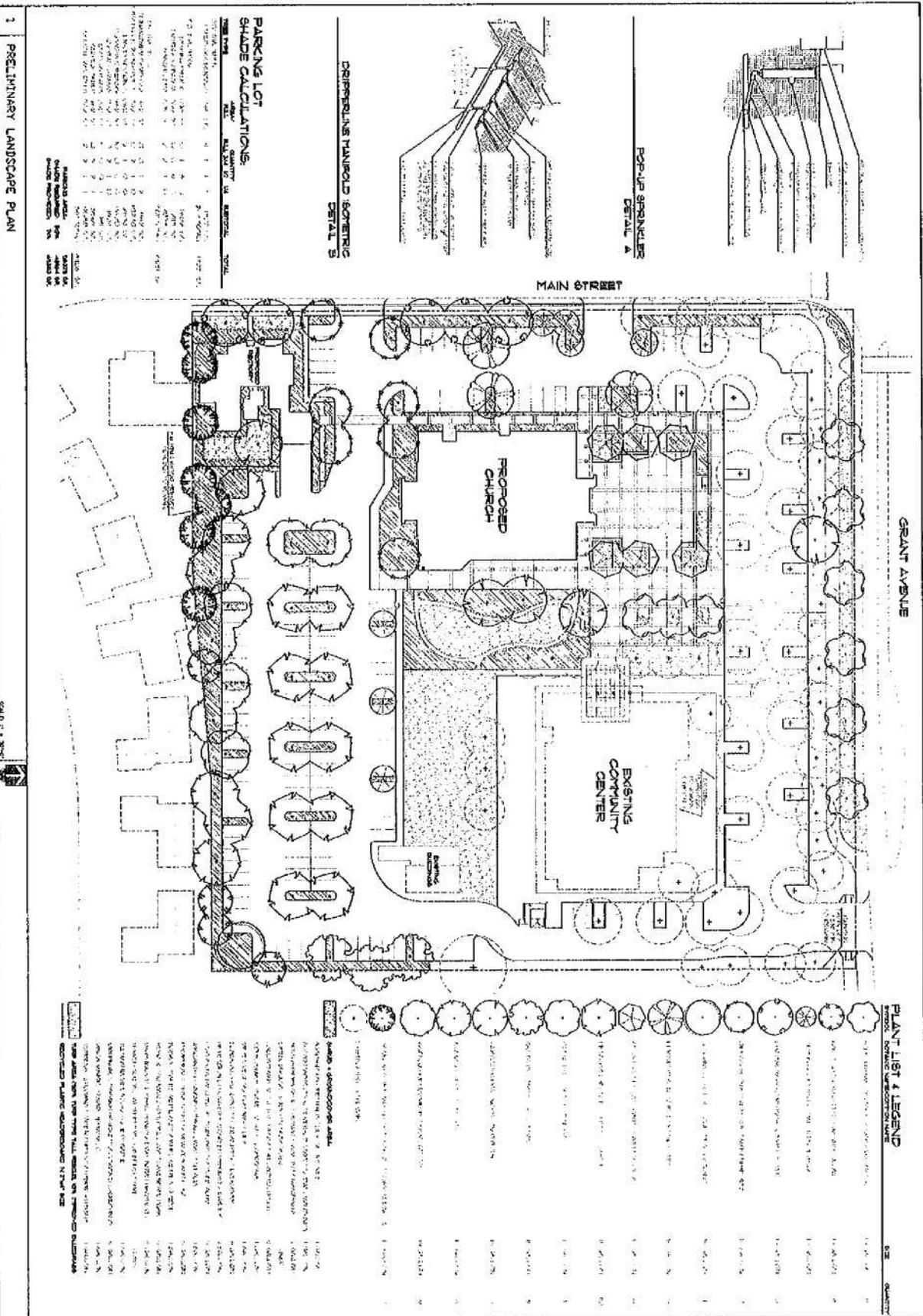


DESIGN REVIEW SET

OWNER	
DATE	
SCALE	
NOTED	
DATE	
DR.	

1 ADJACENT LAND USE PLAN





1 PRELIMINARY LANDSCAPE PLAN

SCALE: 1/4" = 1'-0"

<p>DESIGNER: [Name]</p> <p>DATE: [Date]</p> <p>PROJECT: [Project Name]</p>	<p>DESIGN REVIEW SET</p>	<p>MCCANDLESS & ASSOCIATES ARCHITECTS, INC.</p> <p>444 EAST 6TH AVENUE, SUITE 200 ANAHEIM, CALIFORNIA 92801 PHONE: (714) 771-1100 FAX: (714) 771-1105</p>	<p>PROPOSED PROJECT: ST. ANTHONY CHURCH 55 MAIN STREET UNTERS, CALIFORNIA 95604</p>
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**GBH COMMERCIAL
MITIGATION MONITORING PLAN**

The California Environmental Quality Act requires public agencies to report on and monitor measures adopted as part of the environmental review process (Section 21081.6, Public Resources Code [PRC]; Section 15097 of the CEQA Guidelines). This Mitigation Monitoring Plan (MMP) is designed to ensure that the measures identified in the Mitigated Negative Declaration are fully implemented. The MMP describes the actions that must take place as a part of each measure, the timing of these actions, the entity responsible for implementation, and the agency responsible for enforcing each action.

The City has the ultimate responsibility to oversee implementation of this Plan. The Community Development Director serves as the Project Monitor responsible for assigning monitoring actions to responsible agencies. Due to financial constraints, the City will require the applicant to fund a contract Project Monitor to undertake this effort. The commitment for this will be addressed in the Development Agreement and Conditions of Approval for the project.

As required by Section 21081.6 of the PRC, the Winters Community Development Department is the "custodian of documents and other material" which constitute the "record of proceedings" upon which a decision to approve the proposed project was based. Inquiries should be directed to:

Nelia Dyer, Community Development Director
City of Winters
530-795-4910 x 114

The location of this information is:

Winters City Hall
Community Development Department
318 First Street
Winters, California 95694

In order to assist implementation of the mitigation measures, the MMP includes the following information:

Mitigation Measure: The mitigation measures are taken verbatim from the Negative Declaration.

Timing/Milestone: This section specifies the point by which the measure must be completed. Each action must take place during or prior to some part of the project development or approval.

Responsibility for Oversight: The City has responsibility for implementation of most mitigation measures. This section indicates which entity will oversee implementation of the measure, conduct the actual monitoring and reporting, and take corrective actions when a measure has not been properly implemented.

Implementation of Mitigation Measure: This section identifies how actions will be implemented and verified.

Responsibility for Implementation: This section identifies the entity that will undertake the required action.

Check-off Date/Initials: This verifies that each mitigation measure has been implemented.

Pursuant to Section 18.04.090 of the Winters Municipal Code related to the required CEQA Mitigation Monitoring Plan, sign-off on the completion of each mitigation measure in the adopted Mitigation

Monitoring Plan (MMP) shall constitute the required "Program Completion Certificate".

The Mitigation Monitoring Plan shall be adopted pursuant to the requirements of Section 18.04.060.A and implemented pursuant to Section 18.04.070.A - E, of the Winters Municipal Code.

The applicant shall fund the costs of implementing the MMP including the payment of fees specified in Section 18.04.100.A - D of the Winters Municipal Code.

Pursuant to Section 18.04.050 of the Winters Municipal Code related to the required CEQA Mitigation Monitoring Plan (MMP), the following items shall apply:

- The adopted MMP shall run with the real property that is the subject of the project and successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted Plan.
- Prior to any lease, sale, transfer, or conveyance of any portion of the real property that is the subject of the project, the applicant shall provide a copy of the adopted Plan to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.
- The responsibilities of the applicant and of the City, and whether any professional expertise is required for completion or evaluation of any part of the Plan, shall be as specified in the Plan and as determined by the Community Development Director or designated Project Monitor in the course of administering the MMP.
- Cost estimates for the implementation of this Plan and satisfaction of each measure are not known or available, but shall be developed by the applicant in the course of implementing each mitigation measure.
- Civil remedies and criminal penalties for noncompliance with the adopted MMP are as specified in Sections 18.04.110 and 18.04.120 of the Winters Municipal Code.

Mitigation Measure Aesthetics 1 – Outdoor light fixtures shall be low-intensity, shielded and/or directed away from adjacent areas and the night sky. All light fixtures shall be installed and shielded in such a manner that no light rays are emitted from the fixture at angles above the horizontal plane. Lighting plans with certification that adjacent areas will not be adversely affected and that offsite illumination will not exceed 2-foot candles shall be submitted to the City for review and approval as part of improvement plans.

Prior to issuance of a building permit, the applicant shall submit a photometric and proposed lighting plan for the project to the satisfaction of the Community Development Department to ensure no spillover light and glare onto adjoining properties.

Timing/Milestone – Prior to issuance of a building permit.

Responsibility for Oversight – City of Winters.

Implementation of Mitigation Measure – Prior to issuance of a building permit for each phase or building, the applicant shall submit a photometric and proposed lighting plan to the satisfaction of the Community Development Department to ensure no spillover light and glare onto adjoining properties.

Responsibility for Implementation – Applicant and subsequent builders.

Check-off Date/Initials/Notes –

Mitigation Measure Air 1

- a. Construction equipment exhaust emissions shall not exceed District Rule 2-11 Visible Emission limitations.
- b. Construction equipment shall minimize idling time to 5 minutes or less.
- c. The prime contractor shall submit to the District a comprehensive inventory (i.e. make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower or greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy-duty equipment on the inventory list.

An enforcement plan shall be established to weekly evaluate project-related on-and-off-road heavy-duty vehicle engine emission opacities, using standards as defined in California Code of Regulations, Title 13, Sections 2180 - 2194. An Environmental Coordinator, CARB-certified to perform Visible Emissions Evaluations (VEE), shall

routinely evaluate project related off-road and heavy duty on-road equipment emissions for compliance with this requirement. Operators of vehicles and equipment found to exceed opacity limits will be notified and the equipment must be repaired within 72 hours.

Construction contracts shall stipulate that at least 20% of the heavy-duty off-road equipment included in the inventory be powered by CARB certified off-road engines, as follows:

175 hp - 750 hp	1996 and newer engines
100 hp - 174 hp	1997 and newer engines
50 hp - 99 hp	1998 and newer engines

In lieu of or in addition to this requirement, the applicant may use other measures to reduce particulate matter and nitrogen oxide emissions from project construction through the use of emulsified diesel fuel and or particulate matter traps. These alternative measures, if proposed, shall be developed in consultation with District staff.

Timing/Milestone – Prior to and during grading, and during appropriate period of construction.

Responsibility for Oversight – Yolo-Solano Air Quality Management District

Implementation of Mitigation Measure – The applicant shall satisfy the terms of the measure. Evidence of this shall be provided to the City.

Responsibility for Implementation – Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Air 2

- a) Nontoxic soil stabilizers according to manufacturer's specifications shall be applied to all inactive construction areas (previously graded areas inactive for ten days or more).
- b) Ground cover shall be reestablished in disturbed areas quickly.
- c) Active construction sites shall be watered at least three times daily to avoid visible dust plumes.
- d) Paving, applying water three times daily, or applying (non-toxic) soil stabilizers shall occur on all unpaved access roads, parking areas and staging areas at construction sites
- e) Enclosing, covering, watering daily, or applying non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) shall occur.

- f) A speed limit of 15 MPH for equipment and vehicles operated on unpaved areas shall be enforced.
- g) All vehicles hauling dirt, sand, soil, or other loose materials shall be covered or shall be maintained at least two feet of freeboard.
- h) Streets shall be swept at the end of the day if visible soil material is carried onto adjacent public paved roads.

Timing/Milestone – Prior to and during grading, and during appropriate period of construction.

Responsibility for Oversight – Yolo-Solano Air Quality Management District

Implementation of Mitigation Measure – The applicant shall satisfy the terms of the measure. Evidence of this shall be provided to the City.

Responsibility for Implementation -- Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Biological 1 -- The project proponent shall mitigate for potential project-related impacts to burrowing owl by conducting a pre-construction survey no more than 30 days prior to the initiation of construction activity. The pre-construction survey shall be conducted by a qualified biologist familiar with the identification of burrowing owls and the signs of burrowing owl activity. If active burrows are found on the project site, the California Department of Fish and Game (CDFG) shall be consulted regarding appropriate mitigation measures for project-related impacts to burrowing owl. Pursuant to the CDFG document entitled "Staff Report on Burrowing Owl Mitigation" (September 25, 1995), it is likely that replacement habitat will be required by CDFG. The guidelines include specific mitigation to protect nesting and wintering owls and to compensate for loss of breeding sites. In general, if the project would remove habitat of an occupied breeding site (e.g., if an active nest and surrounding habitat are removed), the project proponent will be required to compensate by preserving equivalent suitable habitat for each active nest site. In addition, the project proponent must install artificial burrows to offset the direct loss of the breeding site. Mitigation shall be consistent with the City's adopted Habitat Mitigation Program. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

Timing/Milestone – Not more than 30 days prior to commencement of grading or any physical modification of undeveloped portions of the site.

Responsibility for Oversight -- City of Winters

Implementation of Mitigation Measure – The applicant shall coordinate with the appropriate agency(s) to satisfy the terms of the measure. Evidence of this shall be provided to the City. The survey shall be performed by a qualified biologist in accordance with accepted protocols.

Responsibility for Implementation – Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Biological 2 -- The project proponent shall mitigate for potential project-related impacts to nesting raptors (Swainson's Hawk, White-tailed Kite, Northern Harrier, and Loggerhead Shrike) by conducting a pre-construction survey of all trees suitable for use by nesting raptors on the subject property or within 0.25 mile of the project boundary as allowable. The preconstruction survey shall be performed no more than 30 days prior to the implementation of construction activities. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of raptors known to occur in the vicinity of the City of Winters. If active special-status raptor nests are found during the preconstruction survey, a 0.25-mile (1,320-foot) buffer zone shall be established around the nest and no construction activity shall be conducted within this zone during the raptor nesting season. The buffer zone shall be marked with flagging, construction lathe, or other means to mark the boundary of the buffer zone. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

Timing/Milestone – Not more than 30 days prior to commencement of grading or any physical modification of the site.

Responsibility for Oversight -- City of Winters

Implementation of Mitigation Measure – The applicant shall coordinate with the appropriate agency(s) to satisfy the terms of the measure. Evidence of this shall be provided to the City. The survey shall be performed by a qualified biologist in accordance with accepted protocols.

Responsibility for Implementation – Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Biological 3 -- The project proponent shall mitigate for potential project-related impacts to migratory birds by conducting a pre-construction survey for nests on the site. The preconstruction survey shall be performed no more than 14 days prior to the onset of vegetation and/or

tree removal. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of migratory bird known to occur in the vicinity of the City of Winters. If active migratory bird nest(s) are found onsite during the preconstruction survey, the nest(s) shall not be disturbed or removed until the young have fledged and the nest is no longer active. A buffer may be required. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

Alternatively, potential impacts to nesting birds or unfledged young would be avoided if vegetation and/or tree removal occurred only between September 1 and January 21.

Timing/Milestone -- Not more than 14 days prior to commencement of grading or any physical modification of the site.

Responsibility for Oversight -- City of Winters

Implementation of Mitigation Measure -- The applicant shall coordinate with the appropriate agency(s) to satisfy the terms of the measure. Evidence of this shall be provided to the City. The survey shall be performed by a qualified biologist in accordance with accepted protocols.

Responsibility for Implementation -- Applicant

Check-off Date/Initials/Notes --

Mitigation Measure Biological 4 -- Any mitigation required shall be implemented in a manner consistent with requirements, purpose and intent of the City of Winters' Habitat Mitigation Program.

Timing/Milestone -- Prior to commencement of grading or any physical modification of the site.

Responsibility for Oversight -- City of Winters

Implementation of Mitigation Measure -- The applicant shall coordinate with the appropriate agency(s) to satisfy the terms of the measure. Evidence of this shall be provided to the City.

Responsibility for Implementation -- Applicant

Check-off Date/Initials/Notes --

Mitigation Measure Cultural 1 – If cultural resources (historic, archeological, paleontological, and/or human remains) are encountered during construction, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the situation. Project personnel shall not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies.

Timing/Milestone -- During grading, construction of infrastructure, and construction of each building.

Responsibility for Oversight -- City of Winters; Yolo County Coroner; State Native American Heritage Commission.

Implementation of Mitigation Measure – If other archeological or cultural resources are found, all grading and activity in the immediate area shall cease, the finds shall be left in place, and the project archeologist and the Community Development Department (530) 795-4910 x 114 shall be contacted to assess the find and determine how to proceed.

Responsibility for Implementation – Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Cultural 2 - Should human remains be discovered, no further site disturbance shall occur until the county coroner has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and the remains are recognized to be those of a Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.

Timing/Milestone -- During grading, construction of infrastructure, and construction of each building.

Responsibility for Oversight – City of Winters; Yolo County Coroner; State Native American Heritage Commission.

Implementation of Mitigation Measure – If human remains are found, all grading and activity in the immediate area shall cease, the find shall be left in place, and the applicant shall immediately notify the Yolo County Coroner at (530) 666-8282, the Community Development Department at (530) 795-4910 x114, and the project archeologist to assess the find and determine how to proceed. If the remains are

found to be of Native American descent, the Native American Heritage Commission shall also be notified at (916) 653-4082, pursuant to the terms of the measure.

Responsibility for Implementation – Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Geology 1 -- The applicant shall submit a soils and geotechnical report upon submittal of the initial improvement plans package. The improvement plans shall be signed by the soils engineer for conformance to the geotechnical report prior to approval by the City.

Timing/Milestones – Submittal of initial improvement plans package.

Responsibility for Oversight -- City of Winters

Implementation of Mitigation Measure – This shall be documented on each set of building plans and verified during plan check.

Check-off Date/Initials/Notes –

Mitigation Measure Land Use 1 -- All aspects of the project shall be subject to design review to ensure compatibility with the surrounding area and satisfaction of the Community Design Guidelines and other applicable principles of good community design.

Timing/Milestone – Prior to issuance of a building permit for each phase of construction of the project, the applicant shall submit full architectural renderings, including building elevations and floor plans, for design review and approval.

Responsibility for Oversight – City of Winters

Implementation of Mitigation Measure – Per the terms of the measure.

Responsibility for Implementation – Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Land Use 2 – The proposed project height and parking provisions are subject to approval of a Planned Development Overlay for the subject property.

Timing/Milestone – Prior to issuance of a building permit for each phase of construction of the project.

Responsibility for Oversight – City of Winters

Implementation of Mitigation Measure – Per the terms of the measure.

Responsibility for Implementation – Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Noise 1 -- - The project applicant shall submit a construction noise mitigation plan to the City of Winters for review and approval. The plan shall depict the location of construction equipment and describe how noise would be mitigated through methods such as, but not limited to, locating stationary noise-generating equipment (such as pumps and generators) as far as possible from nearby noise-sensitive receptors. Where practicable, noise-generating equipment will be shielded from nearby noise-sensitive receptors by noise-attenuating buffers such as structures or haul trucks. Onsite noise sources such as heavy equipment located less than 200 feet from noise-sensitive receptors will be equipped with noise-reducing engine housings. Portable acoustic barriers able to attenuate at least 6 dB will be placed around noise-generating equipment located within 200 feet of existing residences. Water tanks and equipment storage, staging, and warm-up areas shall be located as far from noise-sensitive receptors as possible. All noise attenuation measures identified in the plan shall be incorporated into the project.

Timing/Milestone – Prior to approval of improvement plans.

Responsibility for Oversight – City of Winters

Implementation of Mitigation Measure – During grading, construction of infrastructure, and construction of each building.

Responsibility for Implementation -- Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Noise 2 – Construction activities shall adhere to the following noise requirements:

All construction equipment shall utilize noise reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer.

Hours of construction shall comply with those established in Chapter 8.20.100 of the Winters Municipal Code. Those hours are weekdays from 7:00 a.m. through 7:00 p.m. Construction is prohibited on weekends and federal holidays.

Timing/Milestone -- Site improvement and construction

Responsibility for Oversight – City of Winters

Implementation of Mitigation Measure – During grading, construction of infrastructure, and construction of each building.

Responsibility for Implementation -- Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Utilities 1 -- The proposed systems for conveying project sewage, water, and drainage shall be finalized and approved by the City Engineer prior to approval of improvement plans. The project is required to fund and construct off-site improvements necessary to support the development. Such improvements could include, but not be limited to a water well, water lines, sewer lines and storm drainage lines. Should property acquisition or additional CEQA clearance be required for off-site improvements, this will be the responsibility of the developer.

Timing/Milestone – Prior to approval of improvement plans.

Responsibility for Oversight – City of Winters

Implementation of Mitigation Measure – As specified in the measure.

Responsibility for Implementation – Applicant

Check-off Date/Initials/Notes –

Mitigation Measure Utilities 2 -- Building permits shall be issued for each building only after the City Engineer has established that water supply will be available to serve the building.

Timing/Milestone -- Prior to issuance of building permits.

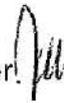
Responsibility for Oversight – City of Winters

Implementation of Mitigation Measure – As specified in the measure.

Responsibility for Implementation – Applicant

Check-off Date/Initials/Notes –


CITY OF
WINTERS
CALIFORNIA
CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Kate Kelly, Contract Planner
SUBJECT: Resolution 2009-13 Authorizing Purchase of Swainson's Hawk Mitigation Credits by the City of Winters for the City's Sport Park at the Chickahominy Creek Conservation Area Project

RECOMMENDATION: Staff recommends that the City Council take the following actions:

1. Receive the Staff Report.
2. Adopt Resolution 2009-13 Authorizing Purchase of Swainson's Hawk Mitigation Credits by the City of Winters for the City's Sport Park at the Chickahominy Creek Conservation Area Project.

BACKGROUND: The City of Winters plans on developing a 22 acre Sports Park at the old City Landfill located at northeast corner of Moody Slough Road and County Road 88, Winters, CA 95694 (Assessor Parcel Number 030-210-07). The Project will provide sports facilities and other recreational amenities.

The City Council considered and adopted a Mitigated Negative Declaration and a Mitigation Monitoring Plan for the Winters Sports Park pursuant to Section 15074 of the California Environmental Quality Act Guidelines on December 18, 2008.

The Mitigated Negative Declaration and Mitigation Monitoring Plan identified and addressed potential impacts to 22 acres Swainson's hawk foraging habitat and requires 22 acres of Swainson's hawk foraging habitat be perpetually preserved via a purchase of fee title preserve lands or a conservation easement.

POLICY ANALYSIS: The City adopted a Citywide Habitat Mitigation Program on May 2, 2006 and revised the Program on December 16, 2008. The Habitat Mitigation Program directs Swainson's hawk mitigation to occur via perpetually protected lands which are located within a 7 mile radius of the City of Winters and are managed by a qualified conservation entity.

In January 2009, the 151.9 acre Chickahominy Creek Conservation Area became

available for Swainson's hawk mitigation. The Chickahominy Creek Conservation Area (APN 040-160-13) is located 4.5+/- miles from the City of Winters and is protected with a perpetual conservation easement which preserves Swainson's hawk foraging habitat. The land is owned by Duane Chamberlain and the Swainson's hawk mitigation credits held by Charles and Kathryn Tyson.

The Chickahominy Creek Conservation Easement is held and managed by the California Waterfowl Association. California Waterfowl Association meets the Habitat Mitigation Program's criteria for a qualified conservation entity. The Swainson's hawk easement on the property has been fully approved by CA Dept. of Fish and Game. The Chickahominy Creek Conservation Area meets the goals, objectives, and requirements of the City's Habitat Mitigation Program for a Swainson's hawk mitigation site.

On March 3, 2009 the City Council received an informational presentation on the Chickahominy Creek Conservation Area.

DISCUSSION:

The current price for Swainson's hawk mitigation credits at the Chickahominy project is \$5,400/acre plus escrow costs. The \$5,400/acre includes the required endowment. Escrow costs are expected to be less than \$500. The mitigation is available on a first come, first serve basis and several other "buyers" are reportedly working on purchases.

For perspective, the in lieu fee in Yolo County for Swainson's hawk is currently \$8,660/acre which includes endowment and escrow costs.

Staff is recommending the City proactively mitigate the Sports Park's impacts to 22 acres of Swainson's hawk foraging habitat so as to facilitate timely, cost effective development of the Project. Staff is requesting authorization and direction via Resolution #2009-13 to purchase the required Swainson's hawk mitigation credits at the Chickahominy Creek Conservation Area in an amount not to exceed \$131,000, and to take any and all steps deemed necessary to complete the mitigation credit transaction. The not to exceed cost of \$131,000 represents the estimated cost plus a 10% contingency.

Should the City not utilize the Chickahominy Creek project then other mitigation acreage would need to be identified and secured with perpetual conservation easements which meet CA Dept. of Fish and Game's approval. The use of in lieu fees could be considered but it would be contrary to the goals and objectives of the adopted mitigation measures and the City's Habitat Mitigation Program.

FISCAL IMPACT: Not to exceed \$131,000 from the Landfill Capital Fund. The Landfill Capital Fund provides for the closure of the Landfill and transition to the Sports Park including required mitigation such as impacts to Swainson's hawk foraging habitat.

ATTACHMENTS:

1. Resolution 2009-13 Authorizing Purchase of Swainson's Hawk Mitigation Credits

by the City of Winters for the City's Sport Park at the Chickahominy Creek Conservation Area Project.

RESOLUTION NO. 2009-13
A RESOLUTION OF THE CITY OF WINTERS AUTHORIZING THE
PURCHASE OF SWAINSON'S HAWK MITIGATION CREDITS AT THE
CHICKAHOMINY CREEK CONSERVATION AREA TO MITIGATE
POTENTIAL IMPACTS TO SWAINSON'S HAWK FORAGING HABITAT BY
THE WINTERS SPORTS PARK
(ASSESSOR PARCEL NUMBER 030-210-07)

a. WHEREAS, the City of Winters (the "City") proposes to construct the Winters Sports Park (the "Project") at the old City Landfill located at northeast corner of Moody Slough Road and County Road 88, Winters, CA 95694 (Assessor Parcel Number 030-210-07) ("Project Site"). The Project will provide sports facilities and other recreational amenities; and

b. WHEREAS, the City Council considered and adopted a Mitigated Negative Declaration and adopted a Mitigation Monitoring Plan for the Winters Sports Park pursuant to Section 15074 of the California Environmental Quality Act Guidelines on December 18, 2008; and

c. WHEREAS, the Mitigated Negative Declaration and Mitigation Monitoring Plan identified and addressed potential impacts to 22 acres Swainson's hawk foraging habitat and requires 22 acres of Swainson's hawk foraging habitat be perpetually preserved via a purchase of fee title preserve lands or a conservation easement; and

d. WHEREAS, the City desires to proactively mitigate the Swainson's hawk impacts so as to facilitate timely development of the Project; and

i. WHEREAS, the funding for the closure of the Landfill and transition to the Project including required mitigation such as impacts to Swainson's hawk foraging habitat is provided by the Landfill Capital Fund; and

j. WHEREAS, the City adopted a Citywide Habitat Mitigation Program on May 2, 2006 and revised the Program on December 16, 2008. The Habitat Mitigation Program directs Swainson's hawk mitigation to occur via perpetually protected lands which are located within a 7 mile radius of the City of Winters and are managed by a qualified conservation entity; and

k. WHEREAS, the Chickahominy Creek Conservation Area (APN 040-160-13) is located 4.5+/- miles from the City of Winters and is protected with a perpetual conservation easement which preserves Swainson's Hawk foraging habitat. The Chickahominy Creek Conservation Easement is held and managed by the California Waterfowl Association which meets the Habitat Mitigation Program's criteria for a qualified conservation entity. The Chickahominy Creek Conservation Area meets the goals, objectives, and requirements of the City's Habitat Mitigation Program for a Swainson's hawk mitigation site;

NOW THEREFORE, the City Council authorizes and directs the City Manager to purchase the required Swainson's hawk mitigation credits at the Chickahominy Creek Conservation Area in an amount not to exceed \$131,000.00 and to take any and all steps deemed necessary to complete the mitigation credit transaction.

Passed and adopted at a regular meeting of the City Council held on _____, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers

DATE : April 7, 2009

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

FROM: Nanci G. Mills, Director of Administrative Services/City Clerk *Nanci*

SUBJECT: Planning Commission Term Expirations (4)

RECOMMENDATION:

Staff respectfully recommends that the City Council:

1. Authorize the City Clerk to advertise for Planning Commissioner's
2. Authorize City Clerk to send letters of interest to commissioner's whose terms are expiring.
3. Select two Council Members to serve on the Interview and Selection Committee and come back to Council with recommendation.

BACKGROUND:

Effective July 1, 2009, Planning Commission Chairman Al Vallecillo, and Planning Commissioner's Joe Tramontana will have completed their four year term. Commissioner's Pierre Neu and Wade Cowan, completed the remainder of their term when appointed to fill the vacancies left by Commissioner's Joe McCabe (September 2005) and Cecilia Aguiar-Curry (June 2006).

The City Clerk's office will place a notice in the Winters Express to be published on April 16th and April 23rd to advise the public of these openings.

Following the advertising for the Planning Commission, the Interview and Selection Committee will review the applications submitted, come back to the City Council at a meeting in June with a recommendation. I have listed the interview committee for the last several appointments for your information:

- 2005 - Council Members Stone and Anderson
- 2006 - Council Members Fridae and Stone (Stone stepped down and Dan Martinez was appointed)
- 2007 - Council Members Fridae and Martin

FISCAL IMPACT:

None



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Dawn Van Dyke, Management Analyst 
SUBJECT: RFP To Prepare Cultural Resources Studies for the Downtown Streetscape Improvement Project Phase II.

RECOMMENDATION: That the City Council authorize staff to issue an RFP for consultant services to prepare Cultural Resources Studies for the Downtown Streetscape Improvement Project Phase II.

BACKGROUND: In March 2008, the City of Winters received a Community Design grant for \$495,000 from the Sacramento Area Council of Governments (SACOG) to construct Phase II of the Downtown Streetscape Improvement Project. This project will complete the improvements that began at the intersection of Railroad Avenue and Main Street in the fall of 2008 and have resulted in an improved intersection with bulb-outs and diagonal parking on Railroad Avenue.

Phase II will complete the bulb-out improvements at the intersection of Main and First streets, as well as sidewalk improvements on Railroad Avenue and Main Street, and a mid-block paseo on Main Street.

Staff is in the process of requesting Federal funding allocation from the California Transportation Commission, including completion of CEQA (California Environmental Quality Act) and NEPA (National Environmental Policy Act) studies. NEPA is required anytime Federal funding is utilized. As a result of that process, Caltrans has issued a requirement to perform Cultural Resources Studies on the project, due to the fact that it is located in an area that has been designated in the National Register of Historic Places. This study is required in order to ensure that none of the work would impact the historic structures adjacent to the project area.

FISCAL IMPACT: Unknown at this time, estimates range from \$5,000-\$10,000.

CITY OF WINTERS, CA
COMMUNITY DEVELOPMENT AGENCY
REQUEST FOR PROPOSALS
TO PREPARE CULTURAL RESOURCES STUDIES FOR THE DOWNTOWN
STREETSCAPE IMPROVEMENT PROJECT PHASE II.

Including the following:

- Area of Potential Effects (APE) Map
- Historic Property Survey Report (HPSR)
- Archaeological Survey Report (ASR)
- Finding of Effect Report
 - If the determination of the Finding of Effect Report is that the project has a potential to effect, then a 4(f) document will be required.

Release date: April 8, 2009

Proposals due: April 29, 2009, 5 p.m.

Anticipated award date: May 5, 2009

Contact person:

Dawn Van Dyke
Management Analyst
City of Winters
318 First Street, Winters, CA 95694

Proposals to be received no later than 5 p.m. on Wednesday, April 29, 2009, at the address listed above.

I. INTRODUCTION:

The City of Winters has received a grant from the Sacramento Area Council of Governments (SACOG) for the construction of pedestrian and bicycle facilities in the Downtown Core of the city of Winters. The project is located in an area that is designated in the National Register of Historic Places #96001536. Under the National Environmental Policy Act (NEPA), the following studies must be performed prior to allocation of Federal Funding: APE Map, Historic Property Survey Report, ASR including record search, pedestrian survey and report, and Finding of Effects Report. Should a Finding of Effects be determined, a 4(f) document will be required.

The City is seeking consultant services to 1) prepare the APE map, Historic Property Survey Report, ASR including record search, pedestrian survey and report, and a Finding of Effects Report with a possible 4(f) document.

Project Description:

In Winters, the project will make improvements to the Downtown Core entirely within the existing improved roadway areas. The project improvements will include pedestrian and aesthetic improvements on the west side of Railroad Avenue from Abbey to Main, the entire intersection of Main Street and First Street, and a mid-block crossing at the paseo on Main Street with intermediate lighting, landscaping and concrete repairs in the same block. At each side the project will add expanded sidewalks with aesthetic barriers along the edges of roadway, add landscaping and irrigation in new planters, enhance pedestrian crossing, install new street furniture, add to the City storm drainage facilities as needed for the pedestrian improvements and provide minimal upgrading/infill of lighting systems where needed.

No right of way acquisition is required, and no significant staging, borrow or disposal sites will be required for performance of the subject work.

II. SCOPE OF WORK:

- Historic Property Survey Report
- ASR including record search, pedestrian survey & report
- Finding of Effects Report, with possible 4(f) document
- APE map

III. PROPOSAL FORMAT:

A qualifying proposal must address all of the points in the Scope of Work in the order shown below:

- A. Brief Description of the firm, contact person and telephone number
- B. Resume(s) of staff member(s) who will work on the project including all elements listed the Scope of Work.
- C. Description of experience with archeological and cultural resources studies/surveys.
- D. Examples of surveys/studies prepared by staff members who will perform the work
- E. Three references from those who have knowledge of the firm and/or staff members work.
- F. Proposed timeline for completion of surveys/studies.
- G. Proposed cost for completion of all surveys/studies included in the above listed Scope of Work.

IV. PROPOSAL SUBMITTAL:

Three copies of the proposal shall be received no later than 5 p.m. on Wednesday, April 29, 2009.

Send proposals to:

Dawn Van Dyke
Management Analyst
City of Winters
318 First Street
Winters, CA 95694
(530) 795-4910 ext. 108
E-mail: dawn.vandyke@cityofwinters.org

- All proposals shall be submitted in a sealed envelope clearly marked with the title of RFP and closing date and time.
- Late proposals shall not be accepted.
- All proposals, whether selected or rejected, shall become the property of the City of Winters CDA.
- Cost of preparation shall be borne by the proposer.
- Proposals shall be signed by an authorized employee in order to receive consideration.
- The City of Winters will not be responsible for proposals delivered to a person/location other than specified therein.

V. AWARD CRITERIA AND SELECTION PROCESS

- The contract will be awarded to the lowest qualified proposer.
- The lowest qualified proposal shall be recommended to the CDA for approval.
- The CDA reserves the right to reject any or all proposals, to waive minor irregularities in said proposals, or to negotiate minor deviations with the successful firm.
- The successful consultant will be required to enter into a Consultant Services Agreement with the CDA. A template agreement is provided as Attachment A.

VI. CONFLICT OF INTEREST

Consultant warrants and covenants that no official or employee of the City or the CDA nor any business entity in which an official of the City or CDA has an interest, has been employed or retained to solicit or assist in the procuring of the resulting contract, nor that any such person will be employed in the performance of such contract without immediate divulgence of such fact to the City or the CDA.

VII. ASSIGNMENT

Any contract resulting from this bid and any amendments or supplements thereto shall not be assignable by the successful bidder either voluntarily or by operation of law, without the written approval of the CDA, and shall not become an asset in any bankruptcy, receivership or guardianship proceedings.

VIII. INQUIRY

Direct all inquiries regarding the RFP to:

Dawn Van Dyke
Management Analyst
City of Winters
318 First Street
Winters, CA 95694
(530) 795-4910 ext. 108
E-mail: dawn.vandyke@cityofwinters.org

MAYOR:
Woody Fridae
MAYOR PRO TEM:
Michael Martin
COUNCIL:
Tom Stone
Harold Anderson
Cecilia Curry

ATTACHMENT "A"



MAYOR EMERITUS:
J. Robert Chapman
TREASURER:
Michael J. Sebastian
CITY CLERK:
Nanci G. Mills
CITY MANAGER:
John W. Donlevy, Jr.

**CONSULTANT SERVICES AGREEMENT
AGREEMENT No. _____**

THIS AGREEMENT is made at Winters, California, as of _____, by and between the City of Winters Community Development Agency ("the CDA") and _____ ("CONSULTANT"), who agree as follows:

1. **SERVICES.** Subject to the terms and conditions set forth in this Agreement, CONSULTANTS shall provide to the CDA the Services described in Exhibit "A", which is the CONSULTANT'S Proposal dated _____. Consultant shall provide said services at the time, place, and in the manner specified by the _____ and Exhibit "A".
2. **PAYMENT.** The Consultant shall be paid for the actual costs, for all time and materials expended, in accordance with the Fee Schedule included in Exhibit "B", but in no event shall total compensation exceed dollars (\$ _____), without the CDA's prior written approval. CDA shall pay consultant for services rendered pursuant to the Agreement and described in Exhibit "A".
3. **FACILITIES AND EQUIPMENT.** CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
4. **GENERAL PROVISIONS.** The general provisions set forth in Exhibit "C" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control only insofar as it is inconsistent with general Provisions.
5. **EXHIBITS.** All exhibits referred to therein are attached hereto and are by this reference incorporated herein.

EXECUTED as of day first above-stated.

CITY OF WINTERS
COMMUNITY DEVELOPMENT AGENCY
a municipal corporation

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

CONSULTANT

By: _____

ATTEST:

By: _____
Nanci G. Mills, CDA Secretary

GENERAL PROVISIONS

(1) INDEPENDENT CONTRACTOR. At all times during the term of this Agreement, CONSULTANT shall be an independent contractor and shall not be an employee of City of Winters ("CITY") nor the CDA. CDA shall have the right to control CONSULTANT only insofar as the results of CONSULTANT'S services rendered pursuant to this Agreement; however, CDA shall not have the right to control the means by which CONSULTANT accomplishes services rendered pursuant to this Agreement.

(2) LICENSES; PERMITS; ETC. CONSULTANT represents and warrants to CDA that CONSULTANT has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONSULTANT to practice CONSULTANT'S profession. CONSULTANT represents and warrants to CDA that CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice his profession.

(3) TIME. CONSULTANT shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT'S obligations pursuant to this Agreement.

(4) INSURANCE.

(a) WORKER'S COMPENSATION. During the term of this Agreement, CONSULTANT shall fully comply with the terms of the law of California concerning worker's compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against any liability CONSULTANT may have for worker's compensation.

(b) GENERAL LIABILITY AND AUTOMOBILE INSURANCE. CONSULTANT shall obtain at its sole cost and keep in full force and effect during the term of this agreement broad form property damage, personal injury, automobile, employer, and comprehensive form liability insurance in the amount of \$2,000,000 per occurrence; provided (1) that the CITY, the CDA, their officers, agents, employees and volunteers shall be named as additional insured under the policy; and (2) that the policy shall stipulate that this insurance will operate as primary insurance; and that (3) no other insurance effected by the CDA or other names insured will be called upon to cover a loss covered there under; and (4) insurance shall be provided by an, at least, A-7 rated company.

(c) PROFESSIONAL LIABILITY INSURANCE. During the term of this Agreement, CONSULTANT shall maintain an Errors and Omissions Insurance policy in the amount of not less than \$1,000,000.

(d) CERTIFICATES OF INSURANCE. CONSULTANT shall file with CDA'S _____ upon the execution of this agreement, certificates of insurance which shall provide that no cancellation, major change in coverage, expiration, or non-renewal will be made during the term of this agreement, without thirty (30) days written notice to the _____ prior to the effective date of such cancellation, or change in coverage.

CONSULTANT shall file with the _____ concurrent with the execution of this Agreement, the City's standard endorsement form (attached hereto) providing for each of the above requirements.

(5) CONSULTANT NOT AGENT. Except as CDA may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of CDA in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement, to bind CDA to any obligation whatsoever.

(6) ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

(7) PERSONNEL. CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. In the event that CDA, at its sole discretion, at anytime during the term of this Agreement, desires the removal of any person or persons assigned by CONSULTANT to perform services pursuant to this Agreement, CONSULTANT shall remove any such person immediately upon receiving notice from CDA of the desire of CDA for the removal of such person or persons.

(8) STANDARD OF PERFORMANCE. CONSULTANT shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged in the geographical area in which CONSULTANT practices his profession. CDA pursuant to this Agreement shall be prepared in a substantial, first-class, and workmanlike manner, and conform to the standards of quality normally observed by a person practicing in CONSULTANT'S profession. CDA shall be the sole judge as to whether the product of the CONSULTANT is satisfactory.

(9) CANCELLATION OF AGREEMENT. This Agreement may be canceled at any time by CDA for its convenience upon written notification to CONSULTANT. CONSULTANT shall be entitled to receive full payment for all services performed and all costs incurred to the date of receipt of written notice to cease work on the project. CONSULTANT shall be entitled to no further compensation for work performed after the date of receipt of written notice to cease work. All completed and uncompleted products up to the date of receipt of written notice to cease work shall become the property of the CDA.

(10) PRODUCTS OF CONSULTING. All products of the CONSULTANT resulting from this Agreement shall be the property of the CDA.

(11) INDEMNIFY AND HOLD HARMLESS. CONSULTANT shall indemnify, hold harmless the CITY, the CDA, their officers, agents and employees from all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property to the extent arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by the CONSULTANT or any person directly or indirectly employed by or acting as agent for CONSULTANT in the performance of this Agreement, including the concurrent or successive passive negligence of the CITY, the CDA, their officers, agents or employees.

It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

Acceptance of insurance certificates and endorsements required under this Agreement does

not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

(12) PROHIBITED INTERESTS. No employee of the CITY or the CDA shall have any direct financial interest in this agreement. This agreement shall be voidable at the option of the CDA if this provision is violated.

(13) LOCAL EMPLOYMENT POLICY. The City of Winters desires wherever possible, to hire qualified local residents to work on city projects. Local resident is defined as a person who resides in Yolo County.

The City encourages an active affirmative action program on the part of its contractors, consultants, and developers.

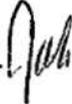
When local projects require, subcontractors, contractors, consultants, and developers will solicit proposals from qualified local firms where possible.

As a way of responding to the provisions of the Davis-Bacon Act and this program, contractor, consultants, and developers will be asked to provide no more frequently than monthly, a report which lists the employee's residence, and ethnic origin.

(14) CONSULTANT NOT PUBLIC OFFICIAL. CONSULTANT is not a "public official" for purposes of Government Code §87200 et seq. CONSULTANT conducts research and arrives at conclusions with respect to his or her rendition of information, advise, recommendation or counsel independent of the control and direction of the CITY or any CITY official, other than normal contract monitoring. In addition, CONSULTANT possesses no authority with respect to any CITY or CDA decision beyond the rendition of information, advice, recommendation or counsel.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Dan Maguire, Housing Programs Manager
SUBJECT: Update on Winters Farmers Market

RECOMMENDATION:

Staff recommends the Council receive the staff report to provide an update on progress towards the development of a Winters Farmers Market.

BACKGROUND:

In the first quarter of 2008, the Winters Healthcare Foundation (WHF), in collaboration with the Davis Farmers Market Association (DFMA) and the City of Winters, successfully applied for a grant from the TIDES Foundation under the Networking for Community Health Program. The approximately one hundred sixty eight thousand dollar (\$168,000) grant establishes start up funding for the following three primary components:

- To establish a community garden that allows residents an opportunity to grow their own food, learn about agricultural processes and advance economically through the sales of value added products;
- To expand the current Sonrisa Vida Sana Promotora group's outreach capabilities to include a wider audience and more comprehensive health education;
- To establish a successful farmers market that reflects the unique character of the Winters community, provides access to locally grown fresh food, and benefits farmers, customers, and partners economically.

Staffs from the City of Winters, the DFMA, the Winters Chamber of Commerce, and the WHF have been working together on the planning for the Winters Farmers Market. The Winters Farmers Market is scheduled to operate every Sunday, May through October, beginning on May 3, 2009. Hours of operation will be from 8:00 a.m. to 1:00 p.m. There will be a total of 20 growers, 5 food vendors, and a undetermined number of community groups participating. Initially, Randii MacNear, Market Manager for the Davis Farmers Market, will manage the market. Ana Kormos, Director of Health Education and Outreach for the Winters Healthcare Foundation will assist Randii in

managing the Market. Randii will also be providing the training of Ana to take over the Market Manager responsibilities for the Winters Farmers Market.

Included with this report are draft regulatory documents used by the DFMA and the City of Winters to govern their Farmers Market activity. Among the other documents provided in this agenda packet is the Use and License Agreement for the Winters Farmers Market, which will be brought back to City Council via a Resolution to adopt same at the April 21, 2009 City Council/Community Development Agency meeting.

FISCAL IMPACT:

None by this action.

ATTACHMENTS:

Market Flyer

Map of proposed Farmers Market location

Farmers Market Development Proposal

Membership Regulations

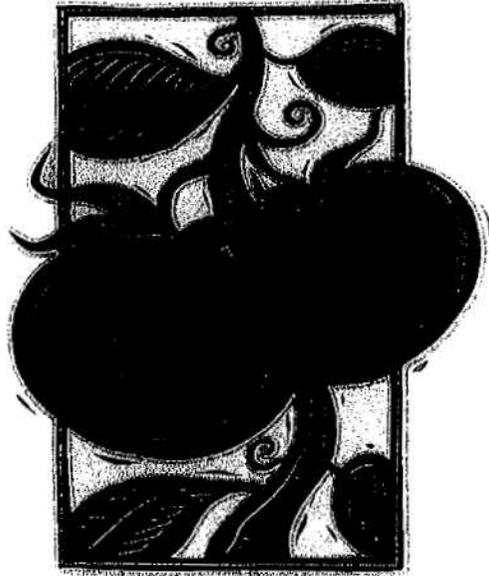
Market Application

Market Policy for Socio-Political/Community Groups

Davis Farmers Market Association By-Laws

Use and License Agreement for Winters Farmers Market

WINTERS FARMERS MARKET



SUNDAYS

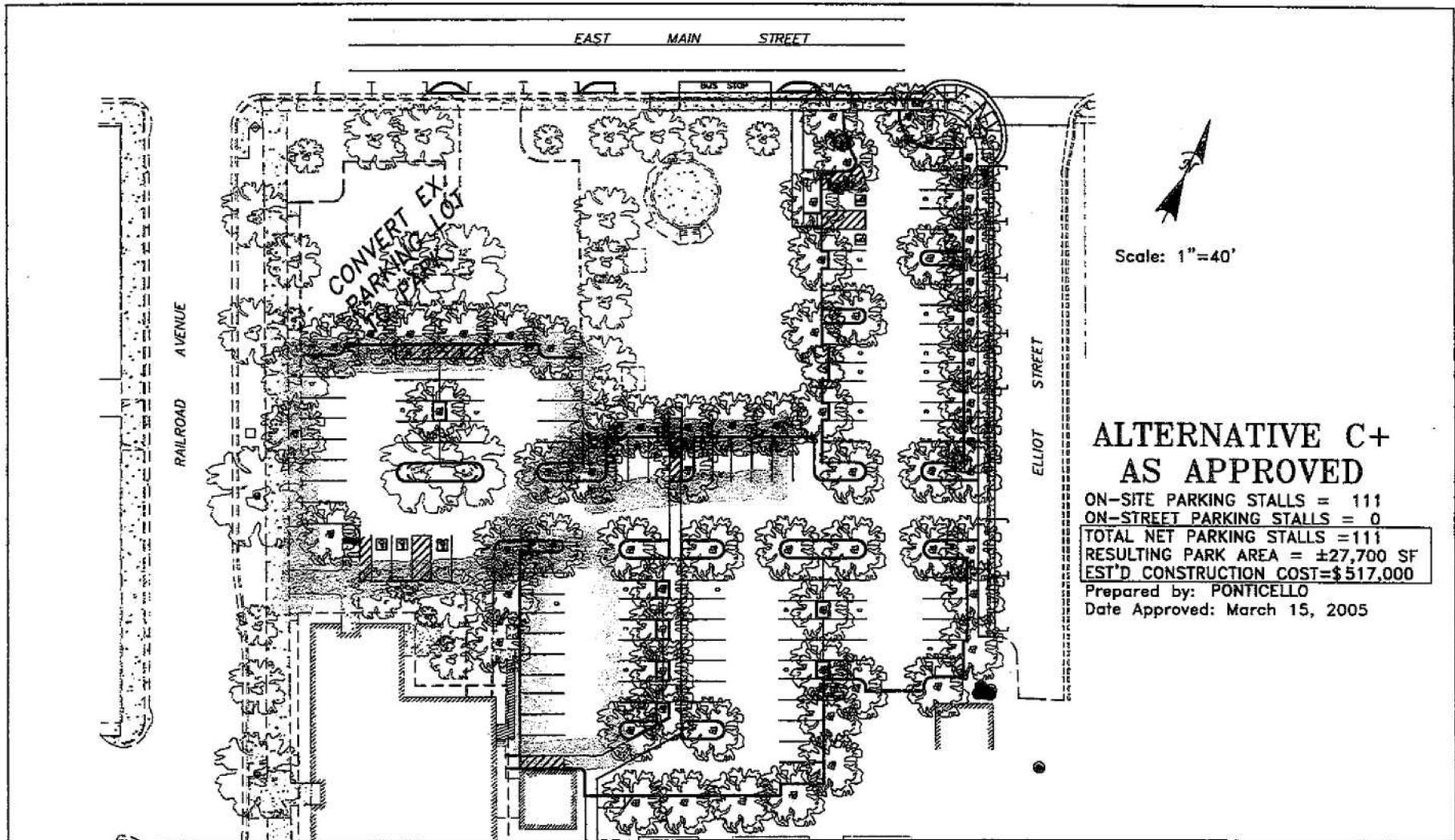
8:00am – 1:00pm

MAY – OCTOBER

Rotary Park, Downtown Winters

Opening Sunday, May 3rd, 2009

For More Information Contact Ana at: sonrisavidasana@gmail.com



Scale: 1"=40'

**ALTERNATIVE C+
AS APPROVED**

ON-SITE PARKING STALLS = 111
 ON-STREET PARKING STALLS = 0
 TOTAL NET PARKING STALLS = 111
 RESULTING PARK AREA = ±27,700 SF
 EST'D CONSTRUCTION COST=\$517,000

Prepared by: PONTICELLO
 Date Approved: March 15, 2005



TOTAL NET PARKING STALLS = 111 STALLS
 ESTIMATED CONSTRUCTION COST=\$517,000
 Prepared by: PONTICELLO ENTERPRISES
 Date Approved: March 15, 2005

CITY OF WINTERS
NEW PARKING LOT AT ROTARY PARK, PROJ. NO. 04-05
ALTERNATIVE C+ AS APPROVED

SHEET
 OF

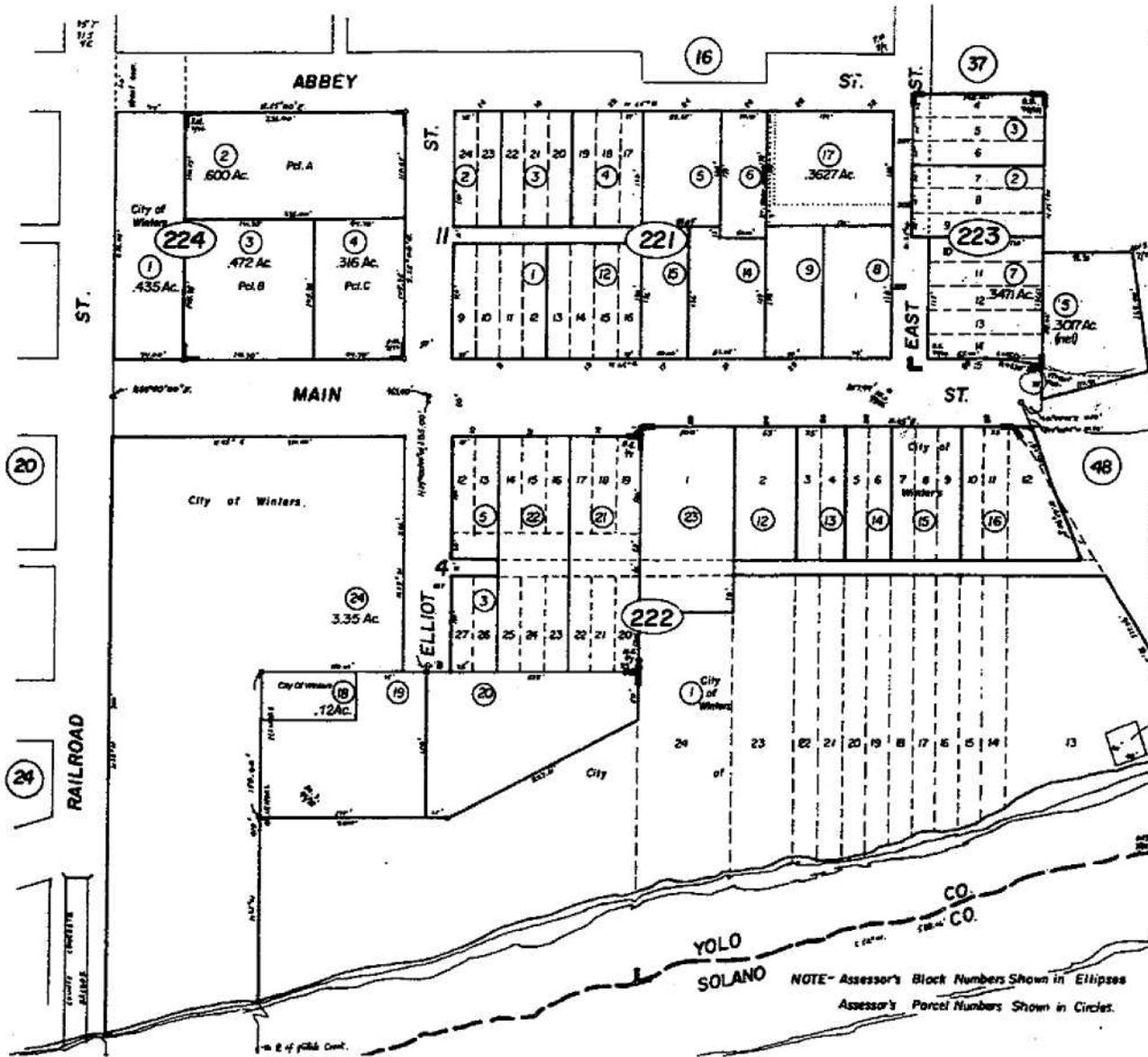
Growers

Food Vendors

Community Groups

CAUTION - These maps ARE NOT to be used for legal description.

3-22



- D.B. Bk. S, Pg. 150 - City of Winters.
- D.B. Bk. 49, Pg. 119 - Emilie Kahns Addition to Winters.
- M.B. Bk. 1, Pg. 4 - S.P.R.R. Subd. of Block. 4.
- M.B. Bk. 2, Pg. 5 - M.O. Wyatt's Add.
- M.B. S. Bk. 3 Pg. 66 - M.O. Wyatt's Add.
- M.B. S. Bk. 2, Pg. 51 - Town of Winters.
- P.M. Bk. 5, Pg. 4 - Epp & Audra D. Norsworthy, \$2944.
- M.B. S. Bk. 7, Pg. 70 - J.A. Boyce
- P.M. Bk. 7, Pg. 72 - Pcl. Map 3319 for Elliot Landes
- M.S. Bk. 99, Pg. 22 - City of Winters.

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40	11.75

NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles.

City of Winters
Assessor's Map Bk. 3 Pg. 22
County of Yolo, Calif.

05/05

A Proposal to Develop and Operate the Winters Certified Farmers' Markets by the Davis Farmers Market Association (DFMA)

Goals:

Through the implementation of this proposal, DFMA seeks to accomplish six goals:

- To operate a Certified Farmers' Market in Winters (starting May 2009) that is in compliance with all state and local laws concerning direct agricultural marketing and the sale of fresh and processed food items.
- To work in conjunction with the City of Winters and Winters Health Care to plan, develop, launch and maintain the Winters Certified Farmers' Market in a manner that complements the image of Winters and is in accordance with the goals of the City of Winters and the Winters Health Care 'Networking for Community Health' Grant.
- To provide a wide variety of California-grown, freshly-picked, seasonal fruits, vegetables, nuts, greens – including a number of certified organic products – for Winters and all consumers.
- To provide an economically viable marketplace for select California Agricultural Producers including developing new local direct marketing producers and other specialty food producers and local Winter's restaurants and food purveyors.
- To use the Certified Farmers' Market to attract additional consumers to the downtown Winters area, in support of the permanently based businesses and surrounding community.
- To build a reputation for the Winters Certified Farmers' Market — as a premier community based inclusive Certified Farmers' Market that meets the needs of the diverse Winters community and surrounding areas.

Background on Certified Farmers' Markets in California:

California law allows direct sales by producers to consumers only at the point of production or at *Certified* Farmers' Markets. Certified Farmers' Markets are unique to California. Since 1977 California law has required that each Farmers' Market be certified by the county agricultural commissioner in the county in which the market will operate. Only nonprofit organizations such as DFMA, local governments, or certified producers may operate a Certified Farmers' Market.

Without the Certified Farmers' Markets, agricultural producers would only be able to sell their commodities at the point of production, effectively cutting off the producers of rural

California from the consumers of urban California. DFMA's Certified Farmers' Markets give California consumers in Yolo County direct access to farm-fresh products from the very farmers who grew, nurtured and harvested the crops.

DFMA only operates *Certified* Farmers' Markets. DFMA's Rules and Regulations for Certified Farmers' Markets (see attachment X) were written to accommodate the California Agricultural Direct Marketing Statutes and the Cal Codes for Public Health and Safety. These rules and regulations govern each of DFMA's markets to ensure that every producer complies with state and local laws. A agreed upon specific set of Rules and Regulations would be promulgated for the Winters Farmers Market.

Background on the Davis Farmers Market Association

The Davis Farmers' Market Association is a not-for-profit corporation dedicated to establishing and maintaining successful Certified Farmers' Markets in Yolo County. DFMA was founded in 1976 and was one of the first Certified Farmers Market established in California; there are now over 530 CFM's in California. DFMA's mission is to operate community supported certified farmers markets that sustain a diversity of California farmers and food producers, support local businesses, build community relationships and educate consumers about agriculture, food and nutrition. Our markets give farmers and other agricultural producers direct access to consumers; and give consumers access to fresh, locally grown produce; and serve as sites for community gatherings.

DFMA coordinates with the California farmers who bring their products to market, the California Department of Food and Agriculture that enforces the Direct Marketing Statutes as set forth by the State Legislature, County Agricultural Commissioners who approve all Farmers' Market locations and certify California farmers, local county health departments at each market site, and the markets' sponsors. By acting as a liaison among all these actors, DFMA is able to operate successful Certified Farmers' Markets. However, this is the only one small portion of what DFMA does.

DFMA also works to forge and sustain a link between California farmers and California's communities. At each Farmers' Market, DFMA works to create a sense of neighborhood by respecting local community dynamics and creating a family-oriented environment.

In addition, DFMA works to educate the community about healthy eating and sustainable agriculture. DFMA's food education efforts encompass nutrition, preparation, storage,

food safety, production, and local food systems. In local elementary schools DFMA has incorporated the nationally recognized 5-A-Day Nutrition Curriculum and the Farm to School Curriculum, which emphasizes good nutrition and healthy eating habits for life.

DFMA's success is apparent in the year round viable markets we have built in our 31 years of operation. DFMA presently operated three markets, two in Central Park Davis, and one at the University of California Davis.

DFMA is governed by a eleven-member Board of Directors. Eight of the eleven members are producers, several in Yolo County. Two are community representatives and one is a non-agricultural seller. We will be appointing a Winters CFM representative to be occupy an advisory position on the 2009 Board of Directors.

DFMA is led by a professional staff with extensive experience in California's Certified Farmers' Markets. DFMA's Market Manager has been in that position for 26 years and has built the markets from three part time farmers to its current stature of today servicing over 140 sellers year round. DFMA will train a dedicated market manager to serve as the Market Manager for the Winters Certified Farmers' Market. This individual will serve as the liaison between the grant recipient organization, the market advisory board and the producers who sell in the market, the public officials who certify and inspect the Farmers' Markets, and DFMA. While this Market Manager will lead the efforts to maintain a successful Certified Farmers' Market in Winters, he or she will be supported by the DFMA full staff of managers, administrators and marketing experts.

DFMA is proud to partner with the Winters Health Care and the City of Winters to bring the new Winters Certified Farmers Market to Yolo County.

MEMBERSHIP REGULATIONS

SECTION A: GENERAL MEMBERSHIP INFORMATION

Membership is open to all approved sellers (see Rules and Regulations: Definition of Terms; page 4.). An approved seller shall be considered a member upon approval of the DFMA Governing Board and receipt of annual membership dues. Dues are \$40 for initial membership and \$25 for renewal membership per calendar year. A seller does not have to be a member in order to sell at the Market, although membership is encouraged.

SECTION B: MEMBERSHIP BENEFITS AND RESPONSIBILITIES

1. Members of the Winters Farmers Market shall receive the following benefits over non-members:
 - a. a reduced stall fee rate
 - b. stall space priority
 - c. receipt of mailers: Board meeting minutes and announcements
 - d. participation and a vote in all Market elections
 - e. eligibility to participate in referenda
 - f. eligibility to participate in and attend annual membership meetings
 - g. eligibility to run for election to the Board of Directors.

SECTION C: APPLICATION FOR MEMBERSHIP

Any Market approved seller may apply for membership by filling out a membership application and submitting it along with membership dues. All applications for membership shall be approved by the Governing Board.

SECTION D: MEMBERSHIP STATUS

1. Membership shall be held either by an (individual status) approved seller or by entities comprised of more than one approved seller (entity status). A member entity must be comprised of more than one approved seller each of whom is joined by either marital status, partnership, corporate status, family farm status, co-op, joint venture or other legal status. A member entity shall designate an active member participant. An active participant shall be one of the approved sellers comprising the member entity.
2. Any change in the active participant designation, the legal form of the entity or the list of approved sellers must be approved by the Governing Body. A request for such approval shall be made by submitting a new membership application to the Governing Body. Submittal of a new application for membership due to a change of active participant designation, the list of approved sellers comprising the entity or legal form of the entity shall not affect the entity's seniority points unless it does not meet the approved criteria outlined in the By-Laws Section III, Section 1, F.
3. The DFMA Governing Body may terminate a membership in the for serious and repeated violation of the Winters Market Rules.

SECTION E: PRIORITY STALL SPACE ALLOCATION

1. Members shall have priority for stall space allocation based on of the following factors as determined by the market manager and Governing Body: number of years of selling at the market; consumer demand; record of attendance, market commodity mix and compliance with the Winters Rules and Regulations.
2. Members who are Second Certificate sellers only, shall be allocated stall spaces only after primary certificate member sellers are accommodated and on a case by case basis at the discretion of the Market Manager and the Governing Body.
3. Whenever it is necessary to determine priority between individual sellers, those seller's priority may be determined utilizing the following factors from the most current data.

DOUBLE WEIGHTED FACTORS:

1.) Consumer demand:

Based on volume sales and comparisons of like commodities- 1-5 rating:

\$ 0-50:	1
\$ 51-150:	2
\$ 151-300:	3
\$ 301-500:	4
\$ 501 and up:	5

2.) Market commodity mix/commodity itself:

non-compete commodity:	5
some-compete commodity:	3
saturated commodity:	1

3.) Local Producer: farm located in surrounding counties of the market

SINGLE WEIGHTED FACTORS:

1.) Years of service at the market:

10-20 years	=	5
5-9 years	=	3
new to 4 years	=	1

2.) Record of attendance (percentage calculation)

X= $\frac{\text{number of times you sold}}{\text{number of times possible to sell}}$

if X	= from 1 to 30%	=1
	= from 30 to 60%	=3
	= from 60 to 100%	=5

2. Accrual of Priority Stall Space Allocation Privileges:
Each member seller may be ranked based on a weighted average of factors as outlined in #1 above. This ranking will determine the member's priority stall space allocation privileges in the Market.

3. **Retention of Priority Stall Space Allocation Privileges:**
Retention of a member's priority stall space allocation privilege is dependent on the required timely payment of annual Market membership dues. Failure to pay consecutive annual membership dues in a timely manner as outlined in the By-Laws shall result in the loss of a member's priority stall space allocation privileges.
4. **Loss of Priority Stall Space Allocation Privileges:**
Suspension or revocation of a county or state permit that allows the seller to sell products at the Winters Farmers Market shall result in that member's loss of all priority stall space allocation privileges. Any seller who has lost all priority stall space allocation privileges must reapply to sell at the Winters Farmers Market.

Suspension or revocation of a county or state permit that allows the seller to sell products at the Winters Farmers market may result in the revocation of selling privileges subject to a hearing and determination by the Governing Body.

MEMBERSHIP APPLICATION

1. Applying for membership as: (check one)

Individual status: _____ Entity status: _____
(IF INDIVIDUAL STATUS, SKIP TO # 3)

2. Entity information:

a.) Entity structure: (as in partnership, marriage, co-op, joint venture, etc.)

b.) Name of entity: _____

c.) Names of approved sellers comprising the entity:

d.) Name of entity's designated "active participant":

3. Business/Farm Name: _____

4. Mailing Address: _____

5. Phone: _____

6. Check one: Initial membership? _____ **Renewal?** _____

7. Have you sold as a non-member at the Market? _____ **How long?** _____

Signed: _____ **Date:** _____

Approved by: _____ **Date:** _____

WINTERS FARMERS MARKET

APPLICATION INFORMATION

Procedure to become an approved seller:

1. Read the Winters Farmers Market Rules.
2. Completely fill out the application form.
3. Return the completed form along with photocopies of appropriate permits and licenses by mail to:

Winters Farmers Market
P.O. Box 1813
Davis, CA 95617
530-756-1695 FAX 530- 756-1858
www.wintersfarmersmarket.org

or in person at the Market.

4. When received, your complete application will be submitted to the Governing Board for approval.
5. You will be notified of the decision by Market Management.
6. If your application is approved, you should contact the Market Manager to arrange to sell at the Market.

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RESERVATIONS:

Advance stall space reservations are required for the Market. If a seller reserves a space and fails to either cancel at least 36 hours previous or appear to do business on the Market Day, a fine equivalent to the minimum stall fee shall be assessed to the seller.

GENERAL MARKET INFORMATION:

HOURS AND LOCATION: Markets are open May thru October, rain or shine.

Market Location: Rotary Park

Market Hours:
Sundays: 8 am-1 pm

APPROPRIATE LICENSES AND PERMITS:

Agricultural Sellers -

- Certified Producers Certificate (County Ag)
- Non-Certified Agricultural Producers (County Health Dept. and County Ag)
- Avocado Inspection Certification/Avocado Inspection Permit (County Ag)
- Nursery Stock License (State CDFA Ag)
- Apiary Registration (County Ag)
- Organic: Registration and/or Certification
- Cut Flowers/Gourds and other non-edible Ag Products: Sellers Permit (*)
- Wine: Alcoholic Beverage Control Permit #79 (**)
- Product Liability Insurance-processed non-certifiable agricultural products and processed foods.

Non-Agricultural Sellers-

- Ocean Fish: Fish and Game Licenses, Boat Registration, Commercial Permits, Dock Landing Receipts, City of Davis Business License.
- Prepared Foods/Processed: County Health Dept. Permit, Product Liability Insurance, City of Davis Business License.
- Crafts: State Board of Equalization Seller's Permit (*), City of Winters Business License.

LOCAL LICENSING AGENTS:

Yolo Co. Ag Commissioner
70 Cottonwood Street
Woodland, CA 95695
(530) 666-8140

Yolo Co. Dept. of Health
20 Cottonwood Street
Woodland, CA 95695
(530) 666-8646

City of Winters
318 1st. Street..
Winters, CA 95694
(530) 795-4910

(*) State Board of Equalization
9823 Old Winery Place
Sacramento, CA 95827
(916) 227-6700

Dept. of Fish & Game
3211 S Street
Sacramento, CA 95816
(916) 227-2233

(**)Wine: CA
Alcoholic Beverage
Control-Permit 79
www.abc.ca.gov

WINTERS FARMERS MARKET

RULES

I. STATEMENT OF INTENT

NATURE OF THE MARKET: The Winters Farmers Market ("Market") is a diversified Market offering agricultural (both certifiable and non-certifiable) and non-agricultural goods for sale.

The Market is a Certified Farmers Market and is operated in accordance with regulations established in the California Code of Regulations, Title 3, section 1392 *et seq.* on Direct Marketing. See also Cal. Food & Ag. Code §§ 47000 *et seq.* and <http://www.cdfa.ca.gov/is/fveqc/cfmprogram.htm>.

The Market is certified by the County Agricultural Commissioner as a direct marketing outlet for producers of certified and non-certified agricultural products. These producers may sell their agricultural products directly to consumers without meeting the usual size, standard pack and container requirements for such products except in the case of eggs and pre-packaged items. However, all produce must meet minimum quality standards.

The non-agricultural goods add variety and enhance the festive ambiance of the Market. The same producer-to-consumer philosophy applies for all items sold at the Market, including non-agricultural items.

The resale of all products is prohibited except as provided in these Rules; Section IV., 4, Rules and Regulations for Non-Profit Organizations and Community Information Groups.

MANAGEMENT: The Winters Farmers Market is managed, operated and controlled by the Davis Farmers Market Association, Inc. ("DFMA) and in collaboration with the Winters Farmers Market Advisory Committee. The Winters Farmers Market is governed by the Davis Farmers Market Board of Directors ("Governing Board"), its Executive Director, market managers, and all other designated agents and shall implement and enforce all rules and regulations pertaining to the operation of the in a fair and equitable manner. Any approved seller or applicant aggrieved by the action of the Market Manager or other agent can appeal to the Governing Board whose decision shall be final.

The Winters Farmers Market Advisory Committee is responsible for advising the Governing Body on issues relevant to the Market, and recommending policies and regulations that will ensure that the Market truly reflects the character and constituencies of the Winters community.

Winters Farmers Market Association Membership Regulations are separate from these Market Rules. Membership regulations, information and membership application forms can be obtained from the Market Manager or the Winters/Davis Farmers Market office.

CURRENT STALL FEE STRUCTURE: Stall fees at the Winters Farmers Market are calculated as a percentage of the seller's gross sales for that market day with minimum fees. Members of the Winters Farmers Market Association, Inc. pay a lower stall fee percentage than non-members. A stall fee will be collected for each space used, even in the case of no sales.

II. DEFINITION OF TERMS

The following definitions apply to the context of the Rules and Regulations unless otherwise specified within a particular category.

Agricultural Producer or Producer: A person or entity who produces agricultural products by the practice of the agricultural arts upon land which the person or entity controls.

Active Participant: One of the approved sellers comprising a member entity. An active participant is an approved seller who has been designated by the member entity to represent the member entity in the DFMA and to exercise the rights of membership including, but not limited to, the right to vote, receive all mailings and inspect records.

Approved Seller: A person whose application to sell has been approved by the DFMA Governing Board and who is selling or offering for sale at the Market an approved item or commodity which he/she has:

as in Agricultural-

- a. Grown upon land which the person controls, in the case of fresh fruits and vegetables, nuts in the shell, nursery stock, cut flowers, processed agricultural products.
- b. Bred, raised, cultivated, or collected in the case of animal, poultry, wine, worms, fish, aquaculture, eggs, honey, and bee products;

as in Prepared Foods-

Cooked, canned, baked, preserved, or otherwise significantly treated,

as in Crafts-

Created, sewn, constructed, or otherwise fashioned from component materials items thematic with the image of the farmers market.

Certified Agricultural Producer: A producer authorized by the County Agricultural Commissioner to sell directly to consumers at a Certified Farmers Market certified agricultural products produced upon land which the certified producer controls.

Certifiable Agricultural Products: Fresh fruits and vegetables, nuts in the shell, honey, eggs, nursery stock, and cut flowers which have been produced as the result of the practice of the agricultural arts by a producer upon land which the producer controls. These items shall be considered agricultural products only when in the possession of the producer who produced them, the producer's employees, or the producer's immediate family or a consumer.

Certified Farmers Market: A location approved by the County Agricultural Commissioner of the county where products may be sold by Agricultural Producers directly to consumers. A Certified Farmers Market may be operated by one or more Certified Producers, by a non-profit organization, or by a local government agency.

Certified Farmers Market Certificate: A certificate which authorizes the location wherein products may be sold by Agricultural Producers directly to consumers. Any Certified Farmers Market Certificate shall be considered valid only when bearing original signatures of the issuing Agricultural Commissioner and the authorized representative of the certified farmers market.

Certified Producers Certificate: A certificate which authorizes the transportation to and sale of products at a Certified Farmers Market. The certificate shall be issued by the County Agricultural Commissioner on a form approved by the Director and the original kept on file at the county of origin. Photocopies of the original Certified Producer's Certificates should be considered valid only when bearing an embossment from the issuing Agricultural Commissioner.

Consumer: A person who purchases and receives products at a certified farmers market, but not a person who purchases products for commercial resale unless such products comply with all applicable size, standard pack, containers, and labeling requirements.

Crafts Review Committee: A committee comprised of local artisans appointed by the Governing Board as well as a Board member that reviews all crafts submitted for approval to be sold at the Winters Farmers Market. This committee reviews crafts based on criteria set forth by the Governing Board.

DFMA: Davis Farmers Market Association, Inc.

Governing Board: The Board of Directors or other ruling committee of the Davis Farmers Market Association, Inc.

Davis Farmers Market Association, Inc.: The entity that controls, manages and operates the markets, including the Winters Farmers Market (DFMA).

Employee: Except members of the immediate family as defined below, persons employed by an approved seller at a regular salary or hourly wage, either full time or part-time, but not including any persons whose compensation in whole or in part is based on, or consists of a commission on sales.

Entity: A group of two or more approved sellers each of whom is joined by either marital status, partnership, corporate status, family farm status, co-op, joint venture or other legal status.

Family Member: Parents, children, grandchildren, grandparents, and in addition any other family member regularly residing in the approved seller's household.

Land Which the Agricultural Producer Controls: Land that the agricultural producer farms and owns, rents, leases or share crops.

Load List: A form created by the DFMA Board of Directors that all sellers shall fill out and return to the management each time sellers sell products on any given market day.

Market: The Winters Farmers Market is permitted (certified) by the Yolo County Agricultural Commissioner as a Certified Farmers Market.

Market Manager: A person or persons empowered by the Governing Board to implement Market policies and directives, and to oversee the operation of the Market.

Member: An approved seller who is accepted into the Winters Farmers Market and pays the required annual membership dues as set forth by the Governing Board.

Non-Agricultural Products: Goods offered for sale at the Market other than certified agricultural and non-certified agricultural products. These include prepared foods and crafts.

Non-Agricultural Seller: A person who produces and sells other than agricultural products, such as a prepared foods or crafts seller.

Non-Certifiable Agricultural Products: Agricultural products that are not certified. This category of products includes but is not limited to: wine, worms, fish, aquaculture, livestock, poultry, dried fruits and vegetables, and processed agricultural products such as nuts, oils, nut butters, jams, pickles and smoked products.

Non-Profit Organization: An organization that has current tax-exempt status under the law of the State of California.

Notice of Proposed Suspension: A document informing a seller of a proposed rescission, suspension or modification of selling privileges at the Winters Farmers Market, and informing a seller of the time, place and reason for a hearing before the Governing Board regarding such proposed rescission, suspension or modification.

“Organic” or “Organically Produced Foods” is a labeling term that denotes products produced under the authority of the Organic Foods Production Act.

Organizations: For the purpose of Section IV, non-profit and community information groups.

Peddlers or Vendors: Persons who sell items they did not produce themselves; a re-seller.

Prepared Foods Seller: A person, who through the practice of the culinary arts, produces prepared foods.

Primary Certificate Seller: A certified agricultural producer who occupies his or her own assigned stall space at the Market.

Product Liability Insurance: This insurance coverage must be obtained by sellers of non-certifiable processed agricultural products and prepared and processed food sellers. The Governing Body will set the liability limits. The policy must list the DFMA and the City of Winters as an additional insured.

Seasonal Seller: A seller whose normal practice is to sell for a period of less than a market season. For example, a seller who grows commodities limited to the fall harvest, or a single commodity seller such as a peach seller, is a seasonal seller.

Second Certificate Seller: An approved certified agricultural producer who sells his or her product at the Market at a primary certificate seller’s stand in the market.

Seller: An approved seller.

III. RULES FOR APPROVED SELLERS

In order to ensure the successful maintenance of the Market as an efficient and effective outlet for producers to sell their products directly to consumers, the Winters Farmers Market has established the following rules for approved sellers:

SECTION A: ADMISSION OF AN APPROVED SELLER

1. To become an approved seller at the Market, a prospective seller must complete an application-to-sell. All items intended for sale shall be listed on the application and only those items approved for sale are allowed to be sold. The application must be approved prior to the seller exercising the privilege of selling at the Market. A completed application packet includes:

- a. The completed application-to-sell; and
- b. Copies of all appropriate certificates, permits and proof of insurance.

Only approved sellers shall be admitted to sell at the Market.

2. Admission to the market as an approved seller shall be subject to consideration of an approved seller's history of compliance with state, local government and market rules.

3. Stall space allocation shall be based on consideration of the following factors as determined by the market manager and the Governing Board: membership in the Winters Farmers Market, number of years of selling at the market; consumer demand; record of attendance; market commodity mix, compliance with the Market Rules and Regulations and local production (Winters environ, Yolo and adjacent counties).

4. Sellers do not have to be members of the Winters FM to sell at the Market. Sellers who are not members shall not be given priority for stall space allocation, and may be admitted based on space availability and the discretion of the Market Manager.

5. Second Certificate sellers shall be allocated stall spaces only after primary certificate sellers are accommodated and only on a case by case basis at the discretion of the Market Manager and the Governing Board.

6. The number of approved seller stall spaces for each category of products shall be set by the Governing Board and the Winters Farmers Market Advisory Committee.

7. Admission of an approved seller may be conditioned by the type of product they sell.

8. All new sellers will be subject to a ninety (90) day at-will probationary period from the first date of selling.

SECTION B: ADMISSION OF PRODUCT

1. Admission of a product shall be based on market commodity mix and consumer demand as determined by the market manager.
2. Admission of product will be based on the producer's history of selling such product.
3. Admission of product will be based on the present competitive availability (number of sellers) of the producer's product. If practical, monopolies and surfeits (gluts) should be avoided.

SECTION C: GENERAL RULES FOR ALL SELLERS

1. Only approved sellers as defined in each category (as defined in sections E, F and G of these Rules) may sell at the Market. All approved sellers must appear to sell for their first Market Day. A family member or employee may sell for an approved Seller. A family member or employee of an approved seller may sell for a second certificate seller. Seller employers or employees may be required to show the Market Manager proof of employee status (current W-4 form and/or payroll check stub) upon request. Employees may not receive commissions.
2. S must sell his/her products in person at least once per year. Seasonal approved sellers must appear in person to sell for their first market day of their season.
3. All sellers must complete and submit the annual Letter of Intent to the Market office in January of each year, indicating their plans to sell at the Market the following year, and listing the products they would like to sell (including any new products not previously sold and any deletion of products previously sold),
4. Sellers must grant permission to the Market Manager or other Governing Body representatives to enter the seller's premises for the reasonable inspection of: land, facilities, proof of ownership, partnership agreement, land lease and other applicable agreements in order to determine whether the seller is in compliance with the certificate, license, or permit conditions.
5. No peddlers or vendors will be permitted at the Market. Further, resale of products at the Market is prohibited except as provided in Section E of these Rules. Resale is permitted by non-profit organizations, including the Market Association, so long as the resale of items is related to or in support of their organization for fundraising purposes. All resale items sold by the non-profit organizations at the Market must be approved by the Market Management prior to sale.
6. Sellers shall only display or advertise items that have been approved for sale. All products offered for sale in a gift box or other container must be approved items and be of the seller's own production. Sellers may promote their farm-related activities at their stalls at the discretion and approval of the Manager.
7. All scales must bear current seal from the County Sealer of Weights and Measures (e.g. sellers from Yolo County can obtain a scale permit from the Yolo County Agricultural Commissioners office, 70 Cottonwood, Woodland, CA (916) 666-8140).

8. Pre-packaged items sold by weight must be labeled with the net weight and name and address of the seller.
9. Sellers must post prices. Failure to post signs may result in fines levied per occurrence. Collusion among sellers to raise prices or any attempt to influence a seller to increase prices is strictly prohibited.
10. Sellers must display a sign (at least 12" x 24") bearing the producer's business/farm name, and county of origin. The letters on the sign must be a minimum of 2 inches in height. Failure to display a sign may result in fines levied per occurrence.
11. All required permits and licenses shall be displayed prominently during selling hours. This includes, but is not limited to, the Certified Producers Certificate (state law), Nursery Stock License and Nursery Seller's Permit (state law), County Health Permit, and Aquaculture License, State Board of Equalization Seller's Permit (state law). Failure to post permits and licenses may result in fines levied per occurrence.
12. All sellers must comply with Health and Safety Code section 114350(b) as it may be amended from time to time, or any other law regulating food sampling at a certified farmer's market, and the guidelines listed below. Failure to do so may result in fines levied per occurrence. Any fines levied on the Market by the County Environmental Health Department for incorrect sampling procedures shall be assessed to the vendor responsible for the non-compliance.
 - a., All foods shall be stored at least six inches off the floor or ground or under any other conditions that are approved.
 - b. Distribution of food samples is allowed provided that the following sanitary conditions exist:
 - (1.) Samples shall be personally distributed only by the seller to the customer on a one-to-one basis, customers are not to serve themselves. Any samples observed to be in violation will be removed and discarded. Samples shall be distributed by the producer in a sanitary manner.
 - (2.) Samples shall be kept in approved, clean, covered containers.
 - (3.) Clean, disposable plastic gloves shall be used when cutting samples.
 - (4.) Food intended for sampling shall be washed, or cleaned in another manner, of any soil or other material by potable water in order that it be wholesome and safe for consumption.
 - (5.) Potable water shall be available for hand washing and sanitizing as approved by the local enforcement agency.
 - (6.) Potentially hazardous food samples, shall be maintained at or below 45 degrees Fahrenheit. All other food samples shall be disposed of within two hours after cutting.

(7.) Utensil and hand washing water shall be disposed of in a facility connected to the public sewer system or in a manner approved by the local enforcement agency.

(8). All garbage and rubbish shall be stored and disposed of in a manner approved by the enforcement officer,

13. Sellers of salad mix shall post a notice indicating that the mix is field harvested and should be rinsed before serving. If the salad mix has been washed in a certified kitchen in accordance with health department regulations, such notice is not needed.

14. Stall fees are set by the Governing Board. All sellers must pay stall fees according to the current fee schedule set by the Governing Board. Stall fees are collected by the Market Manager at the end of each Market Day. Sellers must comply with stall fee payment procedures. Failure to do so may result in fines levied per occurrence.

15. Sellers in all categories shall complete a load list on each Market day and submit it to the Market Manager before departing from the Market.

16. Stall space assignments:

a. Sellers must accept the stall space assigned by the Market Manager.

b. Whenever a seller does not adhere to Market arrival and departure times, or fails to notify the Manager of his/her intention to sell at the Market on a specific day, the Manager may revoke the seller's stall space reservation for two weeks. Market arrival times are one hour before the start of a Market. Departure times are no earlier than the closing time of the Market and no later than one hour after the Market closes.

c. Sellers must maintain their stall spaces in a clean and sanitary condition. Each seller shall remove containers, waste, and trimmings before leaving the Market. Sellers shall not use the City trash bins. Refuse collected must be disposed off-site by sellers.

d. Sellers must provide their own tables.

17. Standards of Conduct:

Sellers who do not comply with these standards of conduct may be subject to discipline as set forth in Section D of these rules.

a. Sellers shall be honest and shall conduct themselves at all times in a courteous and business-like manner. Rude, abusive or other disruptive or offensive conduct is not permitted.

b. Conduct by sellers that is materially and seriously prejudicial to the reputation or operation of the Market is not permitted.

c. Sellers experiencing any difficulty with customers or other sellers in this regard should refer the matter promptly to management.

d. No radios or boom boxes may be played during market hours. No loud hawking, shouting or barking to promote products is allowed.

e. All product promotion must occur within the space assigned to the producer and not in any common area.

f. Seller's pets are not allowed in the Market per the CA State Health and Safety Code; this includes no pets in seller's vehicles.

18. Sellers are responsible for the actions of their representatives, employees or agents.

19. All sellers must comply with all applicable Federal, State and local laws, ordinances and regulations.

20. All sellers must comply with the Market's Safety Program and Emergency Protocol.

21. All sellers and their employees must adhere to the Market vehicle parking policy. Non-compliance may result in fines being levied.

22. All sellers must submit in writing any complaints/grievances that they wish the Governing Board to address.

SECTION D: DISCIPLINE OR REMOVAL OF AN APPROVED SELLER; APPEALS

1. A seller may be removed or suspended from any market or have selling privileges in the market conditioned, modified, limited or terminated by the Governing Board.

2. Sellers who are in violation of any state, local or Winters FM rules and regulations; or who are aggrieved by a Governing Board decision, will be subject to the following procedures:

a. Whenever the Market Manager or Governing Board believes a seller has violated the conditions of the permit to sell or any of the rules or regulations of the Market, the Market Manager may issue a verbal or written warning or may issue a notice of proposed suspension.

b. Any verbal warning or informal written warning may be followed by written notice of proposed suspension documenting such warning. Such written notice of proposed suspension or modification of selling privileges shall be mailed or personally delivered to the seller within seven (7) days of such verbal warning. The notice shall state the time and place of the Governing Board hearing on the proposed suspension or other action. Such hearing shall be held no later than thirty (30) days after mailing or personal service of the written notice of proposed suspension. The Market Manager shall inform the seller of the reasons for the warning or notice.

c. If the Market Manager issues a notice of proposed suspension, the seller may appear at a hearing before the Governing Board at the time and place in the notice. The seller shall be entitled to present written evidence and written argument to the Governing Board before the hearing and shall be entitled to present written and oral evidence at the hearing. The seller may, at his or her sole expense, be represented by legal counsel at the hearing or in written

communication to the Governing Board. The Governing Board does not transcribe its proceedings. If a seller wishes to obtain a verbatim record, the qualified seller shall arrange for attendance by a court reporter or for some other acceptable means of recordation. Such arrangements shall be at the qualified seller's sole expense. If the seller challenges in court the action taken by the DFMA Governing Board, the challenge shall be limited to raising only those issues raised at the hearing or in written correspondence delivered to the Governing Board at or prior to the hearing.

d. The Governing Board shall, at the time and place set forth in the notice, hold a hearing on the proposed suspension. At the hearing, the seller shall be entitled to present written or oral evidence and argument as to why the permit should not be suspended. The Board shall also consider the testimony of the Market Manager or his or her designee. The Governing Board may, in its discretion, continue the hearing once to a future date.

e. If the Governing Board, after a hearing, determines that the seller has violated the permit conditions or the Market rules and regulations, it may suspend the seller's permit for a maximum of 90 days.

f. The Governing Board may suspend, for any period deemed appropriate, or may revoke, the permit of any seller whose permit has been previously suspended. The DFMA Governing Board may also refer the matter to a governmental agency with jurisdiction over the subject at issue. The Governing Board shall promptly notify the seller in writing of its decision and the findings of fact supporting the decision. Any seller whose permit has been suspended previously must reapply to be a seller at the Winters Farmers Market when requesting to return to selling. Admission is not guaranteed.

g. A seller whose permit has been suspended, or a seller or applicant aggrieved by a decision of the Governing Board, may file a written request with the Market Manager requesting reconsideration of a determination made by the Governing Board. The person requesting reconsideration shall file the written request within ten (10) days of the adoption of the Governing Board's determination. If no person files a timely request, the Governing Board shall not take any action pursuant to this section and the Governing Board's decision shall be considered final. If a timely request for reconsideration has been filed, at the next available meeting the Governing Board shall consider the request for reconsideration and shall receive any oral or written testimony. The Governing Board's decision shall be final.

h. Whenever the Market Manager determines that an immediate suspension of a seller's privilege in the Market is necessary to preserve the health, safety or welfare of the Market customers, other Market sellers, Market staff, or the public, the Market Manager may suspend a seller's permit to sell. Such suspension shall be effective immediately. The Market Manager shall provide the seller with a notice of suspension stating the date, time and place of the Governing Board's hearing on the suspension. Thereafter, the hearing procedures detailed above shall be followed.

i. Whenever a seller has had their state or county permit to sell at a Certified Farmers Market revoked, that seller must re-apply to sell at the Winters Farmers Market, and may not be guaranteed admission to sell.

SECTION E: RULES AND REGULATIONS FOR SELLERS OF CERTIFIABLE AGRICULTURAL PRODUCTS

Fresh Fruits and Vegetables, Nuts in the shell, Shelled Eggs, Honey, Cut Flowers, Nursery Stock

1. Sellers in this category are those who have grown or produced the products they sell on a facility which the seller controls.
2. All certified agricultural products must be sold in accordance with State Direct Marketing Regulations for Certified Producers (Cal. Code of Regs., Tit. 3, § 1392.)
3. All sellers of certified agricultural products must obtain a Certified Producer's Certificate issued by the Agricultural Commissioner from the county in which the produce is grown. All products for sale must be listed on the certificate and an embossed photocopy certificate shall accompany the certified agricultural products during transportation and be posted at the Market. All certificates shall be displayed in full view of customers during each Market.
4. Second Certificates: A certified producer may sell for another certified producer provided that the seller is also selling his/her own product, he/she displays both growers certificates, and he/she notifies Market staff that he/she is selling for another producer. In addition, each certified producer selling at the Market through another producer must:
 - a. have an approved application-to-sell on file with the Market Manager;
 - b. have been granted permission to sell the second certificate products by the Market Manager;
 - c. appear to sell for the first market day and at least once thereafter for every 6 months of sales;
 - d. agree to pay a separate stall fee.
 - e. have a separate display of product, not to be mixed in any way with the primary producer's product as in bouquets, dried fruits and salad mixes or gift baskets. At least 50% (based on fair Market value) of each primary certificate holder's produce for sale must be of his/her own production
5. Growing Practices: Signs and labels must clearly identify the products on a vendor's table that are certified organic. The use of the term "organic", verbal or written, can only be used by a producer who has been certified organic by a USDA approved certifier. The use of the term "organic" by non-certified-organic producers is prohibited. Vendors electing not to be certified organic must describe their product without using the word "organic". Farming practices must be fully and truthfully disclosed when customers inquire. Failure to do so will result in disciplinary action, including possible revocation of selling privileges. All produce grown hydroponically or in greenhouses must be so labeled.

SECTION F: RULES AND REGULATIONS FOR SELLERS OF NON-CERTIFIABLE AGRICULTURAL PRODUCTS

Live Animals, Livestock, Fish, Aquaculture, Wine, Worms, Dried Fruits and Vegetables, Processed Nuts, Juices, Pickled Fruits & Vegetables, Jams.

1. Sellers in this category are those who have grown, bred, raised, or cultivated, the products in fresh or processed form. These sellers may have their products dried, ground, roasted, juiced, smoked or otherwise altered in one stage process by a second party. All sellers of non-certifiable agricultural products must obtain a certified producer's certificate for the fresh product from which the processed product was derived. The certified producer's certificate must have been issued by the Agricultural Commissioner from the county where the fresh product was grown or produced. These fresh products must be listed on the certificate and an embossed photocopy certificate shall accompany the processed non-certifiable agricultural products during transportation and shall be posted at the Market. All certificates must be displayed in full view of customers during each market.
2. Only those processed agricultural products which a producer can verify are his/her own product will be allowed for sale at the Market. Dry yard and/or processing plant receipts may be requested for verification of producership.
3. All sellers must obtain and display all necessary permits, including but not limited to health permits.
4. All sellers of non-certifiable processed agricultural products must provide the market with proof of product liability insurance naming the Market as an additional insured.

SECTION G: RULES AND REGULATIONS FOR SELLERS OF NON-AGRICULTURAL PRODUCTS (PREPARED FOODS AND CRAFTS)

Priority for stall space will be based on-consideration of the factors set forth in section II; A;3 of these Rules (membership, number of years selling, consumer demand, record of attendance, compliance with the Rules and Regulations and market commodity mix. In addition, priority will be given to applicants who are local (Winters, Yolo and adjacent counties), or whose processed foods are made using raw ingredients from the Market's agricultural sellers.

1. Rules and Regulations for Sellers of Processed/Prepared Foods

- a. Sellers in this category are those who have cooked, canned, baked, preserved or otherwise treated the product they sell. Sellers shall prepare the finished product.
- b. All sellers must obtain and display all applicable permits, including a permit from the health department of the county from which the products originate.
- c. All processed/prepared foods/food vendors must provide the market with proof of product liability insurance naming the Market as an additional insured.
- d. All products within this category shall bear labels including: the name of the product, ingredients, weight, the qualified seller's name and address. (see California Uniform Retail Food Facilities Law, Articles 6 and 15, Health and Safety Code, sections 27590 et seq., and 27831 et seq., respectively.)

- e. Low acid canned foods are prohibited from the Market (including, but not limited to, vegetables, meats, low acid olives).
- f. Packaging and containers for processed and prepared foods must be recyclable.
- g. The Market may adopt benefits for sellers, including but not limited to financial benefits, incentives and cooperative promotions to encourage principles it wishes to promote.
- h. Priority will be given to Downtown Winters Restaurants and space allocation is on an annual at-will admission.
- i. Processed food sellers must use products purchased from the Market sellers in food sold.

3. Rules and Regulations for Sellers of Crafts

- a. Sellers in this category are those who have created, sewn, constructed, or otherwise fashioned from component materials the item(s) they sell. The component materials must be sufficiently modified from their original state to demonstrate fine craftsmanship.
- b. Crafts must be thematic with the farmers market. Crafts must reflect images of agriculture, agrarian lifestyle or the Market in general.
- c. All craft applications shall be reviewed by a craft review committee appointed by the Winters Farmers Market Advisory Committee and the Governing Board. The crafts review committee shall meet three times a year, or as needed.
- d. Each craft application must include a photocopy of appropriate permits, i.e. seller's permit from the State Board of Equalization and Business License if applicable.
- e. A representative sample and photos/slides of each craft item to be sold at the Market must be submitted at the time of review. Only those items approved at the review may be sold at the Market.
- f. A rotating stall space assignment schedule will be applied to approved craft sellers. Priority stall space allocation will be taken into account as outlined in the Market Rules and Regulations Section II;A;3.
- g. The above rules apply to all sellers of crafts, including Agricultural Producers who may sell soaps, lotions, scrubs, and salves that they create made from the agricultural and processed agricultural products they produce (must be listed on their Certified Producers Certificate). The sale of these crafts by Agricultural Producers must take place in the designated craft area of the market.

IV. RULES AND REGULATIONS FOR NON-PROFIT ORGANIZATIONS AND COMMUNITY INFORMATION GROUPS

1. Non-profit organizations and community information groups (organizations) shall be allowed at the Market whenever space is available. Each group or individual is allowed to come as needed during the year. All organizations must set up in the space assigned by the Market Manager.
2. An organization's request for a space must be made to the Market Manager prior to the Market day. Designated spaces for organizations shall be made available on a first-come, first-served basis.
3. An applicant must provide the Market Manager with satisfactory proof of the organization's non-profit status and of his/her position as a representative of the organization.
4. Only non-profit and community information organizations may engage in the resale of items related to or in support of their organizations for fundraising purposes. All resale items must be pre-approved by the Market Manager and may not compete with the sales of the Winters Farmers Market sellers.
5. Organization representatives shall not interfere with Market operations by aggressively soliciting signatures, donations or attention. Such activities shall not block sidewalks or access to assigned stall spaces.
6. The Market retains the right to regulate the time, place and manner of activities relating to displays, signs, posters, placards, and other expressions of the interests represented. The use of fighting words, obscenities, grisly or gruesome displays or highly inflammatory slogans likely to provoke a disturbance may be prohibited by the Market Manager.
7. Each organization must prominently display its name, and must comply with all applicable Market rules.

These rules adopted JANAURY 2009

APPLICATION TO SELL WINTERS FARMERS MARKET

Mail : P.O. Box 1813, Davis, CA 95617 Fax: 530-756-1858 www.davisfarmersmarket.org

PRODUCER'S NAME: _____

BUSINESS NAME: _____ E-MAIL _____

MAILING ADDRESS: _____

PHONE- BUSINESS:(_____) _____ HOME:(_____) _____ FAX _____

LOCATION OF FARM OR BUSINESS:
(COUNTY ROAD INTERSECTIONS -- FOR MORE LOCATIONS PLEASE USE BACK)

COUNTY OF PRODUCTION: _____

NAMES OF EMPLOYEES WHO MAY SELL FOR THE PRODUCER:

NAMES OF FAMILY MEMBERS WHO MAY SELL:
(LIST RELATIONSHIP TO THE PRODUCER)

HAVE YOU EVER SOLD AT THE DAVIS FARMERS MARKET? YES ___ NO ___

APPLYING TO SELL ON: SATURDAYS _____ WEDNESDAYS _____

OTHER MARKETS AT WHICH YOU SELL:

CERTIFIED PRODUCER'S CERTIFICATE NUMBER: (enclose copy) _____

HEALTH DEPARTMENT NUMBER: (enclose copy) _____

OTHER LICENSES, PERMITS, ETC.: (enclose copy)

LIST ITEMS YOU PLAN TO SELL AND WHEN (USE BACK OF PAGE IF NEEDED):
ITEM MONTHS ITEM MONTHS

I request permission to sell at the Davis Farmers Market. I have read the rules of the Market. I agree to abide by these rules and all other laws, codes and regulations as amended, to cooperate with the Market management and to pay the required fees.

SIGNATURE _____ DATE _____

APPROVED BY: _____ DATE _____



MARKET POLICY FOR SOCIO-POLITICAL/COMMUNITY GROUPS

The Winters Farmers Market does allow non-profit organizations and community information groups to have space at the Market in a designated area that will be determined and assigned by the Market Manager. All interested parties requesting such a space should check with the Manager before setting up for proper placement. **We recommend showing up by 7am on Sundays.**

Each group or individual is allowed to come as needed during the year. All non-profit groups must provide the Manager with satisfactory proof of the organization's non-profit status, and of his or her position as a representative of the organization. Resale of items, **approved by the Market Manager**, related to or in support of participating organizations for fund raising purposes is permitted.

Rules that groups or individuals must follow while present at the Davis Farmers Market are as follows:

1. Individuals or groups may not interfere with Market operations by aggressively soliciting signatures, donations or attention. Such activities may not block sidewalks or access to assigned seller stall spaces.
2. All individuals or groups must stay behind their tables or displays. At no time may representatives walk through the Market handing out information.
3. Individuals or groups must accept the spaces assigned to them by the Market Manager.
4. **Each organization or individual must prominently display its name, bring their own tables and chairs and must comply with all applicable Market rules.**
5. The Market retains the right to regulate the time, place and manner of activities relating to displays, signs, posters, placards and other expressions of the interests represented. The use of "fighting words", "obscenities, grisly or gruesome displays or highly inflammatory slogans likely to provoke a disturbance may be prohibited by the Market Manager.

The Board of Directors has authorized the Market Manager to enforce the above rules. Violation could mean expulsion from the Market. The Market cannot endorse the opinions or positions of any group or individual. If you have questions, contact the Market Manager at (530) 756-1695.

I HAVE READ AND AGREE TO ABIDE BY THE ABOVE MARKET POLICY

(Return to: The Winters Farmers Market, P.O. Box 1813, Davis, CA. 95617)
Phone: 530-756-1695, Fax: 530-756-1858

Signature _____ Date: _____

Organization _____

Contact Person _____ Phone: _____

BY-LAWS
of the
DAVIS FARMERS MARKET ASSOCIATION, INC.

I. NAME AND LOCATION

This corporation shall be known as the Davis Farmers Market Association, Inc. (hereafter DFMA), and shall locate its principal office in the County of Yolo, State of California.

II. PURPOSE

The purposes of the DFMA are:

- a. to operate certified farmers markets in accordance with the laws of the State of California, Yolo County, the City of Davis and other cities and counties for the benefit of both producers and consumers.
- b. to promote public awareness of and support for the DFMA by the creation of an organization to oversee and manage it.
- c. to work with other direct marketing associations to share experience and improve market management.
- d. to educate consumers about direct marketing, food preservation and food buying alternatives.

III. MEMBERSHIP

Membership in the DFMA shall be open to approved sellers as defined in the Davis Farmers Market Rules. All applications for membership will be approved by the DFMA Board of Directors.

Section 1: Definition of a Member

- A. An approved seller shall be considered a member when annual dues are paid.
- B. Membership in the DFMA shall be held either by individual approved sellers or by entities comprised of more than one approved seller. A member entity must be comprised of more than one approved seller, each of whom is joined by either marital status, partnership, corporate status, family farm status, co-op, joint venture or other legal status.
- C. A member entity shall designate an "active participant" in the DFMA. An active participant shall be one of the approved sellers comprising the member entity. The active participant shall be the person who represents the member entity in the DFMA and who exercises the rights of membership. Thus the active participant would vote, receive all mailings, have the right to inspect records, etc.
- D. At the time of application for membership, a member entity shall provide the DFMA with written documentation as to the identity of its designated "active participant" and the individual approved sellers comprising the member entity.
- E. In the event that a member entity changes its "active participant" designation, its form, including, but not limited to a change in entity structure, death, divorce or retirement, or changes the individual approved sellers comprising the original member entity, a new application for membership must be filed with the DFMA and approved by the Board of Directors.
- F. The terms for approval of a change in the member entity form or the list of approved sellers comprising the entity shall be that the new approved seller(s) must have held at least a 50% ownership interest in the member entity for a minimum of one year.

Section 2: Rights, Duties and Benefits of A Member

As far as is consistent with the law and these By-Laws, the members of the DFMA shall have the following rights and obligations:

A. A member of the DFMA is entitled to participate in and to vote in all elections, referendums and annual meetings.

B. The rights, and duties, and benefits of membership in the DFMA cannot be transferred to another member (regardless of its form), person, or entity, without approval of the Board of Directors (Section III MEMBERSHIP, Section 1, (E)).

C. An individual member shall have one vote in elections. A member entity shall have one vote in elections and that vote shall be executed by the designated "active participant" as outlined in Section III Membership, Section 1, (B), (C), (D).

D. A member shall be eligible to vote in Board of Directors elections one month after initial membership dues are received by the association and shall remain an active member so long as annual dues are paid. Payment of current annual dues is required to vote.

E. A member of this DFMA shall have the right to attend any or all meetings held at the request or under the supervision or authority of the Board of Directors as provided for in these By-Laws.

Section 3: Liabilities of Members

No person who is now or who later becomes a member of the DFMA shall be personally liable for any indebtedness or liability except as he/she may be held liable under state law, and any and all creditors of the DFMA shall look only to the assets of the DFMA for payment.

Section 4 : Membership Rolls

Every member of the DFMA shall be responsible for providing the DFMA secretary with written notification of her/her current address. The DFMA shall compile and maintain a current list of the names, principal addresses and effective dates of membership of all members.

Section 5: Membership Dues

A. Fee structure:

The Board of Directors of the DFMA shall establish the fee for annual dues and may adjust the dues by a vote of the Board of Directors.

B. Annual Membership:

Membership in the DFMA shall be on an annual basis. The DFMA's fiscal year is the calendar year; regardless of the date of initial membership, annual dues are due January 1. If annual dues are not paid by January 31, membership benefits shall be suspended until the current year's dues are paid.

IV. MEMBERSHIP MEETINGS

Section 1: Annual Meetings

The Annual Meeting of the members of the DFMA shall be held once during each year at such time and place as shall be determined by a resolution of the Board of Directors. Written notice of the time and place of the meeting shall be mailed first class or personally delivered to each member at least ten (10) days before the date of the meeting.

Section 2: Special Meetings

Special meetings of the members of the DFMA may be called at any time by a majority of the Board of Directors or by 5 percent of the membership for any lawful purpose. Written notice of the time and place of the meetings shall be mailed first class or personally delivered to each member at least ten (10) days before the date of the meeting.

The transactions of any meeting of members however called and noticed, and wherever held, are as valid as those of a meeting duly held after regular call and notice, if a quorum is present and if, either before or after the meeting, each of the persons entitled to vote, not present in person signs a written waiver or notice or a consent to the holding of the meeting or an approval of the minutes thereof.

Section 3: Open Meetings

All meetings of the DFMA, the Board of Directors or any of its committees shall be open to the public, except executive sessions of the Board of Directors concerning personnel matters or litigation.

Section 4: Public Notice

All meetings of the DFMA shall be publicly noticed on the bulletin board at the farmers market designated for this purpose. In addition, notices of every meeting shall be sent to members as noted in Sections 1, 2 and 3 above.

Section 5: Quorum

Ten percent (10%) of the members shall constitute a quorum for the transaction of business.

Section 6: Conduct of Meetings

Meetings of the Board of Directors shall be presided over by the chair or the vice chair. The secretary shall cause minutes to be kept of the meetings including Directors present and actions taken at each meeting. Minutes shall be kept as a permanent record of the DFMA. Meetings shall be governed by Robert's Rules of Order.

V. BOARD OF DIRECTORS

Section 1: Number and Composition of the Board of Directors as follows:

The Board of Directors shall consist of eleven Directors. Of the eleven Directors, eight must hold a valid Certified Producer Certificate from the State of California and must be DFMA members. The remaining three Directors shall be non-farmers; one shall be a prepared foods seller DFMA member or a crafts seller DFMA member, and two shall be consumer representatives who live in the Davis environs who need not be members of the DFMA. In addition, each year the Board may appoint two non-voting Associate Board members to serve for one year.

Section 2: Quorum

The presence in person of six (6) members of the Board of Directors shall constitute a quorum for the transaction of business. Except as otherwise provided for in these By-Laws, all decisions and business conducted by the Board of Directors must be approved by a majority of the Directors present.

Section 3: Regular Meetings

Regular Board of Directors meetings will be fixed by the Board. At least six (6) regular meetings will be held during each calendar year, and one of these will be the Annual Meeting.

The membership will be notified of the date and place of the regular meeting, such notices being sent out at least seven (7) days prior to the scheduled meeting date.

Section 4: Powers of Directors

Subject to limitation of the By-Laws and of California law, all powers of the DFMA shall be exercised by or under the authority of the Board of Directors and the business and affairs of this association shall be controlled by them. Without limiting the general powers, the Board of Directors shall have the following powers and duties:

A. To select and remove the officers, agents and employees of the DFMA, prescribe such powers and duties for them that are not inconsistent with law or these By-Laws, fix their compensation and, if deemed necessary, require from them security for faithful service.

B. To conduct, manage and control the affairs and business of the DFMA and to make and enforce rules and regulations not inconsistent with law or these By-Laws. The powers under this subsection (B) may be exercised by the Board of Directors directly or by such manager, executive committee or other delegee(s) as a majority of the Board of Directors shall designate.

D. To appoint Board committees by a majority vote of the Directors.

E. To enter into leases, contracts or other agreements necessary or desirable for the accomplishment of the DFMA's purposes.

F. To approve and terminate a seller's privilege to sell and/or membership in the DFMA in accordance with the Davis Farmers Market Rules and DFMA Membership Regulations.

G. To make available to all members of the DFMA a copy of the annual report.

H. To meet at such times as required by these By-Laws.

Section 5: Elections

Elections for the Board of Directors shall be held in January of every year commencing when these By-Laws are adopted. Any member of the DFMA may be a candidate for the Board of Directors by election or petition. Nominations shall be made from the floor at the Board of Directors meeting held prior to the election. Petitions for Board of Directors candidates must be filed with the current Board at least twenty-one (21) days prior to the date of the election. Every member of the DFMA shall receive written notification at her/her principal mailing address of the election at least fourteen (14) days prior to it. Every member shall be entitled to one vote for each vacancy. Only those ballots received at the DFMA office by 5 P.M. on or before the day of the election shall be recognized and tallied. The candidates receiving the highest votes in descending order of votes are elected to fill the vacant position. Tie votes will be resolved with a flip of the coin.

Section 6: Term of Office

The term of office for each Director of the DFMA shall be two years. This term shall commence on the day after the annual election. Four farmer positions and 1 consumer representative position will become vacant each year.

Section 7: Removal

A Director may shall be removed from office if 2/3rds of all the active members of the DFMA so vote.

Section 8: Vacancies of Directors

A vacancy is created upon the death, resignation or removal of a Director. The Board may declare vacant the office of a Director who misses three consecutive regular meetings without excuse or has been declared of unsound mind by a final order of the court or has been convicted of a felony. Vacancies shall be filled by a majority vote of the Board of Directors. The term of a Director elected by the Board to fill a vacancy shall end on the date of termination originally scheduled for the Director who has, according to the procedures of this paragraph, vacated his/her seat.

Section 9: Leave of Absence

A Director may request a leave of absence from the Board for a period of not longer than six months. If the majority of the Board members accept the leave request, the Director's position shall not be considered vacant.

Section 10. Special Meetings

Special meetings of the Board may be called by the Chair of the Board or the Vice-Chair or the Secretary or any two (2) Directors. Special meetings shall be held on four (4) days' notice by first class mail, postage prepaid, or on forty-eight (48) hours' notice delivered personally or by telephone or telegraph. Notice of the special meeting need not be given to any Director who signs a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of such notice to such Director. All such waivers, consents, and approval shall be filed with the corporate records or made a part of the minutes of the meetings.

Section 11: Board Committees

All Board Committees shall be appointed by a majority vote of the Directors.

A. Executive Committee

There will be an Executive Committee of 3-5 members of the current Board and shall include the present Board Officers, and may include 1-3 other Board members. This executive committee has all the powers of the Board in the intervals between meetings. This committee will meet on call of its Chair, or on the request of any member of the committee. Any action taken by the Executive Committee must be ratified by the Board of Directors at its next meeting.

B. Budget and Finance

There will be a Budget and Finance Committee of 3-4 members and shall include the Treasurer, Vice-Chair and 1-2 other Board members. This budget and finance committee shall review all fiscal matters requiring Board action and make recommendations to the Board.

C. Long-Range Planning Committee

There will be a long-range planning committee of 5 members and shall include the Chair, Vice-Chair, and 3 other Board members. This committee shall provide information to management and the Board and make recommendations on proposed growth or change that is consistent with DFMA objectives and policies.

D. Executive Evaluation and Personnel Policies Committee

There shall be an Executive Evaluation and Personnel Policies Committee of 5 members and shall include the Chair, Secretary and 3 other Board members. This committee shall conduct an annual evaluation of the Executive Director based on a standard process approved by the Board and make recommendations to the Board on employee contractual arrangements.

Section 12: Advisory Committees

The DFMA shall have advisory committees as may from time to time be designated by resolution of the Board of Directors. Such committees may consist of persons who are not also members of the Board. These committees shall only act in an advisory capacity and shall be clearly titled as "advisory committees."

Section 13: Compensation

Directors shall receive no compensation for their services as Directors, except that they shall be allowed reasonable advancement or reimbursement for expenses incurred in the performance of their regular duties as specified in Section 3 of this article. Directors may only be compensated for rendering services to the DFMA as provided for in Section 14.

Section 14: Restrictions regarding interested Directors

Notwithstanding any other provision of these By-Laws, not more than 20% of the persons serving on the Board shall be interested persons. "Interested persons" are defined as:

a) any person currently being compensated by the DFMA for services rendered it within the previous 12 months, whether as a full or part-time employee, independent contractor or otherwise; or:

b) any relative by blood or marriage.

Section 15: Non-liability of Directors

The Directors shall not be personally liable for the debts, liabilities, or other obligations of the DFMA.

Section 16: Indemnification by DFMA of Directors, Officers, employees and other agents.

To the extent that a person, who is, or was, a Director, officer, employee or other agent of the DFMA has been successful on the merits in defense of any civil, criminal, administrative or investigative proceeding brought to procure a judgment against such person by reason of the fact that he or she is, or was, an agent of the DFMA, or has been successful in defense of any claim, issue or matter, therein, such person shall be indemnified against expenses actually and reasonably incurred by the person in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interest of the corporation and, in the case of criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful.

If such person either settles any such claim or sustains a judgment against him or her, then indemnification against expenses, judgments, fines, settlements and other amounts reasonably incurred in connection with such proceedings shall be provided by the DFMA but only to the extent allowed by, and in accordance with, the requirements of Section 7237 of the California Mutual Benefit Corporation law.

Section 17: Insurance for DFMA Agents

The Board of Directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of an agent of the DFMA (including a Director, officer, employee or other agent of the DFMA) against any liability (Section 7237 of the California Non Profit Mutual Benefit Corporation Law) asserted against or incurred by the agent in such

capacity or arising out of the agent's status as such, whether or not the DFMA would have the power to indemnify the agent against such liability under the provisions of Section 7237 of the California Mutual Benefit Corporation Law.

VI. OFFICERS

Section 1: Officers

The officers of the DFMA shall be a chair, vice chair, secretary, and treasurer. No person may hold more than one office. Officers must be members of the Board of Directors.

Each officer shall have, in addition to the duties and powers hereinafter set forth, such additional duties and powers as may be prescribed by law, by the Articles of Incorporation, or by these By-Laws or, from time to time, by the Board of Directors.

Section 2: Duties of the Board Chair

He/she shall preside at all meetings of the Board and of the members. Subject to the control of the Board of Directors he/she shall supervise and control the affairs of the DFMA and the activities of the officers. He/she shall perform all duties incident to his or her office and such other duties as may be required by law, by the Articles of Incorporation of the DFMA, or by these By-Laws, or which may be prescribed from time to time by the Board of Directors. He/she shall serve as an ex-officio member of each Board committee.

Section 3: Vice Chair

In the absence or disability of the chair, the vice chair shall perform all the duties of the president and in so acting shall have all the powers of the chair.

Section 4: Secretary

The secretary shall oversee maintenance of the following records and duties to assure that DFMA agents and employees:

Keep at the principal office of the DFMA the original, or a copy, of these By-Laws, as amended or otherwise altered to date.

Keep at the principal office of the DFMA or at such other place as the Board may determine, a book of minutes of all meetings of the Directors, and, if applicable, meetings of

committees of Directors and of members, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof.

See that all notices are duly given in accordance with the provisions of these By-Laws or as required by law.

Be custodian of the records and of the seal of the DFMA and see that the seal is affixed to all duly executed documents, the execution of which on behalf of the DFMA under its seal is authorized by law or by these By-Laws.

Keep at the principal office of the DFMA a membership book containing the name and address of each and any members, and, in the case where any membership has been terminated, he/she shall record such fact in the membership book together with the date on which such membership ceased.

Exhibit at all reasonable times to any Director of the DFMA, or to his or her agent or attorney, on request therefore, the By-Laws, the membership book, and the minutes of the proceedings of the Directors of the DFMA.

Section 5: Treasurer

Subject to the provisions of these By-Laws relating to the "Execution of Instruments, Deposits and Funds," the Treasurer shall: oversee and assure that DFMA agents and employees;

Have custody and custody of, and be responsible for, all funds and securities of the DFMA, and deposit all such funds in the name of the DFMA in such banks, trust companies, or other depositories as shall be selected by the Board of Directors.

Receive, and give receipt for, monies due and payable to the DFMA from any source whatsoever.

Disburse or cause to be disbursed the funds of the DFMA as may be directed by the Board of Directors, taking proper vouchers for such disbursements.

Keep and maintain adequate and correct accounts of the DFMA's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses.

Exhibit at all reasonable times the books of account and financial records to any Director of the DFMA, or to his or her agent or attorney on request therefore.

Render to the chair and Directors, whenever requested, an account of any or all of his/her transactions as Treasurer and of the financial condition of the DFMA.

Prepare, or cause to be prepared, and certify, or caused to be certified, the financial statements to be included in any required reports.

Section 6: Election of Officers

The Board of Directors shall elect all officers for terms of (one year) or until their successors are elected.

Section 7 : Vacancies of Officers

A vacancy in any office shall be filled by the Board of Directors.

Section 8 : Removal of Officers

Any officer may be removed if a majority of the full Board of Directors so vote.

VII. EXECUTIVE DIRECTOR

The Board of Directors shall select and employ an Executive Director who shall carry out the policies, directives and other duties as assigned by the Board of Directors.

VIII. AMENDMENTS OF BY-LAWS

These By-Laws may be amended or repealed and new By-Laws adopted by a 2/3rds vote of the full Board of Directors.

IX. RULES AND REGULATIONS FOR THE OPERATION OF THE DAVIS FARMERS MARKET

The Board shall adopt rules and regulations for the operation of the DFMA certified farmers markets including issuing permits, assigning spaces for selling at the Market and collecting reasonable fees from sellers and shall take any other action reasonably necessary for the efficient management and operation of the certified farmers market.

X. EXECUTION OF INSTRUMENTS

The Board of Directors, except as otherwise provided in these By-Laws, may by resolution authorize any officer or agent of the DFMA to enter into any contract or execute and deliver any instrument in the name of and on behalf of the DFMA, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the DFMA by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

XI. CORPORATE RECORDS, REPORTS AND SEAL

Section 1: Maintenance of Corporate Records

The DFMA shall keep at its principal office in the State of California:

a) Minutes of all meetings of Directors, committees of the Board and, if the DFMA has members, of all meetings of members, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof.

b) Adequate and correct books and records of accounts, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses.

c) A record of its members, if any, indicating their names and addresses and, if applicable, the class of membership held by each member and the termination date of any membership.

d) A copy of the DFMA's Articles of Incorporation and By-Laws as amended to date, which shall be open to inspection by the members, if any, of the DFMA at all reasonable times during office hours.

Section 2: Corporate Seal

The Board of Directors may adopt, use, and at will alter, a corporate seal. Such seal shall be kept at the principal office of the DFMA. Failure to affix the seal to DFMA instruments, however, shall not affect the validity of any such instrument.

Section 3: Directors' Inspection Rights

Every Director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the DFMA.

Section 4: Members' Inspection Rights

Each and every member shall have the following inspection rights, for a purpose reasonably related to such person's interest as a member:

a) To inspect and copy at reasonable times, upon five (5) business days prior written demand on the DFMA, the accounting books, records, or minutes of proceedings of the members or of the Board or committees of the Board.

b.) A member can obtain from the Secretary of the DFMA, on written demand and payment of a reasonable charge, a list of the names, addresses, and voting rights of members. The demand shall state the purpose for which the list is requested. The membership list shall be available on or before the later of ten (10) business days after the demand is received or after the date specified therein as the date as of which the list is to be compiled.

c.) Notwithstanding the provisions of a.) and b.) above, the DFMA has the right to set aside a demand for inspection or to obtain a court order limiting inspection rights.

d) Any inspection under the provisions of this Article shall be made in person or by authorized agent or attorney.

Section 5: Annual Report

The Board shall cause an annual report to be furnished not later than one hundred and twenty (120) days after the close of the DFMA's fiscal year to all Directors of the corporation and, to all members, which report shall contain the following information in appropriate detail:

a) The assets and liabilities, including the trust funds, of the DFMA as of the end of the fiscal year.

- b) The principal changes in assets and liabilities, including trust funds, during the fiscal year.
- c) The revenue or receipts of the DFMA, both unrestricted and restricted to particular purposes, for the fiscal year.
- d) The expenses or disbursements of the DFMA, for both general and restricted purposes, during the fiscal year.

The Annual Report shall be accompanied by a report (thereon) of independent accountants, or, if there is no such report, the certificate of an authorized officer of the DFMA that such statements were prepared without audit from the books and records of the DFMA.

CERTIFICATE OF SECRETARY

OF

DAVIS FARMERS MARKET ASSOCIATION, INC.

A California Nonprofit Mutual Benefit Corporation

I hereby certify that I am the duly elected and acting Secretary of said Corporation and that the foregoing By-Laws, comprising seventeen number of pages, constitute the

Bylaws of said Corporation as duly adopted at a meeting of the Board of Directors thereof held on November 22,1997.

Dated: , 2005

Secretary

amended 2/28/05

USE AND LICENSE AGREEMENT
FOR WINTERS FARMERS MARKET AT ROTARY PARK
BY AND BETWEEN
THE CITY OF WINTERS AND
THE DAVIS FARMERS MARKET ASSOCIATION

This Use and License Agreement ("Agreement"), dated this ____ d a y of _____ 2009, is made and entered into, by and between the City of Winters, a municipal corporation, hereinafter referred to as "City," and Davis Farmers Market Association, Inc., a California non-profit corporation, hereinafter referred to as "DFMA;" each is referred to individually as a "party" and together are referred to as "parties."

RECITALS

WHEREAS, City owns certain real property commonly known as "Rotary Park" that is located between Railroad Avenue, Elliot Street, and East Main as the northern border, which is improved with, among other things, public restrooms, the Community Center (a community center building located at 201 Railroad Avenue), landscaping, and other improvements as shown in **Exhibit A**, attached hereto and incorporated herein (collectively "Rotary Park"); and

WHEREAS, DFMA has entered into a ground lease with the city of Winters to allow the Farmers Market to be on City property, as depicted in **Exhibit B**, attached hereto and incorporated herein; and

WHEREAS, DFMA will operate a certified farmers market ("Farmers Market") during the hours of 8:00 a.m. to 1:00 p.m. every Sunday of the year, during the months of May through October ("Market Hours"), and such hours are governed by Section 14.01.030 of the Winters Municipal Code. The portion of Rotary Park used by the DFMA during the Farmers Market is shown on **Exhibit A** and referred to as the "Market Area." As used in this Agreement only, "Market Area" shall include the other portions of Rotary Park used by DFMA; and

WHEREAS, City has a strong history in agriculture and farming; and

WHEREAS, the Farmers Market will provide a connection between farmers and residents of the City; and

WHEREAS, the health and welfare of the City are well served by the Farmers Market; and

WHEREAS, Municipal Code, Section 14.01.010 through 14.01.070, attached hereto as Exhibit C, govern the operation of the Farmers Market; and

WHEREAS, City hereby grants a license to DFMA for the use of the Market Area for operation of a Farmers Market as described herein.

NOW, **THEREFORE**, in consideration of the following terms and conditions, City and DFMA enter into this Agreement.

AGREEMENT

Section 1. Incorporation of Recitals. The above recitals, including the paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

Section 2. Payments for Use and for License; Term.

(a) License Payments by Market. DFMA shall pay to City a license fee of One Thousand Dollars (\$1000.00) per year adjusted annually by the percentage increase in the Consumer Price Index-San Francisco-Oakland-Bay Area Average (1967=100) as published by the Bureau of Labor Statistics of the U.S. Department of Labor (the "Index"). Such payment Shall be due on April 30th payable in advance for the coming year with no proration.

(b) The license fee shall be paid to City by DFMA in lawful money of the United States of America at City's address for notices as set forth in Section 21 of this Agreement or to such other person or at such places as City may from time to time designate in writing. All license fees payable by DFMA to City hereunder, if not paid when due, shall bear interest from the due date until paid at the maximum rate permitted by law.

(c) The term of this Agreement shall be for ten (10) years commencing on the date first written above and may be extended upon the mutual, written agreement of the parties.

(1). There shall be two (2) automatic five- (5) year extensions of the term unless notice of non-renewal is given as provided below.

(2). Notice of non-renewal may be given by either party by serving written notice of non-renewal upon the other party in advance of the tenth anniversary of the commencement date or the anniversary date at the end of any subsequent five-year term. In the absence of non-renewal notification, the unexpired term of this Agreement shall be deemed automatically extended as provided

(3). In the event that notice of non-renewal is served, then this Agreement shall be terminated at the conclusion of the unexpired balance remaining as of the anniversary date following notice of non-renewal.

Section 3. Use of the Market Area.

(a) General Use. Except as provided by this Agreement, the Market Area shall be used for activities consistent with DFMA's operation of the Farmers Market and other uses necessary and compatible therewith and for no other reason. DFMA shall use the Market Area in a manner consistent with all applicable laws, statutes, ordinances, or rules or regulations now in force and as they may be amended, including Chapter 14 of the City Municipal Code, Section 47000 *et seq.* of the Food and Agricultural Code, Section 1392.0 *et seq.* of Title 3 of the California Code of Regulations, and the rules and regulations adopted by DFMA. DFMA shall not commit or suffer to be committed any waste in, on, or about the Market Area. DFMA shall not do or permit anything to be *done* in or about the Market Area which will in any way obstruct or interfere with the rights of City to use the Market Area.

(b) Utilities. DFMA shall be responsible for providing electric and garbage disposal services to the Market Area. DFMA shall make arrangements with the City to either pay for electric service directly or reimburse the City for electric use. DFMA may arrange to have its own telephone and internet service available at its own expense.

(c) Furniture. DFMA shall provide any furniture it desires to use in the Market Area. The furniture shall be approved in advance by City. Any furniture provided by DFMA shall remain the personal property of DFMA.

(d) Signs. Any signs on or around the Market Area shall be designed by, purchased exclusively by, ordered by, and installed by DFMA. The design of any signs proposed to be placed on or around the Market Area shall be approved by City prior to installation and shall comply with all applicable City codes and regulations governing signs.

Section 4. Alterations. DFMA will not make or cause to be made alterations, additions, or improvements to, or of, the Market Area or any part thereof, or attach any fixtures or equipment thereto, without first obtaining City's written consent, which consent shall not be unreasonably withheld. Upon the expiration or sooner termination of the term hereof and provided that DFMA is not then in default hereunder, DFMA may remove its trade fixtures and other personal property, provided that DFMA promptly shall repair, -at its sole cost and expense, any damage to the property caused by such removal.

Section 5. Liens. DFMA shall keep the Market Area free from any liens arising out of any work performed, materials furnished or obligations incurred by DFMA.

Section 6. Repairs and Maintenance of Market Area.

(a) At all times during the term of this Agreement, and at DFMA's sole cost and expense, DFMA shall keep the Market Area in good condition and free of safety hazards and repair damage thereto associated with DFMA use, ordinary wear and tear and the destruction and damage in Section 9 excepted.

(b) At the termination of this Agreement, the Market Area shall be in the same condition as when this Agreement was executed, ordinary wear and tear and the destruction and damage in Section 7 excepted.

(c) Except as provided at Section 4 above, City has no obligation and has made no promise to alter, remodel, improve, repair, decorate, or paint any portion of the Market Area or any part thereof. No representations respecting the condition of the Market Area have been made by City to DFMA.

(d) DFMA will provide its own custodial service for the Market Area. DFMA is responsible for the disposal of waste in appropriate receptacles.

(e) DFMA, its vendors and any subtenants shall comply with the rules and regulations for use of the Market Area as specified in **Exhibit E**, attached hereto and incorporated herein, except that such exhibit may be amended from time to time by mutual written agreement of the parties.

Section 7. Repairs, Maintenance and use of Community Center.

(a) City owns the building adjacent to the Market Area known as Community Center or the "Community Center," located at 201 Railroad Avenue. DFMA has requested use of the restroom facilities at the Community Center. City hereby grants to DFMA the right to use the Community Center restrooms *subject* to compliance with the expectations and requirements provided in **Exhibit D** (attached hereto and incorporated herein), except that such exhibit may be amended from time to time by mutual written agreement of the parties. Regardless of tenant's compliance with expectations and requirements, City retains the right to revoke the privilege granted in this section at any time by providing written notice of such revocation.

(b) If the City incurs costs as a result of DFMA's use of restrooms (e.g. clean-up, repair of vandalism, additional trash pick-up, etc.), City will bill DFMA for the costs.

(c) DFMA's repeated failure, as determined by the Director of the Community Development Department, to follow through on expectations may result in DFMA's loss of the privilege of using Community Center restrooms.

Section 8. Use; Maintenance, and Repair of Rotary Park Areas outside the Market Area

(a) DFMA may use areas of Rotary Park outside of Market Area subject to Section 14.01.030 of the Winters Municipal Code, as such may be amended from time to time.

(b) DFMA and its activities shall not block public access to the Community Center.

(c) DFMA shall submit to the Director of Community Development Department on an annual or biannual basis a list of times and areas proposed to be used outside of the Market Area for approval consistent with Section 14.01.030 of the

Winters Municipal Code. The Director of Community Development Department shall approve, conditionally approved or restrict use of the area.

- (d) If the City incurs costs as a result of DFMA's use of Market Area or other portions of Central Park resulting during market hours or from market vendors arriving or leaving the Market Area or Rotary Park, City shall bill DFMA for the costs.
- (e) DFMA, its vendors, and any subtenants shall follow the same rules of use for Market Area provided for in Exhibit E, except that such rules may be amended from time to time by mutual written agreement of the parties.

Section 9. Destruction and Damage/Force Majeure.

(a) In the event of damage to the Market Area by fire, earthquake, act of God, the elements, or other casualty, this Agreement shall remain in full force and effect. City may determine to abate, either fully or partially, DFMA's license fee for such part of the Market Area as it renders unusable by DFMA in the conduct of its business during the time such part is not usable.

(b) If such damage cannot, in City's opinion, be repaired within ninety (90) days of the damage, City may elect, upon notice to DFMA within thirty (30) days after the date of such damage, to cancel this Agreement. If City does not so elect to cancel the Agreement, City may elect, upon notice to DFMA within thirty (30) days after the date of such damage, to repair or restore such damage, in which event this Agreement shall continue in full force and effect, but rent shall be partially abated in the manner provided for in subpart (a) above. If City does not so elect to make such repairs or to cancel this Agreement, this Agreement shall terminate as of the date of such damage.

Section 10. Insurance.

(a) At all times during the term of this Agreement, DFMA, at its sole cost and expense, shall procure and maintain the following types of insurance coverage:

(1) - Comprehensive Liability Insurance against any and all damages and liability, including attorney's fees and other costs and expense, on account or arising out of injuries to or the death of any person or damages to the Market Area, however occasioned, in, on, or about the Market Area, in the minimum amount of Two Million Dollars (\$2,000,000.00) for injuries to or the death of persons and for damage to property in any one accident. Such comprehensive general liability insurance shall insure the performance by DFMA of the indemnity agreement set forth in Section 10 herein;

(2) Insurance Against Damage By Fire and Other Perils excluding earthquake and flood, adequate in an amount to cover damages to the improvements on the Market Area other than DFMA-installed improvements, and DFMA's fixtures, furnishings, and equipment in the Market Area.

(b) The insurance required under this Section and all renewals thereof shall be issued by such *good and responsible companies* qualified to do and doing business in the State of California as may be approved by City, which approval shall not be unreasonably withheld. All such insurance shall name City and DFMA as parties insured. Each policy of insurance required to be carried under this Section, or duplicate or certificate thereof, shall be delivered to City for retention by City. Each policy shall provide expressly:

- (1) That the policy shall not be canceled or altered in such a manner as to adversely affect the coverage afforded thereby without sixty (60) days prior written notice to City and any lien-holder to whom a loss thereunder may be payable.
- (2) That the coverage shall be primary and non-contributing with any insurance that may be carried by City;
- (3) If procurable, that any loss shall be payable notwithstanding any act of negligence of City that might otherwise result in a forfeiture of coverage; and
- (4) That the word "insured" is used therein severally and not collectively and insurance coverage thereunder shall apply *as though* a separate policy were issued to each insured, although the inclusion of more than one insured party shall not operate to increase limits of the insurer's liability.

(c) City and DFMA shall obtain from their respective insurers under all policies of fire, theft, public liability, and other insurance now or hereafter maintained by either of them at any time during the term hereof insuring or covering the Market Area or any portion thereof or operations therein, a waiver of all rights of subrogation which the insurer of one party might have against the other party, provided such waiver is available. The cost of obtaining any such waiver shall be borne by the party who bears the cost of the policy to which such waiver is attached. City and DFMA each shall indemnify the other against such loss or expense, including reasonable attorney's fees, resulting from the failure to obtain any such waiver, provided the same is available.

Section 11. Indemnification. DFMA shall be solely responsible for, and shall indemnify, defend (by counsel reasonably acceptable to the City Attorney): and hold City, its officers, directors, agents, employees, volunteers, and any other person acting for or on behalf of City (collectively, the "Indemnified Parties") harmless from and against any and all costs, claims, losses, damages, causes of action, and liability which may arise by reason of any occurrence attributable to or caused by DFMA, its agents or contractors arising at any time and from any cause other than by reason of the willful misconduct of Indemnified Parties. DFMA shall include in its contracts with contractors similar obligations to indemnify, defend, and hold harmless the Indemnified Parties. The provisions of this Section shall survive the termination of this Agreement with respect to any damage, injury or death occurring prior to such termination.

Section 12. Compliance with Legal Requirements. DFMA at its sole cost and expense, shall comply promptly with all laws, statutes, ordinances, City regulations, and governmental rules,

regulations, or requirements now in force or which may hereafter be in force, with the requirements of any board of fire underwriters or other similar body now or hereafter constituted, with any direction or occupancy certificate issued pursuant to any law by any public officer, as well as the provisions of all recorded documents affecting the Market Area, insofar as any thereof relate to the condition or use of the Market Area.

Section 13. Prevailing Wage. DFMA is hereby noticed that any construction work on site is considered a public works project. Construction work on site may require compliance with prevailing wage laws. DFMA shall defend, protect, indemnify, and save City harmless from and against all claims, actions, damages, costs, expenses, and liabilities, including reasonable attorneys' fees, arising from claims regarding the failure of DFMA, its contractors or subcontractors to pay prevailing wages as required by this paragraph.

Section 14. Assignment. DFMA shall not assign, transfer, convey, or otherwise dispose of this Agreement or any license interest herein or assign use rights granted to DFMA on the Market Area or any part thereof, or permit the use of the City Property by any party other than DFMA.

Section 15. Termination: Default

(a) This Agreement shall be deemed for all purposes a revocable license, *which may* be revoked by the City if DFMA is in default during the term of this Agreement.

(b) The occurrence of any one or more of the following events of default shall constitute a breach of this Agreement by Market:

(1) If DFMA shall default in its obligation to pay any license fee due hereunder and such failure shall continue for more than fifteen (15) days after written notice thereof from City; or

(2) If DFMA shall fail to perform or observe any other term hereof or of the rules and regulations to be performed or observed by DFMA, such failure shall continue for more than thirty (30) days after notice thereof from City, and DFMA shall not within such period commence with due diligence and dispatch the curing of such default, or having so commenced, thereafter shall fail or neglect to prosecute or complete with due diligence the curing of such default.

(c) Upon default by DFMA of any provision of this Agreement as determined by City, City in its sole discretion may elect to terminate this Agreement and to revoke the license given unto this Agreement after giving thirty (30) days notice of termination of this revocable license. City shall have the right to exercise any and all remedies to enforce revocation of the license and termination of this Agreement as provided by law.

Section 16. Other Relief. The remedies provided for in this Agreement are in addition to any other remedies available to the City at law or in equity, by statute or otherwise.

Section 17. City's Right to Cure Defaults.

(a) All obligations and provisions to be performed by DFMA under any of the terms of this Agreement shall be at its sole cost and expense and without reduction of the license fee. If DFMA shall fail to pay any sum of money, other than the license fee, required to be paid by it hereunder or shall fail to perform any other act on its part to be performed hereunder and such failure shall continue for thirty (30) days after notice hereof by City, City may, but shall not be obligated to do so, and without waving or releasing DFMA from any obligations of DFMA, make any such payment or perform any such act on DFMA's part to be made or performed as in this Agreement provided.

(h) All sums so paid by City and all necessary incidental costs shall be deemed an additional license fee hereunder and shall be payable to the City on demand, and City shall have (in addition to any other right or remedy of City) the same rights and remedies in the event of the non-payment thereof by DFMA as, in the case of default by DFMA in payment of use fees.

Section 18. Possessory Interest Taxes. The use of government property by a nongovernmental agency or entity may give rise to possessory interest taxes levied by the local taxing jurisdiction. In the event such possessory interest taxes are levied against DFMA, DFMA agrees to pay such possessory interest taxes to the extent required by law for the use of property as described herein.

Section 19. Holding Over After Revocation of License Shall Constitute a Trespass. If DFMA fails to vacate the Market Area after termination of this Agreement and revocation of the license described herein, DFMA shall be deemed a trespasser which shall entitle City to all remedies in equity and at law, including damages, to remove DFMA as a trespasser.

Section 20 Waiver.

(a) The waiver by City or DFMA of any agreement, condition, or provision herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition, or provision herein contained, nor shall any custom or practice which may grow up between the parties in the administration of the terms hereof be construed to waive or to lessen the right of City or DFMA to insist upon the performance by DFMA or City in strict accordance with the terms hereof.

(b) City's subsequent acceptance of a license fee hereunder shall not be deemed to be a waiver of any preceding breach by DFMA or City of any agreement, condition, or provision of this Agreement, other than the failure of DFMA to pay the particular rental so accepted, regardless of City's or DFMA's knowledge of such preceding breach at the time of acceptance of such rental.

Section 21. Notices. All urgent notices to the city regarding safety concerns or needed maintenance shall be made by the DFMA manager to the most current call out list contact as provided to DFMA by the city. The city shall provide DFMA with the most recent copy of the call out list on at least an annual basis. All non urgent notices, consents, demands, and other

communications from one party to the other given pursuant to the terms of this Agreement or under the laws of the State of California, shall be deemed to have been delivered when deposited in the United States Mail, certified or registered, postage prepaid, addressed to DFMA or City at the respective addresses specified below or to such other place as DFMA or City may from time to time designate in a written notice to the other:

If to City:

City of Winters
318 First Street
Winters, CA 95694
Attn: City Manager

If to DFMA:

PO Box 1813 Davis, CA
95617 Attn: Randii
MacNear

Nothing herein shall prevent service of notice by other reliable means, except to the extent required by law, including but not limited to personal service, Express Mail, or other forms of reliable mail service other than the U.S. Postal Service.

Section 22. Complete Agreement. There are no oral agreements between City and Market affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between City and Market or displayed by City to Market with respect to the subject matter of this Agreement. There are no representations between City and Market other than those contained in this Agreement, and all reliance with respect to any representations is based solely upon the terms of this Agreement.

Section 23. Severability. If any provisions of this Agreement shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Agreement and all such other provisions shall remain in full force and effect. In the event the entire Agreement is unenforceable, then this Agreement shall immediately terminate and the revocable license described herein shall be deemed revocable.

Section 24. Choice of Law/Venue. This Agreement shall be governed by and construed pursuant to the laws of the State of California. Venue for any action brought to resolve any dispute relating to this Agreement shall be in a state court competent jurisdiction, whether it is the Superior Court or a consolidated court system from the County of Yolo.

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

CITY OF WINTERS,

DAVIS FARMER'S MARKET

a municipal corporation
of the State of California

ASSOCIATION INC (MARKET), a *California*
nonprofit corporation

By: _____
John W. Donlevy Jr.
City Manager

By: _____
Ann Evans
DFMA President

Approved as to form

:

By: _____

John Wallace

City Attorney



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: April 7, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Dan Maguire, Housing Programs Manager
SUBJECT: Ordinance 2009-04, An Ordinance of the City of Winters Adding Chapter 14-01 to the Winters Municipal Code Pertaining to Farmers Market

RECOMMENDATION:

Staff recommends the Council conduct a Public Hearing of the City Council of the City of Winters on the proposed City of Winters Farmers Market Ordinance (Ordinance 2009-04). Subsequent to the Public Hearing, staff recommends the City Council adopt the City of Winters Farmers Market Ordinance.

BACKGROUND:

The Davis Farmers Market Association has operated a certified farmers market for over 30 years. It is considered by many to be one of the preeminent farmers markets in California. The City of Davis established Chapter 14.01 of the City of Davis Municipal Code to establish a legal framework for the operation of a Farmers Market on city-owned property. The Farmers Market Chapter also provides for a flexible system of management over a Farmers Market that is responsive to public input and acts in the interests of its citizens, provides the framework for control over space allocation and enforcement of rules. Staff modified the existing City of Davis Farmers Market Ordinance to revise it into the Winters Farmers Market Ordinance (Ordinance 2009-04).

FISCAL IMPACT:

None by this action.

ATTACHMENTS:

City of Davis California Municipal Code 14.01.0 (Farmers Market)
City of Winters Farmers Market Ordinance (Ordinance 2009-04)

14.01.0 IN GENERAL***14.01.0 IN GENERAL*****14.01.010 Purposes of chapter. (2)**

The purposes of this chapter are as follows:

- (a) To establish a legal framework for the operation of a Farmers Market on city-owned property;
- (b) To provide for a flexible system of management over a Farmers Market that is responsive to public input and acts in the interest of all the residents of Davis;
- (c) To meet the need for control over space allocation and enforcement of rules for selling at a Farmers Market; and
- (d) To ensure that a Farmers Market is successfully maintained primarily as an outlet for farmers to sell their produce directly to consumers, while allowing for some product diversity in order to better meet the needs of consumers. (Ord. No. 1725, (part).)

14.01.020 Definitions. (3)

For the purposes of this chapter, the following words and phrases shall have the meanings given to them by this section, unless the context otherwise requires:

Approved Seller. A person selling or offering for sale at the Market an item or commodity which he or she has:

- (1) Grown upon land which the person controls, in the case of fruits, nuts, vegetables, other plant products, or other processed agricultural products;
- (2) Bred, raised, cultivated, or collected, in the case of animal, poultry, viticulture, vermiculture, aqua culture, eggs, honey and bee products;
- (3) Cooked, canned, preserved, or otherwise significantly treated, in case of prepared foods; or
- (4) Created, sewn, constructed, or otherwise fashioned from component materials, in the case of crafts.

An approved seller must also have an approved application-to-sell on file with the market manager prior to exercising his/her privilege of selling at the market.

Employee. Any person, other than a family member as defined in this section, employed by an approved seller at a regular salary or hourly rate, either full- or part-time, but not including any person whose compensation in whole or in the part is based on, or consists of, a commission on sales.

Family Member. A parent, child, grandparent, grandchild, or a family member regularly residing in the approved seller's household.

Governing Board. The board of directors or other ruling committee of the market association.

Market. A farmers market, certified by the Yolo County Agricultural Commissioner and located on city-owned property, including, where authorized, temporary use of streets and/or parkland.

Market Association. A not for profit association or corporation which manages and operates the market, also referred to as the "Davis Farmers Market Association" or "DFMA."

Market Manager. A person or persons empowered by the Governing Board, to implement market policies and directives, and to oversee the operation of the market.

Resale. Any sale other than by an approved seller, or a family member or employee thereof.

(Ord. No. 1327, §1 (part); Ord. No. 1458, §1 (part); Ord. No. 1725, (part); Ord. No. 2193)

14.01.030 Management. (4)

(a) Upon permit approval by the city council, the Market Association, through its governing board, may manage and operate a Farmers Market on city-owned property, subject to the following conditions:

- (1) Membership in the Market Association shall be open to all approved sellers on an equal basis upon approval by the DFMA governing board.
- (2) Membership in the Market Association shall not be a prerequisite for selling at the market.
- (3) At least twenty percent but no more than thirty percent of the positions on the governing board shall be held by representatives of non-farmers. For this purpose, a "non-farmer representative" is anyone who is not a qualified seller of certified and/or noncertifiable agricultural products under market rules and regulations. At least half of those positions shall be held by consumer representatives who reside in Davis.
- (4) All meetings of the Market Association shall comply with the Brown Act, California Government Code section 54950 et seq.
- (5) The Market Association shall obtain a business license as the sponsor of the market, in accordance with the provisions of chapter 19 of this code.
- (6) The market's location, hours of operation, and other conditions of use of city property shall be determined by the city manager, subject to review by the city council.

(b) Subject to the conditions in subsection (a) and the other provisions of this chapter, the Market Association may:

- (1) Promulgate rules and regulations for the market pursuant to section 14.01.040;
- (2) Issue permits and assign stall spaces for selling at the market;
- (3) Collect reasonable fees from sellers who utilize the market facilities; and
- (4) Take any other actions reasonably necessary for the efficient management and operation of the market. (Ord. No. 1725, (part).)

14.01.040 Rules and regulations--Limitations on selling. (5)

(a) The market rules and regulations, when promulgated by the Market Association in furtherance of

this chapter and not disapproved by the City Council after presentation thereto, shall be deemed to be adopted as part of this chapter and shall have the same force and effect as through expressly included.

(b)The market rules and regulations shall incorporate the following provisions, which are hereby made a part of this chapter:

(1)All sellers must currently have and display at the market all appropriate permits, licenses and certificates, and comply with all applicable federal, state and local laws, ordinances and regulations.

(2)No resale is permitted, and only approved sellers may sell at the market, with the following exceptions:

(A)A family member or employee may sell for an approved seller, but no commissions may be paid or received in connection with such sales.

(B)A certified grower may sell, in accordance with the market rules and regulations, for one other grower who is not a relative, provided that the seller is also selling his or her own produce and displays both grower certificates.

(C)Nonprofit organizations, including the Market Association, may engage in the resale of items related to or in support of their organizational purposes.

(3)Sellers must maintain their stall spaces in a clean and sanitary condition. Each seller shall remove containers, waste, and trimmings before leaving the market. Sellers may not use city trash bins.

(c)The Market rules and regulations may establish general categories for types of goods sold and may allocate a specific number of stall spaces for each category, subject to the following conditions:

(1)A priority system for assigning stall spaces may be based on membership in the Market, number of years selling at the Market, consumer demand, record of attendance, market commodity mix and compliance with DFMA Rules. No priority shall be given on the basis of location of product origin, except that sales of crafts and prepared foods may be limited to those produced in Yolo County and adjacent counties.

(2)If sellers with priority have not arrived at the market or notified the market manager of their intended arrival by a cutoff time established by the market manager, all unused stall spaces shall be made available to qualified sellers on a first-come, first-served basis.

(3)Nonprofit organizations shall be at the market whenever stall space is available. When nonprofit applicants exceed space available, a waiting list shall be established.

(d)The market rules and regulations shall be distributed to each person who applies for a selling permit and shall be prominently displayed at the market. (Ord. No. 1327, §1 (part); Ord. No. 1458, §1 (part); Ord. No. 1725, (part); Ord. No. 2193)

14.01.050 Permits to sell. (6)

(a)No person shall sell or offer to sell any item at the market except under the authority of a valid

permit approved by the market manager.

(b) Permits to use the market facilities shall give a seller the privilege of selling at the market only if the following conditions are met:

- (1) The seller properly files an application for a permit to sell at the market;
- (2) The seller complies with all ordinances and rules relating to the use of the market facilities;
- (3) The seller pays the appropriate stall fees;
- (4) The seller grants permission for the market manager, or other Market Association representative to enter the seller's premises for the reasonable inspection of land, facilities and records, in order to determine whether the seller is in compliance with the permit conditions. (Ord. No. 1725, (part).)

14.01.060 Discipline or removal of an approved seller; appeals. (7)

(a) A seller may be removed or suspended from any market or have selling privileges in the market conditioned, modified or limited by the Market Manager or Governing Board for violations of this chapter.

(1) If the Market Manager or Governing Board determines that a seller has violated the conditions of the permit to sell or any of the rules or regulations of the Market, the Market Manager may issue a verbal or written warning or may issue a "notice of proposed suspension."

(2) Any verbal warning or informal written warning may be followed by written notice of proposed suspension documenting such warning. Such written notice of proposed suspension or modification of selling privileges shall be mailed or personally delivered to the seller within seven (7) days of such verbal warning. The notice shall state the time and place of the Governing Board hearing on the proposed suspension or other action. Such hearing shall be held no later than thirty (30) days after mailing or personal service of the written notice of proposed suspensions. The Market Manager shall inform the seller of the reasons for the warning or notice.

(3) If the Market Manager issues a notice of proposed suspension, the seller may appear at the hearing before the Governing Board at the time and place in the notice. The hearing shall be conducted in accordance with this section and the market rules and regulations.

(4) The Governing Board shall, at the time and place set forth in the notice, hold a hearing on the proposed suspension. At the hearing, the seller shall be entitled to present written or oral evidence and argument as to why the permit should not be suspended. The Board shall also consider the testimony of the Market Manager or his or her designee. The Governing Board may, in its discretion, continue the hearing once to a future date.

(5) If the Governing Board, after a hearing, determines that the seller has violated the permit conditions or the Market rules and regulations, it may suspend the seller's permit for a maximum of 90 days.

(6) The Governing Board, may suspend, for any period deemed appropriate, or revoke the permit of any seller whose permit has been previously suspended. The Governing Board may revoke membership in the market for serious and repeated violations of state, local laws or market rules and regulations. The Governing Board may also refer the matter to a governmental agency with jurisdiction over the subject at issue. The Governing Board shall promptly notify the seller in writing of its decision and the

findings of fact supporting the decision.

(7)A seller whose permit has been suspended, or a seller, applicant, or member aggrieved by a decision of the Governing Board, may file a written request with the Market Manager requesting reconsideration of a determination made by the Governing Board. The person requesting reconsideration shall file the written request within ten (10) days of the adoption of the Governing Board determination. If no person files a timely request, the Governing Board shall not take any action pursuant to this section and the Governing Board's decision shall be considered final. If a timely request for reconsideration has been filed, at the next available meeting or no later than thirty (30) days from receipt of the request, the Governing Board shall consider the request for reconsideration and render a decision within ten (10) days. The Governing Board's decision shall be final.

(8)Notwithstanding any other provision in this chapter, if the Market Manager determines that an immediate suspension of a seller's privilege in the Market is necessary to preserve the health, safety or welfare of the Market customers, other Market sellers, Market staff, or the public, the Market Manager may suspend a seller's permit to sell. Such suspension shall be effective immediately. The Market Manager shall provide the seller with a notice of suspension stating the date, time and place of the Governing Board's hearing on the suspension. Thereafter, the hearing procedures detailed above shall be followed.

(b)(1) In addition to the provisions of subsections (a) and (b), any person who violates any provisions of this chapter may be deemed guilty of an infraction, punishable by a fine of no more than fifty dollars for a first violation, one hundred dollars for a second violation within one year, and two hundred fifty dollars for each additional violation within one year.

(2) Every day that any such violation continues shall constitute a separate offense.

(c)The Market Association is authorized to take civil legal action to enforce the requirements of this chapter and the rules and regulations.

(d)The remedies provided herein shall not be exclusive, and violation of any provision of this chapter shall be subject to other remedies as may be provided by law.

(Ord. No. 1725, (part); Ord. No. 2193)

14.01.070 Free Speech Area. (8)

(a)The Market Manager shall designate an area, known as the "Free Speech Area," within the Market to be set aside and used by any persons and/or organizations desiring to exercise their constitutional rights of speech and assembly. The Free Speech Area shall be proximately located to the Market. If the Free Speech Area is full, the Market Manager shall designate additional proximate areas.

(b)The Free Speech Area shall be subdivided into stall spaces of approximately equal size and proportion. Stall spaces shall be numbered sequentially starting with the space or spaces located closest in proximity to the Market. Stall spaces within the Free Speech Area shall be assigned by lottery drawing drawn one at a time from all applications submitted by interested persons and/or organizations until all applications submitted have been drawn and assigned a space.

(c)The lottery drawing shall be conducted by the Market Manager in the afternoon one day in advance of each Market day. Stall space assignments selected by lottery drawing shall be valid for the market

day in which the space is assigned. Persons and/or organizations submitting applications need not be present at the time of the drawing to participate in the lottery. Persons and/or organizations interested in stall spaces within the Free Speech Area shall submit an application to the Market Manager at least twenty-four (24) hours before the lottery drawing.

(d) Lottery drawings shall be open to the public at a date, time and place designated by the Market Manager provided that written notice of the date, time, and place of said drawing shall be posted at the Free Speech Area and the Market Manager's Office forty-eight (48) hours before the lottery drawing.

(e) The written application shall include at least the following information: the name, address and telephone number of persons and/or organizations desiring to execute their rights of speech and assembly.

(f) Unassigned stall spaces within the Free Speech Area shall be assigned each Market day at the opening of the Market on a first-come, first-serve basis to persons and/or organization not participating in the lottery drawing. Assignment of unassigned stall spaces shall be valid for the Market day in which the space is assigned.

(g) Individuals and/or organizations assigned a stall space within the Free Speech Area shall complete setup of any displays and/or materials no earlier than two (2) hours prior to the public opening of each Market day. All displays and/or materials shall be removed no later than two (2) hours following the public close of each Market day. The Market Manager may remove from the Free Speech Area, at the individual's and/or organization's expense, any and all displays and/or materials set up before or left after the time period prescribed by this paragraph.

(h) The Market Manager retains the right to set reasonable time, place and manner restrictions within the Free Speech Area.

ORDINANCE NO. 2009-04

**AN ORDINANCE OF THE CITY OF WINTERS
ADDING CHAPTER 14.01 TO THE WINTERS MUNICIPAL CODE
PERTAINING TO FARMERS MARKET**

The City Council of the City of Winters hereby ordains as follows:

SECTION 1.

- A. The City Council desires to enhance the downtown area of the City of Winters, and encourage commercial activity, especially activity that provides a connection to the agriculture and farming of the Winters area.
- B. The establishment of farmers market will foster a more urban pedestrian environment, promote economic activity and growth, and generally make the community more attractive in which to live, work and play.
- C. The City Council of the City of Winters has given the required notice of its intention to adopt this amendment to add Chapter 14.01 to the Winters Municipal Code, and conducted a public hearing thereon on April 7, 2009.
- D. This Ordinance is exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3).

SECTION 2. Chapter 14.01, "Farmers Market" is hereby added to the Winters Municipal Code to read as follows:

14.01.10 Purpose.

The purposes of this chapter are as follows:

- (a) To establish a legal framework for the operation of a Farmers Market on city-owned property;
- (b) To provide for a flexible system of management over a Farmers Market that is responsive to public input and acts in the interests of all the residents of Winters;
- (c) To meet the need for control over space allocation and enforcement of rules for selling at a Farmers Market; and
- (d) To ensure that a Farmers Market is successfully maintained primarily as an outlet for farmers to sell their produce directly to consumers, while allowing for some product diversity in order to better meet the needs of consumers.

14.01.20 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings given to them by this section, unless the context otherwise requires:

Approved Seller. A person selling or offering for sale at the Market an item or commodity which he or she has:

- (1) Grown upon land which the person controls, in the case of fruits, nuts, vegetables, other plant products, or other processed agricultural products;
- (2) Bred, raised, cultivated, or collected, in the case of animal, poultry, viticulture, vermiculture, aqua culture, eggs, honey and bee products;
- (3) Cooked, canned, preserved, or otherwise significantly treated, in case of prepared foods; or
- (4) Created, sewn, constructed, or otherwise fashioned from component materials, in the case of crafts.

An approved seller must also have an approved application-to-sell on file with the market manager prior to exercising his/her privilege of selling at the market.

Employee. Any person, other than a family member as defined in this section, employed by an approved seller at a regular salary or hourly rate, either full- or part-time, but not including any person whose compensation in whole or in the part is based on, or consists of, a commission on sales.

Family Member. A parent, child, grandparent, grandchild, or a family member regularly residing in the approved seller's household.

Governing Board. The board of directors or other ruling committee of the market association.

Market. A farmers market, certified by the Yolo County Agricultural Commissioner and located in city-owned property, including, where authorized, temporary use of streets and/or parkland.

Market Association. A not for profit association or corporation which manages and operates the market, also referred to as the "Davis Farmers Market Association" or "DFMA".

Market Manager. A person or persons empowered by the Governing Board, to implement market policies and directives, and to oversee the operation of the market.

Resale. Any sale other than by an approved seller, or a family member or employee thereof.

14.01.03 Management.

- (a) Upon permit approval by the city council, the Market Association, through its governing board, may manage and operate a Farmers Market on city-owned property, subject to the following conditions:

- (1) Membership in the Market Association shall be open to all approved sellers on an equal basis upon approval by the DFMA governing board.
 - (2) Membership in the Market Association shall not be a prerequisite for selling at the market.
 - (3) At least twenty percent but no more than thirty percent of the positions on the governing board shall be held by representatives of non-farmers. For this purpose, a "non-farmer representative" is anyone who is not a qualified seller of certified and/or noncertifiable products under market rules and regulations. At least half of those positions shall be held by consumer representatives who reside in Davis and/or Winters
 - (4) All meetings of the Market Association shall comply with the Brown Act, California Government Code section 54950 et seq.
 - (5) The Market Association shall obtain a business license as the sponsor of the market, in accordance with the provisions of chapter 19 of this code.
 - (6) The market's location, hours of operation, and other conditions of use of city property shall be determined by the city manager, subject to review by the city council.
- (b) Subject to the conditions in subsection (a) and the other provisions of this chapter, the Market Association may:
- (1) Promulgate rules and regulations for the market pursuant to section 14.01.040;
 - (2) Issue permits and assign stall spaces for selling at the market;
 - (3) Collect reasonable fees from sellers who utilize the market facilities; and
 - (4) Take any other actions reasonably necessary for the efficient management and operation of the market.

14.01.040 Rules and regulations – Limitations on selling

- (a) The market rules and regulations, when promulgated by the Market Association in furtherance of this chapter and not disapproved by the City Council after presentation thereto, shall be deemed to be adopted as part of this chapter and shall have the same force and effect as through expressly included.
- (b) The market rules and regulations shall incorporate the following provisions, which are hereby made a part of this chapter:
 - (1) All sellers must currently have and display at the market all appropriate permits, licenses and certificates, and comply with all applicable federal, state and local laws, ordinances and regulations.
 - (2) No resale is permitted, and only approved sellers may sell at the market, with the following exceptions:
 - (A) A family member or employee may sell for an approved seller, but no commission may be paid or received in connection with such sales.
 - (B) A certified grower may sell, in accordance with the market rules and regulations, for one other grower who is not a relative, provided that the seller is also selling his or her own produce and displays both grower certificates.

- (C) Nonprofit organizations, including the Market Association, may engage in the resale of items related to or in support of their organizational purposes.
- (3) Sellers must maintain their stall spaces in a clean and sanitary condition. Each seller shall remove containers, waste, and trimmings before leaving the market. Sellers may not use city trash bins
- (c) The Market rules and regulations may establish general categories for types of goods sold and may allocate a specific number of stall spaces for each category, subject to the following conditions:
 - (1) A priority system for assigning stall spaces may be based on membership in the Market, number of years selling at the Market, consumer demand, record of attendance, market commodity mix and compliance with DFMA Rules. No priority shall be given on the basis of product origin, except that sales of crafts and prepared foods may be limited to those produced in Yolo County and adjacent counties
 - (2) If sellers with priority have not arrived at the market or notified the market manager of their intended arrival by a cutoff time established by the market manager, all unused stall spaces shall be made available to qualified sellers in a first-come, first-served basis.
 - (3) Nonprofit organizations shall be at the market whenever stall space is available. When nonprofit applicants exceed space available, a waiting list shall be established
- (d) The market rules and regulations shall be distributed to each person who applies for a selling permit and shall be prominently displayed at the market.

14.01.050 Permits to sell.

- (a) No person shall sell or offer to sell any item at the market except under the authority of a valid permit approved by the market manager.
- (b) Permits to use the market facilities shall give the seller the privilege of selling at the market only if the following conditions are met:
 - (1) The seller properly files an application for a permit to sell at the market;
 - (2) The seller complies with all ordinances and rules relating to the use of the market facilities;
 - (3) The seller pays all the appropriate stall fees;
 - (4) The seller grants permission for the market manager, or other Market Association representative to enter the seller's premises for the reasonable inspection of land, facilities and records, in order to determine whether the seller is in compliance with the permit conditions.

14.01.060 Discipline or removal of an approved seller; appeals.

- (a) A seller may be removed or suspended from any market or have selling privileges in the market conditioned, modified or limited by the Market Manager or Governing Board for violations of this chapter.

- (1) If the Market Manager or Governing Board determines that a seller has violated the conditions of the permit to sell or any of the rules or regulations of the Market, the Market Manager may issue a verbal or written warning or may issue a "notice of proposed suspension".
- (2) Any verbal warning or informal written warning may be followed by written notice of proposed suspension documenting such warning. Such written notice of proposed suspension or modification of selling privileges shall be mailed or personally delivered to the seller within seven (7) days of such verbal warning. The notice shall state the time and place of the Governing Board hearing in the proposed suspension or other action. Such hearing shall be held no later than thirty (30) days after mailing or personal service of the written notice of proposed suspensions. The Market Manager shall inform the seller of the reasons for the warning or notice.
- (3) If the Market Manager issues a notice of proposed suspension, the seller may appear at the hearing before the Governing Board at the time and place in the notice. The hearing shall be conducted in accordance with this section and the market rules and regulations.
- (4) The Governing Board shall, at the time and place set forth in the notice, hold a hearing on the proposed suspension. At the hearing, the seller shall be entitled to present written or oral evidence and argument as to why the permit should not be suspended. The Board shall also consider the testimony of the Market Manager or his or her designee. The Governing Board may, in its discretion, continue the hearing once to a future date.
- (5) If the Governing Board, after a hearing, determines that the seller has violated the permit conditions or the Market rules and regulations, it may suspend the seller's permit for a maximum of 90 days.
- (6) The Governing Board, may suspend, for any period deemed appropriate, or revoke the permit of any seller whose permit had been previously suspended. The Governing Board may revoke membership in the market for serious and repeated violations if state, local laws or market rules and regulations. The Governing Board may also refer the matter to a governmental agency with jurisdiction over the subject at issue. The Governing Board shall promptly notify the seller in writing of its decision and the findings of fact supporting the decision.
- (7) A seller whose permit has been suspended, or a seller, applicant, or member aggrieved by a decision of the Governing Board, may file a written request with the Market Manager requesting reconsideration of a determination made by the Governing Board. The person requesting reconsideration shall file the written request within ten (10) days of the adoption of the Governing Board determination. If no person files a timely request, the Governing Board shall not take any action pursuant to this section and the Governing Board's decision shall be considered final. If a timely request for reconsideration has been filed, at the next available meeting or no later than thirty (30) days from the receipt of the request, the Governing Board shall consider the request for reconsideration and

render a decision within ten (10) days. The Governing Board's decision shall be final.

- (8) Notwithstanding any other provision in this chapter, if the Market Manager determines that an immediate suspension of a seller's privilege in the Market is necessary to preserve the health, safety or welfare of the Market customers, other Market sellers Market staff, or the public, the Market Manager may suspend a seller's permit to sell. Such a suspension shall be effective immediately. The Market Manager shall provide the seller with a notice of suspension stating the date, time and place of the Governing Board's hearing on the suspension. Thereafter, the hearing procedures detailed above shall be followed,

(b) (1) In addition to the provisions of subsections (a) and (b), any person who violates any provisions of this chapter may be deemed guilty of an infraction, punishable by a fine of no more than fifty dollars for a first violation, one hundred dollars for a second violation and two hundred fifty dollars for each additional violation within a year.

(2) Every day that any such violation continues shall constitute a separate offense.

(c) The Market Association is authorized to take civil legal action to enforce the requirements of this chapter and the rules and regulations.

(d) The remedies provided herein shall not be exclusive, and violation of any provision of this chapter shall be subject to other remedies as may be provided by law.

14.01.070 Free Speech Area.

- (a) The Market Manager shall designate an area, known as the "Free Speech Area", within the Market to be set aside and used by any persons and/or organizations desiring to exercise their constitutional rights of speech and assembly. The Free Speech Area shall be proximately located to the Market. If the Free Speech Area is full, the Market Manager shall designate additional proximate areas.
- (b) The Free Speech Area shall be subdivided into stall spaces of approximately equal size and proportion. Stall spaces shall be numbered sequentially starting with the space or spaces located closest in proximity to the Market. Stall spaces within the Free Speech Area shall be assigned by lottery drawing drawn one at a time from all applications submitted by interested persons and/or organizations until all applications submitted have been drawn and assigned a space.
- (c) The lottery drawing shall be conducted by the Market Manager in the afternoon one day in advance of each Market day. Stall space assignments selected by lottery drawing shall be valid for the market day in which the space is assigned. Persons and/or organizations submitting applications need not be present at the time of drawing to participate in the lottery. Persons and/or organizations interested in stall spaces within the Free Speech Area shall submit an application to the Market Manager at least twenty-four (24) hours before the lottery drawing.
- (d) Lottery drawings shall be open to the public at a date, time and place designated by the Market Manager provided that written notice of the date, time and place of

said drawing shall be posted at the Free Speech Area and the Market Manager's Office forty-eight (48) hours before the lottery drawing.

- (e) The written application shall include at the least the following information: the name, address and telephone number of persons and/or organizations desiring to execute their rights of speech and assembly.
- (f) Unassigned stall spaces within the Free Speech Area shall be assigned each Market day at the opening of the Market on a first-come, first-serve basis to persons and/or organization not participating in the lottery drawing. Assignment of unassigned stall spaces shall be valid for the Market day in which the space is assigned.
- (g) Individuals and/or organizations assigned a stall space within the Free Speech Area shall complete setup of any displays and/or materials no earlier than two (2) hours prior to the public opening of each Market day. All displays and/or materials shall be removed no later than two (2) hours following the public close of each Market day. The Market Manager may remove from the Free Speech Area, at the individual's and/or organization's expense, any and all displays and/or materials set up before or left after the time period prescribed by this paragraph.
- (h) The Market Manager retains the right to set reasonable time, place and manner restrictions within the Free Speech Area.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Winters, California, held on April 7, 2009, and was passed and adopted at a regular meeting of the City Council held on April 21, 2009 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael Martin, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



**CITY COUNCIL AND
COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT**

TO: Honorable Mayor and Council Members
Honorable Chairman and Board of Directors

DATE: April 7, 2009

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

FROM: Dan Maguire, Housing Programs Manager *DM*

SUBJECT: Lease Agreement Between the Community Development Agency and John Siracusa for that Certain Property at 7 East Main Street and a Sublease by and Between the Community Development Agency and The Clayground for Same Property

RECOMMENDATION:

Staff recommends the City Council and the Community Development Agency ("CDA") approve and authorize the execution of a Lease Agreement between the CDA and John Siracusa for the Property at 7 East Main Street (the "Property") and the execution of a Sublease between the CDA and The Clayground for the Property.

BACKGROUND:

One of the objectives identified in the CDA Five-Year Implementation Plan is the maximization of opportunities for the revitalization, expansion, and development of commercial and industrial uses within the Project Area. One of the CDA's adopted programs to meet this objective is to provide programs and projects that promote economic development.

Rebecca Bresnick Holmes and Shannon Moore-Jervis have been operating The Clayground, an art studio working in clay and bisqueware in a 400 square foot space in the rear of the 9 East Main property since February of 2007. The Clayground has developed a multifaceted business with a strong regional client base. Clayground offers instructional services so the public can work with clay or glaze pre-made bisque ware. They also host group events and corporate team-building workshops.

Clayground has developed a strong internet presence through www.clayground.biz and have had over 5,000 hits on their site, and they maintain an extensive e-mail list (several hundred).

DISCUSSION:

Relocation of The Clayground is essential to the growth of the business. Relocation to a larger more visible location will allow for expansion to include larger space available to display artwork and other products for sale.

Expansion of The Clayground and relocation to a space with street frontage on East Main Street would offer the City many benefits. The Clayground is a business with stable income and a stable customer base. Expanded hours of operation and relocation to a space with downtown street frontage will attract visitors and generate increased revenues. It would provide an intriguing business downtown, which will continue to make drop in participation available to the public. All other studios and art centers require people to be enrolled in classes in order to work with clay. The Clayground will have expanded hours in the new location and those hours will be set open hours of operation, contributing to the "Winters is open for business" environment that the CDA us trying to encourage.

The attached Master Lease and Sublease (the "Leases") provide for the CDA to lease the Premises from John Siracusa for \$850 per month and sub-lease the Property to The Clayground for \$500 per month for a period of 18 months. The Leases also provide for a performance review by the CDA just prior to the one (1) year anniversary of the Leases.

The Leases would require that the CDA provide the security deposit of \$400, which would be returned to the CDA after the 18-month lease period. The Clayground would be required to spend \$800 on advertising expenses over the first 12 months of the Lease agreements, which would promote Winters.

The California Health and Safety Code, Section 33433 requires that if a redevelopment agency intends to sell or lease property, the agency must first secure approval of the proposed lease for its local legislative body after a public hearing and notice of the time and place shall be published in a newspaper of general circulation in the community for a least two successive weeks prior to the hearing. Notice of the joint hearing was published in the Winters Express on March 26 and April 2, 2009.

Accordingly, a Section 33433 Report is required under the rules of the California Health and Safety Code. Staff has prepared a Section 33433 report containing a copy of the Lease and Sublease and a summary describing the cost of the Sublease to the CDA and other information required by Section 33433. The Report was made available to the public for inspection.

FISCAL IMPACT:

\$6,300 in lease payments (\$350 per month for 18 months). \$400 toward the security deposit which would be returned to the CDA at the end of the lease term.

ATTACHMENTS:

- Lease by and between the CDA and John Siracusa
- Sub-Lease by and between the CDA and The Clayground
- City Council Resolution No. 2009-18
- CDA Resolution No. 2009-19
- Summary Report for the Proposed Leases

LEASE

THIS LEASE ("Lease"), is executed in duplicate at Winters, California as of _____, 2009, by and between JOHN SIRACUSA and ELIZABETH SIRACUSA, husband and wife, and PAUL FAIR and JEANETTE FAIR, husband and wife, individuals, hereinafter ("Landlord"), and the Winters Community Development Agency, (collectively and interchangeably, "Tenant" or "CDA").

RECITALS

A. The CDA is charged with implementing the City of Winters Community Development Project Area Plan (the "Redevelopment Plan") and has legal authority under Health and Safety Code section 33430 to lease any property within the redevelopment project area for purposes of redevelopment.

B. The Clayground is an art studio business.

C. Agency recognizes that the proposed business is an asset to the community and establishing the business at the Premises will help stimulate business activity in the downtown area of Winters. Consequently, Agency desires to assist the business owner in establishing the Clayground in downtown Winters.

D. Agency can extend such assistance by entering into a market rate Master Lease for the Premises and subleasing the Premises to the Clayground at below-market rent..

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- (1) Recitals. The recitals above are incorporated by reference as though fully stated herein.
- (2) Leasing and Description of Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises. The Premises are located at 7 East Main Street, Suite 7B, Winters, California.
- (3) Term. The initial term of this Lease shall be twelve months, beginning May 1, 2009. Provided that tenant is in full performance under the terms of this lease, Tenant may exercise an option, for an additional six (6) months, on the same terms and conditions herein specified.

(4) Lessee's Termination Rights. Notwithstanding the provisions of section 3, during the Initial Term of this lease, through April 30, 2010, Tenant may terminate this Lease upon sixty (60) days prior written notice to Landlord. In the event that Sub-Tenant (as defined in Section 25 herein) defaults under the Sublease contemplated herein, Tenant shall have the right to terminate this Lease as of the date of Sub-Tenant's default, upon written notice to Landlord, without liability to Landlord under this lease or otherwise.

(5) Rent. Upon the commencement of this Lease as provided in Section 3 hereof, Tenant shall pay rent to Landlord for the Premises, at the rate of Eight Hundred and Fifth Dollars (\$850.00) per month (the "Rent"). Rent shall be payable monthly in advance on the first day of each month.

(6) Security Deposit: Upon Execution of this lease by the Landlord and Tenant, Tenant shall pay to Landlord, as a security deposit the sum of \$400.00. If tenant fails to pay rent or other charges due hereunder, or otherwise defaults with respect to any provision of this Lease, Landlord may use, apply or retain all or any portion of the Security Deposit for the payment of any Rent or other charges in default or for the payment of any other sum to which Landlord may become obligated by reason of Tenant's default, or to compensate Landlord for any loss or damage which Landlord may suffer thereby. If Landlord so uses or applies all or any portion of said deposit(s), Tenant shall within thirty (30) days after written demand therefore deposit cash with Landlord in an amount sufficient to restore the Security deposit to the full amount stated herein. Tenant's failure to do so shall be a material breach of this Lease. Within ten (10) business days of expiration of the Term of this Lease and Tenant's vacating of the Premises, Landlord shall return to Tenant the Security Deposit or so much thereof as has not been properly applied by Landlord.

(7) Use. The Premises shall be used for the Clayground business as specified above, and uses relating thereto. No use shall be made, or permitted to be made, of the Premises, nor acts done which will increase the existing rate of insurance upon the Premises or Real Property, or cause a cancellation of any insurance policy covering the Premises Property, or any part thereof, nor shall Tenant sell, or permit to be kept, used, or sold, in or about said Premises, any articles which may be prohibited by a standard form of fire insurance policy.

(8) Signs. All exterior signs or interior permanent signs shall be permitted only with the prior written approval of Landlord, which approval shall not be unreasonably withheld or delayed. If approval of sign design or placement is required by any public agency, the responsibility for obtaining such approval shall be that of Tenant who shall, in any event, bear the expense of installation of such sign. Landlord shall not permit any other Tenant of the Property to erect signs which block or obscure sign(s) placed on the Property by Tenant pursuant to this section; nor will Landlord permit any other Tenant of the Property to erect signs which use confusingly similar graphics or letter as Tenant's signs. Tenant shall have the right to prominent signage on the Property.

(9) Landlord's Representations. Landlord represents to the best of its knowledge and warrants that:

(a) the Premises and the Property do not contain any latent defects or hazardous substances;

(b) the HVAC, plumbing, electrical, and other systems are in good and working condition; and

(c) such systems, the Premises and the Property are in compliance with all applicable local, state, and federal regulations, ordinances, statutes, and laws, including accessibility requirements of the Americans with Disabilities Act, as amended (the "ADA").

(10) Maintenance and Repair.

(a) Except for repair or restoration to be made by Landlord pursuant to the terms hereof, Tenant shall, at its own expense, undertake to keep, maintain and repair the Premises, during the term of this Lease, in good working and sanitary order, condition and repair, reasonable wear and tear and damage by casualty not caused by the negligence of Tenant or its agents, contractors or employees.

(11) Tenant Improvements. Landlord shall have no obligation to construct any tenant improvements or make any changes to the Premises. Tenant may make such changes as are necessary for Tenant's use of the Premises, providing that Tenant complies with all provisions of this Lease and obtains Landlord's prior written consent.

(12) Removal of Trade Fixtures. Tenant may remove all moveable furniture, trade fixtures, and store equipment installed in the Premises by Tenant, prior to the termination of this Lease. Except as set forth in Sections 8 and 10, Tenant shall repair damage caused by removal of trade fixtures, if any, and shall be obligated to patch, but not paint holes and scratches.

(13) Insurance. Tenant agrees to take out and keep in full force during the life hereof, at Tenant's expense, commercial general liability insurance to protect against any liability to the public, incident to the use of or resulting from any accident occurring in or about the Premises, the liability under each such insurance to be no less than Five Hundred Thousand Dollars (\$500,000) for any one person injured, One Million Dollars (\$1,000,000) for any one accident, and Three Hundred Thousand Dollars (\$300,000) for property damage. Landlord shall be named as an additional insured on all of Tenant's policies of insurance. Tenant will obtain a written obligation on the part of the insurance carriers to notify Landlord in writing prior to any cancellation thereof, and Tenant agrees, if Tenant does not keep such insurance in full force and effect, the Landlord may take out the necessary insurance and pay the premium, and the repayments thereof shall be deemed to be part of the Rent and payable as such on the next day upon which Rent becomes due. Tenant may elect to self-insure or jointly self-insure all or any part of such required insurance coverage (including but not limited to, e.g., coverage offered to a municipality through and by a joint powers authority, a self-insurance pool of liability coverage authorized pursuant to California Government Code Section 6500, or similar collective).

(a) Landlord shall maintain at Landlord's sole cost and expense, commercial liability and property insurance on the Property for bodily injury, personal injury and property damage based upon, involving or arising out of Landlord's and third parties' use, occupancy, or maintenance of the Premises or/and the Property, the liability under each such insurance to be no

less than Two Million Dollars (\$2,000,000) for any one person injured, Four Million Dollars (\$4,000,000) for any one accident, and Five Hundred Thousand Dollars (\$500,000) for property damage. Tenant shall be named as an additional insured on all of Landlord's policies of insurance. In addition, Landlord shall obtain and keep in force during the Term of this Lease a policy or policies of insurance in the name of Landlord, with loss payable to Landlord and to any lenders having a lien on the Property or any part of it, covering loss or damage to the Premises, Building, and Property including any tenant improvements in an amount not to exceed the full replacement cost thereof, as the same may exist from time to time, providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, flood, special extended perils ("all risk", as such term is used in the insurance industry), plate glass insurance if Landlord so elects, and such other insurance as Landlord deems advisable, but excluding earthquake unless required by a lender having a lien on the Property.

(b) As available, each party will deliver to the other party certificates of coverage or copies of the policies of insurance that the party is required to carry pursuant to this section within ten (10) days after execution of this Lease. Landlord waives any right to recover against Tenant for claims for damages to the extent covered (or required by this Lease to be covered) by insurance. This provision is intended to waive fully, and for the benefit of Tenant, any rights and/or claims which might give rise to a right of subrogation in favor of Tenant's insurance carrier. The coverage obtained by Landlord pursuant to this Lease shall include a waiver of subrogation endorsement attached to the certificate of insurance.

(14) Personal Property Taxes. Tenant hereby agrees to pay, before becoming delinquent, any and all personal property taxes arising by reason of Tenant's use or occupancy of the Premises or the existence of Tenant's personal property on the Premises.

(15) Property Taxes; Assessments. Landlord shall pay, before becoming delinquent, any and all real property taxes assessed against the Premises.

(16) Gas and Electric Utilities. Tenant shall, in addition to all other sums agreed to be paid by Tenant under this Lease, pay for all gas and electric charges billed for Tenant's sole use of the Premises. Tenant shall pay its pro-rata share of all water and sewer charges which shall, during the term of this Lease, be assessed against the Premises. Tenant is responsible for its own garbage pickup and dumpster. If a total utility billing is assessed against more than one Tenant, Tenant shall pay only Tenant's pro-rata share of said utility cost. This payment shall include any increases in costs which might be assessed by public or private agencies supplying said service. If, because of a change in the law or otherwise such charges be made directly by Landlord, then Tenant agrees to pay such sum to Landlord.

(17) Subordination, Non-Disturbance and Attornment. This Lease shall be subject to and subordinate at all times to the lien or any mortgage or mortgages or trust deed or deeds ("Encumbrance") which may be placed upon the Premises or property of which the Premises are a part, and the Tenant covenants that it will execute and deliver to the Landlord or to the nominee of the Landlord proper subordination agreements to this effect at any time upon request by the Landlord and without payment being made therefore. No such subordination shall be

effective unless and until Tenant has received a non-disturbance agreement from the holder of the Encumbrance or the Landlord in a recordable, commercially reasonable form.

(18) Successors and Assigns. The covenants and conditions herein contained shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto.

(19) Holding Over. Any holding over after the expiration of the said term, with the consent of Landlord, shall be construed to be a tenancy from month-to-month, at a rental each month equal to the last regular month's Rent. Either party may terminate a month-to-month tenancy only upon sixty (60) days prior written notice to the other party.

(20) Waiver. The waiver by either party of any breach or any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition therein contained. The subsequent payment of Rent by Tenant, or acceptance of Rent hereunder by Landlord, shall not be deemed to be a waiver of any preceding breach by the other party of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent.

(21) Attorney's Fees. In the event of any legal action concerning this Lease, the losing party shall pay to the prevailing party reasonable attorney's fees and court costs to be fixed by the court wherein such judgment shall be entered. The parties agree that prior to initiating litigation, they will engage in good-faith settlement discussions, including non-binding arbitration or mediation in an attempt to resolve any dispute.

(22) Notices. All notices to be given hereunder shall be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or delivered by personal or courier delivery, or sent by facsimile (immediately followed by one of the preceding methods), to the addresses indicated below, or to such other place as Landlord or Tenant may designate in a written notice given to the other party. Notices shall be deemed served upon the earlier of receipt or three (3) days after the date of mailing. Notice to the Landlord is to be given to John Siracusa, Trustee, at _____, Winters, CA 95694. Notice to the Tenant is to the City of Winters, c/o Dan Maguire, 318 First Street, Winters, CA 95694

(23) Insolvency-Receiver-Bankruptcy. Either (a) the appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or (b) any action taken or suffered by Tenant under any insolvency or bankruptcy act shall constitute a breach of this Lease by Tenant, and Landlord may declare this Lease void and be entitled to remedies provided by law and by this Lease.

(24) Assignment or Subletting. Tenant shall not assign this Lease, or any interest therein, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto (individually and collectively, "Transfers an Interest"), without Landlord's prior written consent. This Lease shall not, nor shall any interest therein, be assignable, as to the interest of Tenant, by operation of law. Notwithstanding the foregoing, Tenant is hereby

expressly permitted to Transfer an Interest to Clayground or its successors-in-interest ("Sub-Tenant"). Following execution of this lease, Tenant intends to enter into the Sublease as set forth in the recitals.

(25) Compliance with Laws.

(a) Tenant shall, at Tenant's sole cost and expense, comply with, or cause compliance with, all of the requirements of all Municipal, State and Federal laws and regulations now in force, or which may hereafter be in force, pertaining to Tenant's use and occupancy of the Premises.

(b) Landlord shall, at Landlord's sole cost and expense, comply with all Municipal, State and Federal laws and regulations now in force, or which may hereafter be in force pertaining to the Property, the Building and the Premises. Landlord's obligations in the preceding sentence shall include, without limitation, bringing the Premises and the Property into compliance, and maintaining compliance, with accessibility requirements of the ADA. If there are permit requirements of the City of Winters ("City"), Landlord shall bear all costs of obtaining said permits, including processing fees, permit fees, parking in-lieu fees, and any other costs and expenses, excluding any Building permit fees, incurred in obtaining such permits. Tenant makes no representation concerning the availability of any permits or approvals required or permitted under this Lease and shall not be liable to Landlord for any failure to obtain permits from City. Nothing in this Lease is intended to or shall abrogate or delegate City's or Agency's discretionary powers.

(26) Free from Liens. Tenant shall keep the Premises and the Property, free from any liens arising out of any work performed, materials or obligations incurred by Tenant.

(27) Remedies of Landlord upon Default. If any Rent or other charges due under this Lease are due and remain unpaid for ten (10) days after receipt of notice from Landlord, or if Tenant breaches any of the other covenants of this Lease and if such other breach continues for thirty (30) days after receipt of notice from Landlord, Landlord will then, but not until then, have the right to sue for Rent, or to terminate this Lease and re-enter the Premises pursuant to California laws and statutes and pursuant to an order of a court of competent jurisdiction. If Tenant pays the Rent or other Charges within the ten (10) day period, or in good faith within said thirty (30) days commences to correct such other breach and diligently proceeds therewith, then Tenant will not be considered in default. In the event of Tenant's default of this Lease, Landlord shall have a duty to mitigate its damages.

(28) Time. Time is of the essence for each and every provision of this Lease.

(29) Mutual Indemnification.

(a) Tenant agrees to protect, defend, indemnify, and hold harmless Landlord and its respective partners, successors and assigns, agents, and employees harmless from and against any and all liabilities, claims, expenses, losses and damages (including but not limited to reasonable attorneys fees and costs) that may at any time be asserted against Landlord arising out of or in connection with this Lease, except to the extent caused by Landlord's sole or active negligence or willful misconduct.

(b) Landlord agrees to protect, defend, indemnify, and hold harmless Tenant, the City of Winters (hereinafter, the "City") and their respective partners, affiliates, subsidiaries, directors, officials, officers, successors and assigns, agents, employees, volunteers, and representatives harmless from and against any and all liabilities, claims, expenses, losses and damages (including but not limited to reasonable attorneys fees and costs) that may at any time be asserted against Tenant or City arising out of or in connection with this Lease, except to the extent caused by Tenant's or City's sole or active negligence or willful misconduct.

(30) Non-Discrimination. The Tenant herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this Lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Premises herein leased nor shall the Tenant himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, subtenants, or vendees in the Premises herein leased.

(31) Integration. This Lease represents the entire agreement between the parties hereto and there are no collateral oral agreements or understandings.

(32) Lease Provisions. If any section, term, or clause hereof is unenforceable the remaining provisions of this Lease shall nevertheless remain fully effective.

(33) Authority. Landlord represents and warrants that:

(a) it has full power and authority to enter this Lease;

(b) there are no judicial, quasi-judicial, administrative or other orders, injunctions, moratoria or pending proceedings against Landlord, the Premises or the Property which preclude or interfere with the occupancy and use of the Premises for the purposes set forth in this Lease;

(c) it has the right, power and authority to enter into this Lease and to perform fully all its obligations hereunder;

(d) the making of this Lease does not violate any agreement existing between such party and any third party; and

(e) the person executing and delivering this Lease on behalf of Landlord has full authority of the partnership to execute and deliver this Lease on behalf of Landlord.

(34) Governing Law. This Lease will be construed in accordance with, and be governed by, the laws of the State of California.

IN WITNESS WHEREOF, Landlord and Tenant have executed these presents, the day and year first above written.

Landlord:

Tenant:

John Siracusa and Elizabeth Siracusa, husband and wife,

Winters Community Development Agency

Paul Fair and Jeanette Fair, husband and wife,

By: _____
John Donlevy, Jr.
Executive Director

By: _____

John Siracusa

SUBLEASE

THIS SUBLEASE, is executed in duplicate at Winters, California as of _____, 2009, by and between the City of Winters Community Development Agency, a public body, corporate and politic ("Agency" or "Sub-Landlord"), and Rebecca Bresnick Holmes and Shannon Moore-Jervis, doing business as The Clayground ("Clayground" or "Sub-Tenant").

RECITALS

A. John Siracusa and Elizabeth Siracusa, husband and wife, and Paul Fair and Jeanette Fair, husband and wife ("Master Landlord"), as Landlord, and Agency, as Tenant, entered into a written Lease dated as of _____, 2009 (the "Master Lease"), regarding that certain real property located at 7 East Main Street, Suite 7B, Winters, California (the "Premises"). A copy of the Master Lease is attached as **Exhibit A**.

B. The Agency is charged with implementing the City of Winters Community Development Project Area Plan (the "Redevelopment Plan") and has legal authority under Health and Safety Code section 33430 to lease any property within the redevelopment project area for purposes of redevelopment.

C. Clayground is an art studio business.

D. Agency recognizes that The Clayground business is an asset to the community and establishing the Clayground at the Premises will help stimulate business activity in the downtown area of Winters. Consequently, Agency desires to assist Clayground in establishing the art studio in downtown Winters.

E. Agency can extend such assistance by entering into a market rate Master Lease for the Premises and subleasing the Premises to Clayground at below-market rent.

F. In exchange for such assistance, Clayground agrees to diligently and actively proceed to locate the art studio at the Premises and fulfill the terms and conditions of this Sublease.

G. This Sublease is conditioned on the redevelopment and use of the Premises in conformity with the Redevelopment Plan.

H. Capitalized terms used but not defined in this Agreement shall have the respective meanings provided in the Master Lease.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sub-Landlord and Sub-Tenant hereby agree as follows:

1. **Recitals**. The recitals above are incorporated by reference as though fully stated herein.

2. Master Lease. Except as otherwise expressly provided in this Sublease, the covenants, agreements, provisions and conditions of the Master Lease (to the extent that they are not inconsistent with the terms of this Sublease) are made a part of and incorporated into this Sublease as if fully restated herein.

3. Sublease Subject to Master Lease. This Sublease is subject and subordinate to the Master Lease. During the term hereof, Sub-Tenant shall be bound by the terms and conditions of the Master Lease, as they may be amended, except as otherwise specifically provided in this Sublease; and the rights of Sub-Tenant are subordinate to the terms and conditions of the Master Lease. Except as otherwise agreed to by Master Landlord, Sub-Landlord and Sub-Tenant, this Sublease shall terminate if the Master Lease is terminated for any reason.

4. Subleasing. Sub-Landlord subleases to Sub-Tenant and Sub-Tenant subleases from Sub-Landlord, at the rent and upon all the terms and conditions set forth herein, the Premises.

5. Term. The term of this Sublease shall be for eighteen (18) months, commencing on May 1, 2009 (the "Commencement Date") and expiring, unless sooner terminated as provided in the Master Lease, on November 30, 2010 (the "Sublease Term").

6. Rent. Commencing on the Commencement Date, Sub-Tenant shall pay as rent, without deduction or set-off, Five Hundred Dollars (\$500.00) per month (the "Sublease Rent"). If the Sublease Rent is due for a period of less than a full month, it shall be prorated for such partial month on the basis of a thirty (30) day month.

7. Security Deposit. Upon signing of this Sublease by Sub-Landlord and Sub-Tenant, Sub-Tenant will pay to Sub-Landlord as a "Security Deposit" the amount of Four Hundred Dollars (\$400.00). If Sub-Tenant fails to pay Sublease Rent, additional rent, or other charges due hereunder, or otherwise defaults with respect to any provision of this Sublease, Sub-Landlord may use, apply or retain all or any portion of the Security Deposit for the payment of any such or other sums to which Sub-Landlord may become obligated by reason of Sub-Tenant's default, or to compensate Sub-Landlord for any loss or damage which Sub-Landlord may suffer thereby. If Sub-Landlord so uses or applies all or any portion of said deposit(s), Sub-Tenant shall within thirty (30) days after written demand therefore deposit cash with Sub-Landlord in an amount sufficient to restore the Security Deposit to the full amount stated herein. Sub-Tenant's failure to do so shall be a material breach of this Sublease. Within thirty (30) business days of expiration of the Sublease Term and Sub-Tenant's vacating of the Premises, Sub-Landlord shall return to Sub-Tenant the Security Deposit or so much thereof as has not been properly applied by Sub-Landlord.

8. Other Charges. Sub-Tenant acknowledges that pursuant to the Master Lease, Sub-Landlord is obligated to pay maintenance, repair and replacement costs, taxes, utilities (including but not limited to electricity, gas, water, sewer, and garbage), and other charges directly to the providing or taxing persons or entities rather than to Master Landlord. Sub-Tenant hereby assumes such obligations and charges on Sub-Landlord's behalf. If Sub-Tenant does not pay such amounts, Sub-Landlord may (but is not obligated) to do so on Sub-Tenant's behalf and charge such sums to Sub-Tenant as additional rent. Any sums owed by Sub-Tenant to Sub-

Landlord under this Sublease shall be considered "additional rent" and shall be due and payable in the same manner as Sublease Rent.

9. Sub-Tenant's Maintenance and Repair. Sub-Tenant shall, at its own expense, undertake to keep, maintain and repair all portions of the Premises, including without limitation, all Sub-Tenant's personal property and trade fixtures, during the term of this Lease, in good working and sanitary order, condition and repair, reasonable wear and tear and damage by casualty not caused by the negligence of Sub-Tenant or its agents, contractors or employees excepted. Sub-Tenant shall be liable for any damage to the Premises resulting from the acts or omissions of Sub-Tenant or its authorized representatives.

10. Holding Over. If Sub-Tenant remains in possession of the Premises after the expiration of the Sublease Term, with the express written consent of Sub-Landlord, such occupancy shall be a tenancy from month to month at the rental and on the terms set forth in this Sublease, plus all other charges payable hereunder.

11. Statement Regarding Possessory Interest Tax. This Lease creates a possessory property interest in Sub-Tenant. Sub-Tenant's property interest may be subject to property taxation, and Sub-Tenant or the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on the interest. Such taxes are referred to herein as "Possessory Interest Taxes." Sub-Tenant shall pay any Possessory Interest Taxes directly to the taxing authority.

12. Assignment. Sub-Tenant may not assign or sub-sublet ("Transfer") the Premises or Sub-Tenant's interest in the Sublease, or any portion thereof, without prior written consent and approval of both the Sub-Landlord and Master Landlord. Before any Transfer shall be effective the assignee or sub-subtenant must assume, in writing, all of the obligations of Sub-Tenant under this Sublease. Any such Transfer shall not, in any way, affect or limit the liability of Sub-Tenant under the terms of this Sublease even if after such Transfer the terms of this Sublease are materially changed or altered without the consent of Sub-Tenant, the consent of whom shall be unnecessary. Regardless of Landlord's consent, no Transfer shall relieve Sub-Tenant of Sub-Tenant's obligations under this Sublease or alter the primary liability of Sub-Tenant to pay the rent and other sums due, and to perform and to comply with all other obligations of Sub-Tenant hereunder. Any assignee shall deliver to Sub-Landlord, before the assignment shall be effective, a written original of the assignment of this Sublease and the party's agreement to be bound by and to perform and observe all terms, covenants and conditions of Sub-Tenant under this Sublease (including all restrictions on use, assignment and subletting) and to assume all obligations of Sub-Tenant under this Sublease, which instruments must be satisfactory in form and content to Sub-Landlord. Sub-Tenant shall pay to Sub-Landlord any and all consideration paid or payable by any sub-subtenant or assignee in excess of the rent payable by Sub-Tenant to Sub-Landlord hereunder. Consent to any one assignment or sublease shall not be deemed consent to any subsequent assignment or sublease. In the event of default by any sub-subtenant, in the performance of any of the terms hereof, Sub-Landlord may proceed directly against Sub-Tenant or any guarantor(s) or anyone else responsible for the performance of this Sublease, including the assignee or sub-subtenant, without the necessity of first exhausting Sub-Landlord's remedies against any other person or entity responsible therefor to Sub-Landlord, or any security then held by Sublandlord or Sub-Tenant. Sub-Landlord may consent to subsequent assignments

or subleases or amendments or modifications to this Sublease or any sub-sublease, without notifying Sub-Tenant, any successor of Sub-Tenant, or anyone else liable under this Sublease without obtaining its or their consent thereto and such action shall not relieve Sub-Tenant or any such other parties of liability under this Sublease or the sub-sublease.

13. Quiet Enjoyment. As long as Sub-Tenant is not in default of this Sublease, Sub-Landlord shall be obligated to perform all of its obligations under the Master Lease, and during the term of this Sublease Sub-Tenant shall have quiet enjoyment of the Premises.

14. Use and Continuous Operating Covenant.

(a) The Premises shall be used and occupied only for the use set forth in the Master Lease and for no other purpose. Such use is conditioned on the redevelopment and use of the Premises in conformity with the Redevelopment Plan.

(b) Sub-Tenant shall conduct Clayground's business, as set forth in Section 6 of the Master Lease, at all times in a manner of such character and quality as is reasonably designed to produce an economically reasonable return and meet the goals of Sub-Landlord as set forth in the Recitals.

15. Sub-Landlord's Obligations Under Master Lease. Sub-Landlord agrees to maintain the Master Lease during the Sublease Term, subject, however, to any termination of the Master Lease as set forth therein. Sub-Landlord's performance of its obligations under this Sublease is expressly conditioned on performance by the Master Landlord of its obligations under the Master Lease and Sub-Landlord will not be liable to Sub-Tenant for any Master Landlord default or breach.

16. Sub-Tenant's Obligations Under Master Lease. The rights and obligations of the Sub-Landlord under the Master Lease (except as to Rent or Early Termination) are hereby deemed to be the rights and obligations of Sub-Tenant under this Sublease, and inure to the benefit of and are binding on Sub-Tenant. Obligations include the payment of any and all utilities used by the Sub-Tenant. As between Sub-Landlord and Sub-Tenant only, in the event of a conflict between the terms of the Master Lease and the terms of this Sublease, this Sublease will control.

17. Indemnity and Insurance.

(a) Indemnity. Sub-Tenant agrees to protect, defend, indemnify, and hold harmless Sub-Landlord and City and their respective partners, affiliates, subsidiaries, directors, officials, officers, successors and assigns, agents, employees, volunteers, and representatives harmless from and against any and all liabilities, claims, expenses, losses and damages, orders, fines, penalties and expenses of any kind whatsoever (including but not limited to reasonable attorneys fees and costs) that may at any time be asserted against Sub-Landlord or City arising out of or in connection with the Master Lease and/or this Sublease (except to the extent caused by Sub-Landlord's or City's sole or active negligence or willful misconduct), or resulting from or in connection with the obligation to comply with all laws with respect to the Premises, including, without limitation, all applicable federal and state labor laws and standards.

(b) Insurance. Sub-Tenant shall carry such insurance as required of Sub-Tenant under the Master Lease, and Sub-Landlord shall be named as an additional insured on all such policies.

18. Release. Sub-Tenant fully releases and discharges Sub-Landlord and City from all and any manner of rights, demands, liabilities, obligations, claims, or cause of actions, in law or equity, of whatever kind or nature, whether known or unknown, whether now existing or hereinafter arising, which arise from or relate in any manner to the Sub-Landlord or City arising out of or in connection with this Sublease or the Master Lease, except to the extent caused by Sub-Landlord's or City's sole or active negligence or willful misconduct. Sub-Tenant acknowledges and agrees that the release and waiver set forth in this section is material consideration for Sub-Landlord's sublease of the Premises to Sub-Tenant on the terms set forth herein and that, but for this release and waiver, Sub-Landlord would not have subleased the Premises to Sub-Tenant. It is hereby intended that the above release relates to both known and unknown claims that the Sub-Tenant may have, or claim to have, against the Sub-Landlord or the City with respect to the subject matter contained herein or the events relating thereto. By releasing and forever discharging claims both known and unknown which are related to or which arise under or in connection with the items set out above, the Sub-Tenant expressly waives any rights under California Civil Code section 1542, which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

19. Consent of Master Landlord. The signature of Master Landlord at the end of this document shall constitute its consent to the terms of this Sublease.

20. Attorneys' Fees. If Sub-Landlord or Sub-Tenant (each a "party") brings an action to enforce the terms of this Sublease, to declare rights hereunder or for any other relief against another party or parties, the prevailing party in any such action, on trial and appeal, shall be entitled to its reasonable attorneys' fees and costs of suit to be paid by the losing party as fixed by the Court.

21. Notices. All notices to be given hereunder shall be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or delivered by personal or courier delivery, or sent by facsimile (immediately followed by one of the preceding methods), to the addresses indicated below, or to such other place as Sub-Landlord or Sub-Tenant may designate in a written notice given to the other party. Notices shall be deemed served upon the earlier of receipt or three (3) days after the date of mailing.

To Sub-Landlord: City of Winters Community
Development Agency
Attn: Executive Director
318 First Street
Winters, CA 95694

Telephone: (530) 795-4910
Facsimile: (530) 795-4935

To Sub-Tenant: The Clayground
 Attn: Rebecca Bresnick Holmes
 7 East Main Street, Suite 7B
 Winters, CA 95694
 Telephone: () _____
 Facsimile: () _____

22. Non-Discrimination. The Tenant herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, and this Sublease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Premises herein leased nor shall the Tenant himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, subtenants, or vendees in the Premises herein leased.

23. No Brokers. Neither party has had any contact or dealings regarding the Premises, or any communication in connection with this Sublease, through any real estate broker or other person who is entitled to a commission or finder's fee in connection with this transaction. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any contact, dealings or communication with either party, then the party upon whose contact, dealings or communication the claim is based shall indemnify and hold the other party harmless from all costs and expenses (including but not limited to attorneys' fees) incurred by such other party in connection with such claim.

24. Counterparts. This Sublease may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

25. Miscellaneous. This Sublease constitutes the entire understanding of Sub-Landlord and Sub-Tenant with respect to the matters covered by it and supersedes all prior Subleases and understandings, written or oral, between Sub-Landlord and Sub-Tenant with respect to such matters. This Sublease may not be modified or amended, nor may any term or provision be waived or discharged, except in writing signed by the party or parties against whom such amendment, modification, waiver, or discharge is sought to be enforced. The waiver by any party of any breach by another party of any provision of this Sublease will not constitute or operate as a waiver of any other breach of such provision or of any other provision by such party, nor will any failure to enforce any provision operate as a waiver of such provision or any other

provision. This Sublease will be construed in accordance with, and be governed by, the laws of the State of California. This Sublease will benefit and be binding upon the parties to it and their respective heirs, representatives, successors and assigns. If any provision of this Sublease or the application of any such provision shall be held by a court of competent jurisdiction to be invalid, void or unenforceable to any extent, the remaining provisions of this Sublease and the application thereof shall remain in full force and effect and shall not be affected, impaired or invalidated.

IN WITNESS WHEREOF, the parties have executed this Sublease the day and year first above written.

SUB-LANDLORD:

City of Winters Community Development Agency, a public body, corporate and politic

By: _____
Its: Executive Director

SUB-TENANT:

The Clayground

By: _____
Rebecca Bresnick Holmes

By _____
Shannon Moore-Jervis

Its: Owners

Approved as to Form:

By: _____
John C. Wallace, Attorney at Law
Its: Agency Counsel

CONSENT OF MASTER LANDLORD

The undersigned hereby consents to the foregoing Sublease and to Sub-Tenant's use of the Premises.

MASTER LANDLORD:

By _____
John Siracusa, Owner/Representative

**CITY OF WINTERS
RESOLUTION 2009-18**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
APPROVING AND AUTHORIZING THE EXECUTION OF A LEASE BY
AND BETWEEN THE CITY OF WINTERS COMMUNITY
DEVELOPMENT AGENCY AND JOHN SIRACUSA OF THAT CERTAIN
REAL PROPERTY AT 7 EAST MAIN STREET AND A SUBLEASE BY
AND BETWEEN THE AGENCY AND THE CLAYGROUND FOR SAME
PROPERTY**

WHEREAS, pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*), the City of Winters Community Development Agency (the "Agency") is charged with the implementation of the City of Winters Community Development Project Area Plan (the "Redevelopment Plan"); and

WHEREAS, one of the objectives of the Redevelopment Plan is to stimulate retail activity within downtown Winters; and

WHEREAS, the Agency desires to enter into a lease ("Lease") with John Siracusa (the "Owner"), which provides that the Agency will lease from the Owner that certain real property (the "Premises"), including appurtenant access thereto, located at 7 East Main Street, Winters, California (the "Property") and sublease the Premises to Rebecca Bresnick Holmes and Shannon Moore-Jervis, d.b.a. The Clayground ("Clayground") pursuant to a below-market rent sublease ("Sublease") in furtherance of the goals of the Redevelopment Plan; and

WHEREAS, Clayground operates an art studio business ("Clayground's Business") in a 400 square foot space located at 9 East Main Street, Winters, California, the size of which has begun to limit the amount of necessary equipment Clayground can utilize to expand ARC's scope of services; and

WHEREAS, the Agency recognizes that Clayground's Business is an asset to the community and desires to assist Clayground in order to enhance the viability of its operation and relocate Clayground's Business to a downtown Winters location with street frontage; and

WHEREAS, Agency can extend such assistance and further such goals by entering into the Lease for the Premises and subsequently entering into the Sublease with Clayground, which provides, among other things, that (i) Clayground will sublease the Premises from the Agency, and (ii) Clayground will construct certain tenant improvements and renovations to the Premises to enable the operation of Clayground's Business at the Premises; and

WHEREAS, the Sublease is conditioned upon the use of the Property in conformity with the Redevelopment Plan; and

WHEREAS, the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*) provides in Section 33431 that any sale or lease of Agency Property may be made only after a public hearing of the Agency after publication of notice as provided by law; and

WHEREAS, the Community Redevelopment Law further provides in Section 33433 that, before any property acquired, in whole or in part, with tax increment monies, is sold or leased for development pursuant to a redevelopment plan, such sale or lease shall first be approved by the legislative body after a public hearing, that notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community for at least two (2) successive weeks prior to the hearing, and that the Agency shall make available for public inspection a copy of the proposed sale or lease and a summary of the financial aspects of the proposal; and

WHEREAS, notice of a joint public hearing of the City Council of the City of Winters (the "City Council") and the Agency on the proposed Lease and Sublease was published once a week for two successive weeks in the *Winters Express*; and

WHEREAS, the Agency prepared a report pursuant to Section 33433 of the Health and Safety Code (the "Report"), describing the cost of the Lease and Sublease to the Agency, the value of the property interest to be conveyed, the monthly rental rates for the Lease and Sublease and other information required by said Section 33433, and the Report, together with the Lease and Sublease, were made available to the public for inspection; and

WHEREAS, the City Council and the Agency held a joint public hearing on April 7, 2009, in the City Council Chambers to consider and act on the Lease and Sublease of the Premises.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINTERS DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council hereby finds and determines that the lease of the Premises by the Agency from the Owner, the concurrent sublease of the Premises by the Agency to Clayground will assist in the elimination of blight and is consistent with the Five-Year Implementation Plan adopted by the Agency pursuant to Health and Safety Code Section 33490. The City Council further finds and determines that the lease payments and other consideration to be made by Clayground pursuant to the Sublease is not less than the fair reuse value of the Premises at the use and with the covenants, conditions, development costs and other terms governing the proposed Lease and Sublease. The City Council further finds that the assistance provided by the Agency under the below-market rate Sublease provided for under the Sublease is necessary to effectuate the purpose of the Redevelopment Plan. These findings are based upon the facts and information contained in the Report prepared by the Agency pursuant to Health and Safety Code Section 33433, relating to the proposed Lease and Sublease.

Section 2. The City Council hereby approves 1) the Lease by and between the Agency and Owner for the Premises; and 2) the Sublease by and between the Agency and

Clayground for the Premises, in substantially the forms currently on file with the City Clerk, and hereby authorizes execution of the Lease and Sublease on behalf of the Agency, subject to any minor, technical, non-substantive or clarifying changes as approved by the Agency Executive Director and Agency Counsel. The City Council hereby further authorizes the Agency to take all actions and execute all documents as necessary to carry out the Lease and Sublease, on behalf of the Agency, including without limitation, the payment of Agency funds for the rental payments under the Lease, receipt of rental payments from Clayground under the Sublease, all in accordance with the Lease and Sublease.

PASSED AND ADOPTED by the City Council of the City of Winters this 7th day of April 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael Martin, Mayor

ATTEST:

Nanci Mills, City Clerk

RESOLUTION 2009-19

A RESOLUTION OF THE CITY OF WINTERS COMMUNITY DEVELOPMENT AGENCY APPROVING AND AUTHORIZING THE EXECUTION OF A LEASE BY AND BETWEEN THE AGENCY AND JOHN SIRACUSA FOR THAT CERTAIN REAL PROPERTY AT 7 EAST MAIN STREET AND A SUBLEASE BY AND BETWEEN THE AGENCY AND THE CLAYGROUND FOR SAME PROPERTY

WHEREAS, pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*), the City of Winters Community Development Agency (the "Agency") is charged with the implementation of the City of Winters Community Development Project Area Plan (the "Redevelopment Plan"); and

WHEREAS, one of the objectives of the Redevelopment Plan is to stimulate retail activity within downtown Winters; and

WHEREAS, the Agency desires to enter into a lease ("Lease") with John Siracusa (the "Owner"), which provides that the Agency will lease from the Owner that certain real property (the "Premises"), including appurtenant access thereto, located at 7 East Main Street, Winters, California (the "Property") and sublease the Premises to Rebecca Bresnick Holmes and Shannon Moore-Jervis, d.b.a. The Clayground ("Clayground") pursuant to a below-market rent sublease ("Sublease"), in furtherance of the goals of the Redevelopment Plan; and

WHEREAS, Clayground operates a art studio business ("Clayground's Business") in a 400 square foot space located at 9 East Main Street, Winters, California, the size of which has begun to limit the amount of necessary equipment Clayground can utilize to expand Clayground's scope of services; and

WHEREAS, the Agency recognizes that Clayground's Business is an asset to the community and desires to assist Clayground in order to enhance the viability of its operation and relocate Clayground's Business to a downtown Winters location with street frontage; and

WHEREAS, Agency can extend such assistance and further such goals by entering into the Lease for the Premises and subsequently entering into the Sublease with Clayground, which provides, among other things, that (i) Clayground will sublease the Premises from the Agency, and (ii) Clayground will construct certain tenant improvements and renovations to the Premises to enable the operation of Clayground's Business at the Premises; and

WHEREAS, the Sublease is conditioned upon the use of the Property in conformity with the Redevelopment Plan; and

WHEREAS, the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*) provides in Section 33431 that any sale or lease of Agency

Property may be made only after a public hearing of the Agency after publication of notice as provided by law; and

WHEREAS, the Community Redevelopment Law further provides in Section 33433 that before any property acquired, in whole or in part, with tax increment monies, is sold or leased for development pursuant to a redevelopment plan, such sale or lease shall first be approved by the legislative body after a public hearing, that notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community for at least two (2) successive weeks prior to the hearing, and that the Agency shall make available for public inspection a copy of the proposed sale or lease and a report containing specified information and the financial aspects of the proposal; and

WHEREAS, notice of a joint public hearing of the City Council of the City of Winters (the "City Council") and the Agency on the proposed Lease and Sublease was published once a week for two successive weeks in the *Winters Express*; and

WHEREAS, the Agency prepared a report pursuant to Section 33433 of the Health and Safety Code (the "Report"), describing the cost of the Lease and Sublease to the Agency, the value of the property interest to be conveyed, the monthly rental rates for the Lease and Sublease and other information required by said Section 33433, and the Report, together with the Lease and Sublease, were made available to the public for inspection; and

WHEREAS, the City Council and the Agency held a joint public hearing on April 7, 2009, in the City Council Chambers to consider and act on the Lease and Sublease of the Premises.

NOW, THEREFORE, THE CITY OF WINTERS COMMUNITY DEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Agency hereby finds and determines that the lease of the Premises by the Agency from the Owner, the concurrent sublease of the Premises by the Agency to Clayground will assist in the elimination of blight and is consistent with the Five-Year Implementation Plan adopted by the Agency pursuant to Health and Safety Code Section 33490. The Agency further finds and determines that the lease payments and other consideration to be made by Clayground pursuant to the Sublease is not less than the fair reuse value of the Premises at the use and with the covenants, conditions, development costs and other terms governing the proposed Lease and Sublease. The Agency further finds that the assistance provided by the Agency under the below-market rate Sublease is necessary to effectuate the purpose of the Redevelopment Plan. These findings are based upon the facts and information contained in the Report prepared by the Agency pursuant to Health and Safety Code Section 33433, relating to the proposed Lease and Sublease.

Section 2. The Agency hereby approves 1) the Lease by and between the Agency and Owner for the Premises; and 2) the Sublease by and between the Agency and Clayground for the Premises, in substantially the forms currently on file with the Agency Secretary, and hereby authorizes and directs the Executive Director of the Agency to execute the Lease and Sublease

on behalf of the Agency, subject to any minor, technical, non-substantive or clarifying changes as approved by the Agency Executive Director and Agency Counsel. The Agency hereby further authorizes and directs the Executive Director to take all actions and execute all documents as necessary to carry out the Lease and Sublease, on behalf of the Agency, including without limitation, the payment of Agency funds for the rental payments under the Lease, receipt of rental payments from Clayground under the Sublease, all in accordance with the Lease and Sublease.

PASSED AND ADOPTED by the City of Winters Community Development Agency this 7th day of April 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael Martin, Agency Chairman

ATTEST:

Nanci Mills, Agency Secretary

**SUMMARY REPORT
FOR PROPOSED LEASE BETWEEN CITY OF WINTERS COMMUNITY
DEVELOPMENT AGENCY AND JOHN SIRACUSA, AND SUBLEASE
BETWEEN AGENCY AND REBECCA BRESNICK HOLMES AND SHANNON
MOORE-JERVIS, dba THE CLAYGROUND
Premises: 7 East Main Street**

This summary report has been prepared pursuant to Section 33433 of the California Community Redevelopment Law (CCRL, being Section 33000 *et seq.* of the Health and Safety Code).

The City Council of the City of Winters (the "City Council") and the City of Winters Community Development Agency ("Agency") have set on or after 7:30 p.m. on Tuesday, April 7, 2009 in the Council Chambers in the City Hall of the City of Winters as the time, date and place for a joint public hearing to hear testimony with reference to a proposed Lease ("Lease") between the Agency (as Tenant) and John Siracusa (as "Landlord") and a related Sublease ("Sublease") between the Agency (as Sub-Landlord) and Rebecca Bresnick Holmes and Shannon Moore-Jervis, d.b.a. The Clayground ("The Clayground" as Sub-Tenant). At the close of said public hearing, the City Council and Agency may each take action to approve, disapprove, or approve a modified version of the Lease and Sublease (collectively referred to herein as the "Lease Agreements").

The Lease Agreements provide for (1) the lease by the Agency from Landlord of certain real property (the "Premises") commonly known as 7 East Main, including appurtenant access thereto, located in a larger existing commercial building (the "Property"), within the downtown area of the City and also within the boundaries of the Winters Community Development Project Area (the "Development Project"); and (2) the concurrent below-market rent sublease of the Premises by the Agency to The Clayground. The Clayground will use the Premises for operation of its art studio business ("The Clayground's Business").

I. COPY OF THE PROPOSED LEASE AGREEMENTS

Copies of the proposed Lease and Sublease are attached to this Report as Exhibits A and B, respectively, and are made a part of this Report by reference.

II. COST OF THE LEASE AGREEMENTS TO AGENCY

1. Lease of Premises by Agency

The Premises are currently owned by the Landlord, and consist of approximately 800 square feet of commercial space located at 7 East Main Street (including approximately 22 feet of street frontage), which constitutes a portion of the rentable space within a large mixed use building in the downtown area of Winters. The Agency will incur the following costs under the Lease Agreements:

- a. Monthly Rent Payments: The Agency will lease the Premises from the Landlord at the rental rate of \$850, or approximately \$1.06 per square foot for the approximately 800 total square foot of rentable space constituting the Premises. Under the Sublease, The Clayground will pay the Agency rent in the amount of \$500.00 per month, resulting in a net rental rate of \$350.00 per month for the Agency.
- b. Security Deposit: The Lease requires the Agency to pay a security deposit in the amount of in the amount of \$400.00, which is refundable at the end of the Lease term. Under the Sublease, The Clayground will pay a security deposit in the amount of \$400.00, resulting in a net security deposit of \$0.00 to be provided by the Agency.
- c. Maintenance, Utilities, etc.: The Lease requires the Agency to pay maintenance, repair and replacement costs, taxes, utilities (including but not limited to electricity, gas, water, sewer and garbage) and other normal maintenance and operating charges. All of these costs are passed on to The Clayground, and The Clayground is required to pay all of these costs under the Sublease, resulting in no net costs to the Agency.
- d. Administrative Costs: The Agency has incurred administrative costs associated with the Lease Agreements, including staff time and legal costs for the negotiation and preparation of the Lease Agreements and other related documents. The Agency will incur ongoing and administrative and staff costs related to the Agency's obligations as required under the Lease Agreements, including ongoing monitoring and administering the Lease Agreements; however, these costs are expected to be minimal.

III. ESTIMATED VALUE OF INTEREST TO BE LEASED, DETERMINED AT THE HIGHEST AND BEST USES PERMITTED UNDER THE DEVELOPMENT PLAN

Agency staff obtained a Residential and Commercial Market Analysis (the "Market Analysis") prepared in February 2008 by Economic and Planning Systems, analyzing the market conditions in the City of Winters and Yolo County. According to the Market Analysis, commercial lease rates in downtown Winters range from \$0.75 to \$1.45 per square foot. As noted above, the Agency will lease the Premises at a rental rate of \$850.00 per month, or approximately \$1.06

per square foot for the approximately 800 total square foot of rentable lease space constituting the Premises. Based on the Market Analysis, the \$1.06 per square foot monthly rental rate to be paid by the Agency falls within the average range of lease rates for downtown Winters, and can be considered fair market value for the Premises. This rate is in the middle range of commercial lease rates in the downtown Winters determined under the Market Analysis and is justified as it is prime street frontage retail space.

IV. ESTIMATED VALUE OF THE INTEREST TO BE LEASED, DETERMINED AT THE USE AND WITH CONDITIONS, COVENANTS AND COSTS REQUIRED BY THE LEASE AGREEMENTS; VALUE OF THE LEASE PAYMENTS TO BE PAID DURING THE TERM OF THE SUBLEASE

The Clayground was operating its business in a 400 square foot commercial space located at 9 East Main Street, in the City of Winters. The size and location of this space (back side of the building with no street frontage) has begun to limit the ability of The Clayground to expand its business and scope of services. The Agency recognizes that The Clayground's Business is an asset to the community and the relocation to the Clayground's Business to a larger, more suitable facility and retention of this business in the downtown area will help revitalize activity in the downtown area.

The Agency will sublease the Premises to The Clayground for a below market monthly rental rate of \$500.00, or approximately \$0.62 per square foot, resulting in a monthly net savings to the Clayground of \$350.00 ("Savings"). The terms of the Lease Agreements will commence upon approval and execution of the Lease Agreements, and is expected to terminate on October 31, 2010, pending a review and extension by the Agency in April of 2010. The total amount of the lease payments to be paid by The Clayground during the term of the lease agreements is estimated to be \$9,000.00.

The Clayground is required to, among other things:

- a. use the Premises for operation of The Clayground's Business, and other purposes related to The Clayground's Business, including ancillary office and administrative uses;
- b. use the Premises in conformity with the Development Plan;
- c. use not less than \$800.00 of the Savings solely for marketing and advertising purposes to promote The Clayground's Business; and
- d. pay all maintenance, repair and replacement costs, taxes, utilities (including but not limited to electricity, gas, water, sewer and garbage) and other charges related to the Premises.

The costs to relocate a small business and the start-up of operations at a new location can be a major burden, especially for small, specialty operations. Given the constraints faced by The Clayground at its 9East Main location, the Agency's recognition of The Clayground's Business as a valuable asset to the community, and the Agency's desire to revitalize activity in the downtown area, the Agency desires to assist The Clayground in order to enhance the viability of The Clayground's Business and relocate Clayground's Business within the downtown area. The Lease Agreements require The Clayground to relocate to and to continue operating its business on the Premises, and to use the cost savings realized as a result of the Agency's assistance for marketing and advertising purposes to enable The Clayground to expand its current business operations and draw additional customers to the downtown area. These covenants and conditions are intended to achieve certain public/community goals and objectives, including elimination of a vacant retail space in a prime location within the downtown area, and the continued operation of The Clayground's Business within the redevelopment project area. These goals further many of the Agency's goals and objectives for the Project Area, including the Agency's overall goal to maximize the potential benefits of the Winters Development Project to the community while preserving the historical ambiance and quality of life in Winters. Other objectives include to provide a stable, diversified and stronger economic base for the Project Area and the community; to enhance the physical environment of the Project Area and to emphasize its favorable environmental characteristics; to maximize opportunities for the revitalization, expansion and development of commercial/retail uses within the Project Area; and to accomplish these goals with a minimum displacement of any property owner, resident or business person who may wish to remain within the Project Area.

Given these covenants and conditions, the disruption in The Clayground's business operations during the planning, move and re-start-up period, the costs and impact to The Clayground's business during these periods, and the potential benefits to the community, the estimated fair reuse value of the Premises, determined at the use and with the covenants, conditions and terms of the Lease Agreements, is estimated to be approximately 9,000, which is equal to the approximate total of the lease payments to be paid by The Clayground under the Sublease.

V. REASONS FOR THE DIFFERENCE BETWEEN THE TOTAL RENTAL AMOUNT TO BE PAID BY THE CLAYGROUND AND THE FAIR MARKET VALUE OF THE INTEREST TO BE LEASED

The Agency will pay a total of approximately \$15,300 in rental payments under the Lease during the term of the Lease Agreements. The Agency will receive approximately \$9,000 in lease payments from The Clayground during the term of the Sublease, which is consistent with the fair reuse value of the Premises with

the covenants, conditions, and terms of the Lease Agreements governing the Premises.

The Agency has determined that the overall consideration to be paid by The Clayground under the Sublease is a fair price for the Premises in light of the following benefits to the Redevelopment Project and the City of Winters:

- (a) furthers the Agency's goals to provide a stable, diversified and stronger economic base for the Project Area and the community;
- (b) helps to alleviate and prevent the spread of blight and deterioration through redevelopment and development;
- (c) enhances the physical environment of the Project Area and emphasize its favorable environmental characteristics;
- (d) provides an opportunity for the revitalization, expansion and development of the commercial/retail uses within the Project Area;
- (e) provides for the renovation of a currently vacant retail space located in a prime area of the community;
- (f) provides for the relocation and expansion of an existing customer service business within the Project Area to a larger location on a prime area of the community;
- (g) enhances the viability of The Clayground's Business within the downtown area, and ensures retention and expansion of a viable retail/consumer service operation within the Project Area to serve the community and the greater region;
- (h) provides for the participation by a property owner and business tenants in the redevelopment of the Project Area; and
- (i) helps the Agency accomplish these goals with minimum displacement of any property owner, resident, or business person who may wish to remain within the Project Area.

The difference between the fair market value of the interest being leased to The Clayground and the total consideration to be paid by The Clayground under the Sublease is justified given these benefits that will inure to the Project Area and the City of Winters.

VI. EXPLANATION OF WHY THE LEASE OF THE PREMISES WILL ASSIST IN THE ELIMINATION OF BLIGHT

Downtown Winters is a unique location, providing a small-town environment near employment centers and urbanized areas, and offering potential opportunities for attracting smaller-scale retail/commercial users. The historic buildings along Main Street, predominately between Railroad Avenue and First Street, house many destination or specialty retail businesses, including local crafts people, artists, vendors of local agricultural products, and the Palms Playhouse. Most of the downtown retail is owned by local small-business owners and caters to tourists, many of whom recreate in the immediate area, are arts enthusiasts, or come into the City for dinner at one of the local restaurants. (See the Market Analysis, referenced in Part III, above). The Premises consists of previously vacant retail space located within a building on East Main Street on the fringe of this historic area.

At the time the Development Plan was adopted, the Agency's Report to the City Council provided evidence and the City Council found and determined that the Project Area, of which the Premises is a part, was a blighted area, the redevelopment of which was necessary to effectuate the public purposes of CCRL. Some of the blighting conditions remain and continue to act as a detriment to development in the Project Area, including obsolete, aged, deteriorated, vacant, and under-utilized buildings. The goals and objectives of the Agency under the Development Plan include, among others, to provide a stable, diversified and stronger economic base for the Project Area and the Community; and to maximize opportunities for the revitalization, expansion and development of commercial uses within the Project Area. To achieve these goals and objectives, the Development Plan provides that the Agency will implement projects and activities, including, among others, economic development, project area planning, and property disposition and development.

The implementation of the Lease Agreements will provide for the lease of a previously vacant underutilized commercial space in a prime location within the historic downtown area; as well as the retention of The Clayground's Business within the Project Area and within the community; improve the City's sales tax bases through the retention and expansion of The Clayground's Business within the community; and provide an opportunity for participation by a property owner and business tenants in the redevelopment of the Project Area. Furthermore, the lease of the Premises and the continued operation of The Clayground's Business in the Project Area will provide a catalyst to draw additional businesses and customers to the downtown area, providing fir expansion of other retail and commercial uses in the community, and thereby allowing the Agency to initiate other redevelopment activities.

VII. CONSISTENCY OF THE LEASE AGREEMENTS WITH THE IMPLEMENTATION PLAN

The Lease Agreements will help implement and are consistent with the following goals found in Section II.B.1 of the Implementation Plan: i) alleviate and prevent the spread of blight and deterioration through redevelopment, rehabilitation and development (renovation of the Premises and occupancy of previously vacant retail space within the Project Area will help prevent the spread of blight and help reverse the deterioration of downtown Winters); ii) attract additional retail and industrial development to serve the Winters community and the greater region (the Lease Agreements will not only ensure retention of an existing business, but will also help attract additional commercial/retail uses to the community); and iii) provide the necessary assistance to retain local employment opportunities, primarily through the renovation of vacant or underutilized land (the Premises was previously vacant, the Lease Agreement will ensure retention and possible expansion of The Clayground's Business in the community). Furthermore, implementation of the Lease Agreements will help implement and be consistent with the following objectives and proposed redevelopment activities found in Sections II.B.2 and II.B.3 of the Implementation Plan: i) provide mechanisms to upgrade existing private and commercial buildings to ensure their preservation and enhancement and to increase their economic life and value (the Premises was previously vacant space within an existing commercial building); ii) pursue specific opportunities to attract development to the Project Area through market analysis, specific plans, and marketing efforts (The Clayground will be required to expend a portion of its cost savings for marketing and advertising purposes, which will work as a catalyst to attract additional customers and retail businesses to the area); and iii) implement an effective economic development strategy designed to attract and retain employers to the project area (the Lease Agreements ensure the retention of an existing business within the Project Area, which will act as a catalyst to attract additional customers and retail businesses to the area).

The Project is a "redevelopment activity" as described in Section II.B.3 of the Implementation Plan which is quoted, in part, below:

Economic Development: Design and implement activities and programs to strengthen existing industrial and commercial enterprises and retailers, and attract new businesses, which will provide quality jobs (see above; the Lease Agreements will result in the retention and possible expansion of an existing retail business, which will act as a catalyst to attract additional customers and retail businesses to the area).

Project Area Planning: Implement planning projects that guide land use, transportation, public facilities and recreation development. Maintain the City's balance between commercial, residential, and industrial developments with thoughtful planning (the Lease Agreements will result in the renovation and occupancy of existing commercial space within the

community's historic downtown area, and the retention of an existing specialty retail business within the downtown area).

Property Disposition and Development: Improve and arrange for development of property by private sector developers that will promote and support the City's redevelopment efforts (lease/sublease if the Premises and renovation of the Premises will result in improvement of the property by the private sector).

The Project is consistent with and implements many of the redevelopment activities identified in the Implementation Plan.

The Project is both an "Economic Development" and a "Property Acquisition/Disposition and Cleanup" Program as identified in Table II-4 in the Implementation Plan and is therefore consistent with said Implementation Plan.