



Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, April 21, 2009,
7:30 p.m.
AGENDA

Members of the City Council

*Michael Martin, Mayor
Woody Fridae, Mayor Pro Tempore
Harold Anderson
Cecilia Agular-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 of Winters City Council Held on Tuesday, April 7, 2009 (pp 1-10)
- B. Authorize the City Manager to negotiate a contract with Wallace-Kuhl & Associates Inc for Annual Groundwater Sampling, Monitoring and Reporting at Winters Landfill, Project Cost for two sampling events not to exceed \$8,000.00 (pp 11-22)
- C. Request for Funding for Translation Services (not to exceed \$350) for City Services Information Night Monday, May 4, 2009— Sponsored by the Hispanic Advisory Committee (pp 23)
- D. Downtown Street Naming Report and Recommendation (pp 24)
- E. Winters Farmers Market Use and License Agreement (pp 25-36)

PRESENTATIONS

Quilt Donation to the Police Department by Jan Bawart of the Cloth Carousel

DISCUSSION ITEMS

- 1. Public Hearing for Adoption of Mitigated Negative Declaration and Second Reading to Take Action on 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); and to Take Action on Resolution No. 2009-14, A Resolution of The City Of Winters Adopting a Planned Development Permit Modifying the Height Restrictions and Parking Requirements for The St. Anthony's Church and Rectory Project (Assessor Parcel Number 003-120-03) (pp 37-124)
- 2. Public Hearing to Take Action on Proposed Resolution 2009-20, A Resolution of the City Council of the City of Winters, Amending Schedule C (Public Works and Engineering Fees) of City Council Resolution 2008-07, Establishing Fees for Sidewalk Cafes (pp 125-130)
- 3. Public Hearing and Second Reading of Proposed Ordinance 2009-02, An Ordinance of the City Council of the City of Winters, Adding Chapter 17.116 to Winters Municipal Code Pertaining to Sidewalk Cafes (pp 131-144)

4. Public Hearing, Waive First Reading, Read by Title Only and Introduce Four (4) Ordinances of the City of Winters, 2009-05, 2009-06, 2009-07, and 2009-08 adding Chapters 16.01, 16.02, 16.03, and 16.04 to the Winters Municipal Code Pertaining to Tentative Subdivision Maps, Final Subdivision Maps, Parcel Maps and Vesting Tentative Subdivision Maps (pp 145-181)
5. Public Hearing to Consider Objections from Property Owners Regarding Weed Abatement (No Backup)
6. Second 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 182-189)

COMMUNITY DEVELOPMENT AGENCY

1. Real Estate Purchase - 311 First Street (pp 190-209)
2. Real Estate Purchase - Grant Ave. Parcels 003-370-28, 003-370-003-370-29 and 009-370-30 (pp 210-233)
3. Resolution 2009-21, a Resolution of the Winters Community Development Agency Authorizing the Executive Director to Execute a Housing and Loan Agreement with Winters Almondwood, LP, A California Limited Partnership for the Acquisition and Rehabilitation of the Almondwood Apartments (pp 234-236)

CITY MANAGER REPORT

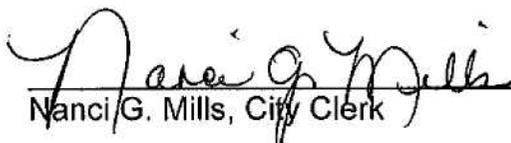
INFORMATION ONLY

EXECUTIVE SESSION

Personnel Matters as per Government Code Section 54957

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the April 21, 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 16, 2009, and made available to the public during normal business hours.



Nanci G. Mills, City Clerk

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

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Wednesday at 10:00 a.m.

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, April 7, 2009

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

Present: Council Members Cecilia Aguiar-Curry, Harold Anderson, Tom Stone and Mayor Michael Martin

Absent: Council Member Woody Fridae

Staff: City Manager John Donlevy, City Attorney John Wallace, Director of Financial Management Shelly Gunby, Housing Programs Manager Dan Maguire, Carol Scianna, Grant Writer Dawn Van Dyke, Contract Planner Kate Kelly, Chief of Police Bruce Muramoto, Police Officers Jose Ramirez, Jeremy Warren and Matt Martin, and City Clerk Nanci Mills.

The Pledge of Allegiance was led by Police Officer Jose Ramirez.

Approval of Agenda: City Manager Donlevy requested that Discussion Item #6, RFP for Consultant Services to Prepare Cultural Resources Studies for the Downtown Streetscape Improvement Project Phase II, be moved to Consent Item M.

Motion by Council Member Aguiar-Curry, Second by Council Member Anderson to approve the Consent Calendar with the proposed change. Motion carried unanimously 4-0, with Council Member Fridae absent.

COUNCIL/STAFF COMMENTS:

Council Member Aguiar-Curry recently attended an Environmental Policy Commission meeting in Los Angeles, where large grocery chain stores charging for more than 1 single use bag was one of the topics discussed. Also, each week the League of California Cities updates their city-funding book which contains grants that are available. This book is available on-line.

Mayor Martin recently took 21 Winters High School students representing the 2009 Youth Day Council to the State Capitol and visited the assembly, the senate, and met with Lt. Governor John Garamendi. He commended the students for their fine representation of the City of Winters.

PUBLIC COMMENTS: None

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the City Council of the City of Winters Held on Tuesday, March 17, 2009
- B. Minutes of the Special Meeting of the City Council of the City of Winters Held on Monday, March 23, 2009
- C. Youth Day Parade Permit
- 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
- E. Request for Street Closure - Iron Steed HOG (Harley Owners Group) of Vacaville for Sunday, May 24, 2009
- 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
- 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
- H. Implementation of a Voluntary Employee Beneficiary Association VEBA Trust
- I. Approval of First Amendment to Consultant Services Agreement - Agreement No. 004-09, DaRe, LLC
- J. Selection of Independent Auditors for Fiscal Year End June 30, 2009 with an option for 6/30/10 and 6/30/11
- K. Route 221 - Cancellation
- L. Update on Federal Stimulus Package for Transportation Projects and Request Approval of the Revised Project Budget for the Grant Ave. (SR128) Widening and Safety Improvements Project
- M. RFP for Consultant Services to Prepare Cultural Resources Studies for the Downtown Streetscape Improvement Project Phase II (**Moved from Discussion Item #6**)

City Manager Donlevy gave a brief overview of all consent items. Mayor Martin inquired about the final date of service of the YOLOBUS Winters Local Route 221 Service. Terry Bassett, YOLOBUS Executive Director indicated May 13th would be the final date of service. Council Member Aguiar-Curry asked if the City now owned the property for the Public Safety Facility and whether the documents had been recorded. City Attorney John Wallace replied that Placer Title was coordinating the process of requesting certification from the LLC and recording the document. Mayor Martin stated he is happy to see the Grant Avenue widening and safety improvements, which will make it easier for drivers on Walnut and Dutton

Streets and the sidewalk from Dutton Street to Railroad Avenue will make it safer for pedestrians.

Motion by Council Member Stone, Second by Council Member Aguiar-Curry, to approve the consent calendar. Motion carried unanimously 4-0, with Council Member Fridae absent.

PRESENTATIONS

Police Chief Muramoto presented the 2008 Officer of the Year award to Police Officer Jose Ramirez, who was selected as the recipient by his fellow police officers.

DISCUSSION ITEMS

1. TANC (Transmission Agency of Northern California) Transmission Line and Substation Project Update

City Manager Donlevy gave an overview. A meeting has been scheduled for April 23rd at The Palms, where representatives from TANC will be present. This meeting will be advertised on Channel 20, on the City's website, and in the Winters Express. There are currently existing transmission corridors and it doesn't make sense to build another corridor. City Manager Donlevy inquired whether TANC has to go through the Public Utilities Commission (PUC) for this project. Who has the final authority? He suggested having a co-location in one of the existing corridors. There are several Public scoping meetings planned in April throughout California, including a meeting scheduled in Williams on April 14th and Stockton on April 15th.

Wally Pearce, P.O. Box 792, Winters, stated nobody, including six environmental agencies, had no knowledge of this project. He urged residents to obtain and complete comment forms, which will be applied to EIR (Environmental Impact Report.) He stated there is \$3.2 billion available to TANC. He wants to challenge TANC's process. This project would result in 600 miles of power lines at 1,000 ft. swath. The Williamson Act changed this year. TANC may pay little or no property tax. Local ranches stand to lose their walnut orchards. PGE projects are 10-15 years out. TANC proposes to complete this project by 2011? TANC has proposed 3 routes, and they are most interested in the 3rd corridor. TANC will use eminent domain to come onto property. He urged residents to go onto the following websites: www.wapa.gov/transmission/ttp.htm and ceqa_admin@agmd.gov for more information.

Joe Castro, 104 Third St., Winters, had concerns regarding TANC's notification process. He received a note in the mail, which didn't include much detail. The minimal attendance of Winters residents at the meeting in Sacramento (75-100 people) spoke to how it was presented. This project will impact private property, potential property inheritance and will

affect the livelihood of many. Why were affected residents not contacted by certified mail? Letters were allegedly sent to residents within 500 feet of the project, but the line could deviate depending on EIR. The public scoping meetings have been scheduled between 3/26 and 4/15, with written comments to be submitted by 4/30, which doesn't allow for much time. The existing towers outside of Winters contain 50 kb lines. SMUD and other Utility companies do not have staff to work on proposed lines. He requested a letter be submitted by the City of Winters requesting a deadline extension, possibly 90 days.

Stan Lester, 8560 Holmes Lane, Winters, distributed a handout to the Council regarding Central Segment Route 3 and stated he found out about this project by mail. He overlaid the TANC maps onto Google maps to show the proposed corridor. He encouraged the Council & the City to submit a request to TANC to extend the scoping session and comment period. Notices were sent to some landowners and not others; some did not receive any notification at all. The notices that did arrive looked like junk mail. TANC has not provided any detailed maps of the proposed project. A TANC CEO claimed that every public entity and public agency was notified in 12/08. How can we respond knowledgeably without the information? We need scoping sessions in Davis, Dixon, Winters, Vacaville, Woodland, as these areas will be directly affected.

Herb Wimmer, 4275 Putah Creek Road, Winters, asked the Council to think about speaking to TANC behalf of the residents, requesting a delay in the comment period, possibly an additional 90 days. On a lighter note, the proposed lines will cross existing power lines, which will affect the flight paths of the hot-air balloons.

Nancy Meyer, 8680 Diablo View Lane, indicated that seven of her neighbors did not receive notices from TANC and requested an extension.

Wally Pearce, who resides on Putah Creek Road in Solano County, indicated the Joint Power Authority said they had ultimate authority. The first \$10 million is free and they don't have to pay it back.

Council Member Aguiar-Curry would like Council to support a request for a 90-day extension. She would also like to contact the Yolo and Solano County Board of Supervisors to request their support as well. The notification process was terrible. The maps, dates and outreach were poor. She indicated that Clarksburg is already upset about the Bay-Delta area.

Council Member Stone echoed Aguiar-Curry's sentiments. He requested staff to contact Yolo and Solano Board of Supervisors, not only by letter but requesting their support, and pressure them for a 90-day extension.

Council Member Anderson also supported a 90-day extension, but also requested that Washington and Sacramento be contacted as TANC is not following the proper notification procedures.

Mayor Martin said transparency is the key word in government. You don't see it. They are taking the rights of your land away without due process and folks should be upset. He fully supports a letter of extension.

City Manager Donlevy indicated staff will prepare a letter to send from Mayor Martin and will include comments made from residents tonight. Staff will also contact the Yolo County Board of Supervisors, specifically Duane Chamberlain and Mike McGowan, as well as John Vasquez and Michael Reagan of the Solano County Board of Supervisors. A meeting will be held in Winters on Thursday, April 23 at The Palms at 7:00 p.m. The Yolo and Solano County Farm Bureaus will also be contacted. City Manager Donlevy added this is not just a footprint. This easement is real.

2. **Review of Proposed Water Meter Installation Time Lines and Pricing for Both Business and Residential Properties**

Director of Financial Management (DFM) Shelly Gunby gave an overview, presenting a Water Meter Installation Proposed Financing spreadsheet for commercial and residential meters. For financed meters, the City will be offering a 3.5% interest rate, which is the same interest rate paid on the City's water bonds. Monthly and quarterly payment plans will be offered to commercial and residential customers. The City hopes to have meters made available at the local hardware stores for maximum flexibility. If residents choose to install their own water meters, an inspection fee will be charged.

Council Member Anderson asked if the pits (concrete box with lid that the meter is placed inside of) will be available for purchase as well? City Manager Donlevy replied that the City will look into also having these available.

Council Member Aguiar-Curry voiced concerns about quality control during installation and asked if a list will be made available of qualified water meter installation companies. City Manager Donlevy indicated a licensed contractor would be required to create the pit and a permit will be required. The inspection fee would be included in the cost of the permit. Council Member Aguiar-Curry would like records kept for an audit trail and insisted that quality control be recognized.

Council Member Stone clarified that homeowners may install meters, but if the job is hired out, a licensed contractor must be used.

Joe Castro, 104 Third Street, Winters, has an issue with the purpose of water metering. He called for residents to change behaviors and conserve water. Council Member Stone indicated a water saver is being charged the same flat rate as a water waster. City Manager Donlevy indicated that 7 in 10 customers are overpaying based on total consumption throughout City. Under the law, residents are entitled to be treated equitably and the current blanket rate is inequitable. Joe Castro asked if the meters are read on a monthly basis and if the procedure was dependable. He asked about meters that are currently in concrete driveways, requiring the employee to physically read the meter and

turn these meters on and off as needed. He asked the City to consider valve locations. The proposed method of reading meters might not be so easy.

Wade Cowan-106 Third Street, Winters, paid for and installed a water meter when his home was built, spending approximately \$5,000 on water impact fees. For those of us that have them, we shouldn't have to pay for them again. City Manager Donlevy replied the City would pay for retrofitting. DFM Gunby indicated any retrofitting would be paid through water bond proceeds.

Mayor Martin asked about incentives to conserve water on rental properties. DFM Gunby replied the water bills are in the landlords name and she is not sure how to address fluctuating bill amounts.

Mayor Martin requested staff to bring this item back as an ordinance, hold a public hearing, and set the framework to take it before the public.

Motion by Council Member Stone and second by Council Member Aguiar-Curry to proceed as specified by Mayor Martin. Motion carried 3-1-1, with ayes from Stone, Aguiar-Curry, and Martin, noes from Anderson, and Fridae absent.

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)**

Contract Planner (CP) Kate Kelly gave an overview, stating the Planning Commission had approved staff recommendation of 90% of on-site parking requirements. She also stated the height limit adjustment within the Planned Development Permit can be approved after the adoption of the Planned Development Overlay Zone.

Council Member Anderson indicated St. Anthony's is currently under-parked. CP Kelly responded there are currently 85 paved spaces. The total number required under the Municipal Code is 273 spaces. 251 spaces are being proposed, which is 92% of requirement.

Mayor Martin asked about the impact of this project on the neighbors. CP Kelly replied it was well-noticed and no comments were received. Every effort is being made to minimize the impact to the surrounding neighbors.

Motion by Council Member Stone, second by Council Member Aguiar-Curry to introduce and waive the first reading of Ordinance 2009-03, 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) and to schedule the second reading and public hearing for the April 21st meeting. Motion carried by the following roll call vote:

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

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**

Contract Planner (CP) Kate Kelly gave a brief overview. Motion by Council Member Anderson, Second by Council Member Augiar-Curry to authorize 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. Motion carried with the following roll call vote:

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

5. **Planning Commission Vacancies**

The Council authorized the City Clerk to place a notice in the Winters Express, to send letters of interest to the commissioners whose terms are expiring (Vallecillo, Tramontana, Neu and Cowan), and retain Council Members Anderson and Aguiar-Curry as the Interview Committee, who were previously selected.

6. **RFP for Consultant Services to Prepare Cultural Resources Studies for the Downtown Streetscape Improvement Project Phase II (Moved to Consent Item M)**

7. **Update on Winters Farmers Market**

Housing Programs Manager Dan Maguire gave an overview, stating there was a 20% community response to the surveys mailed. As part of the community outreach, a community meeting was held at The Palms, where 55-60 people attended. The Farmers Market is to be held between May and October, with May 3rd as the grand opening. Sunday mornings from 8 am to 1 pm seemed to be the most optimum time. The Davis Farmers Market board has been very active. Ana Kormos is the ideal candidate for the local market manager. City of Davis Deputy City Manager Ken Hiatt stated that having a

market manager is a lynchpin who can bring the flavor of the community and farming to the Farmers Market. Davis Farmers Market manager Randi McNair, who has been the manager for 27 of its 28 years, stated the Farmers Market has gone from 3 farmers to the current market under the covered Pavilion at Central Park and has a reciprocal relationship with the City of Davis. Winters will become part of the 530 certified Farmers Markets in California. She hopes to form the Yolo County Farmers Market Association in the near future and has distributed the Farmers Market logo. She also stated that Sunset Magazine will feature Winters Farmers Market in their July issue. The Sacramento Bee plans to run several articles about the Winters Farmers Market, which will feature 20 farmers and 6 prepared food vendors. Slow Food Yolo and County Land Trust will also be holding an event on opening day, May 3. The community of Winters is ready for the Farmers Market. Council Member Aguiar-Curry asked if the City of Davis paid for the Pavilion structure. Randi McNair responded it was part of the Central Park expansion project, which was voted on by the citizens of Davis. A fee is paid by the Davis Farmers Market to the City of Davis for electricity and water. In exchange, the Davis Farmers Market provides their own maintenance and pays for their own garbage. Council Member Curry asked about the Winters Friends of the Library selling books at the Winters Farmers Market. Randi stated board approval is required for community and non-profit groups to sell items, and no home-baked goods are allowed.

Mayor Martin thanked Randi McNair for helping the City of Winters with this project as he had always heard good things about the Davis Farmers Market. This will provide another way to get products to the public. Ana Kormos stated the Winters Farmers Market plans to sell t-shirts, aprons and bags. Dan Maguire finished by saying the focus is on the agricultural items provided by our local growers and farmers.

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

Housing Programs Manager Dan Maguire have a brief overview. Mayor Martin opened the public hearing at 10:01 p.m. and closed the public hearing at 10:01 p.m. with no public comment.

Motion made by Council Member Stone, Second by Council Member Aguiar-Curry, to introduce and conduct the first reading of Ordinance 2009-04 adding Chapter 14.01 to the Winters Municipal Code Pertaining to Farmers Market. Motion carried with the following roll call vote:

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

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

Agency Member Martin opened Community Development Agency at 10:06 p.m. Council Member Anderson recused himself due to a possible conflict of interest.

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

Housing Programs Manager Dan Maguire gave a brief overview and introduced co-owners Rebecca Bresnick Holmes & Shannon Moore-Jervis. Enrollment is not required and drop-ins are accepted. The City of Winters has a strong art scene and the Clayground is planning an aggressive marketing plan. They plan to distribute a discount coupon book, they have increased their posted hours by 12 hours, and are maintaining a website to post events and parties. They have encouraged their customer base to participate in Ficelle's Saturday night tapas and plan to be open during the upcoming Farmers Market. They also plan to periodically advertise in the Winters Express.

Motion by Council/Agency Member Aguiar-Curry, Second by Council/Agency Member Stone to adopt Resolution 2009-18, approving and authorizing a Lease Agreement with John Siracusa and a Sublease with The Clayground of the Certain Real Property at 7 East Main Street. Motion carried unanimously with the following roll call vote:

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

COMMUNITY DEVELOPMENT AGENCY

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

Agency Member Martin closed the Community Development Agency at 10:25 p.m. Agency Member Anderson returned to the dais at this time.

CITY MANAGER REPORT: City Manager Donlevy recently met with Congressman Mike Thompson in Woodland regarding the stimulus package and was disappointed to learn Winters and Yolo County had been blocked out from receiving any funds and were also

shut out on energy plans. We left the meeting with no promises. In regards to Lake Berryessa, Mike Finnigan with the Bureau of Reclamation indicated the resorts were distributed, but because the Prospectus was not right, the distributions were thrown out. A lawsuit has since been filed. Of the 1,700 trailers along the lake, 250 remain. Several of the lakeside resorts will not open, but Markley Cove, the most lucrative and best operated, is scheduled to open. In closing, huge kudos to Shaunie Briggs for coordinating the Plein Air Festival.

Council Member Anderson requested that the dust from the construction be mitigated on the weekends on Russell Street.

INFORMATION ONLY: None

EXECUTIVE SESSION: None

ADJOURNMENT: Mayor Martin adjourned the meeting at 10:36 p.m.

Michael Martin, **MAYOR**

ATTEST:

Nanci G. Mills, **CITY CLERK**



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: April 21, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Carol Scianna, Environmental Services Manager
SUBJECT: Authorize the City Manager to negotiate a contract with Wallace-Kuhl & Associates Inc for Annual Groundwater Sampling, Monitoring and Reporting at Winters Landfill, Project Cost for two sampling events not to exceed \$8,000.00

RECOMMENDATION:

Staff recommends authorization for the City Manager to negotiate a contract with Wallace-Kuhl & Associates Inc (WKA) to perform annual Groundwater Sampling, Monitoring and Reporting for the Winters Landfill, Project Cost for two sampling events not to exceed \$8,000.00

BACKGROUND:

Staff has recently requested quotes from several consultants for the ongoing groundwater monitoring that is required annual by the Central Valley Regional Water Quality Board (CVRWQCB). The most favorable response was received from Wallace Kuhl & Associates (WKA). WKA has proposed a new less labor intensive method for gathering samples, using a HydraSleeve sampler. WKA has discussed using the HydraSleeve method for collecting samples with CVRWQCB staff and has received a favorable response that this methodology will be acceptable. The use of the HydraSleeve sampler will eliminate the need for purging and pumping of the monitoring wells and thereby reduce labor cost for collection of samples. WKA will submit a request to CVRWQCB to modify the City's existing Monitoring Reporting Program, sample the groundwater twice each year at the three Landfill monitoring well sites, and prepare required reports to be filed with the CVRWQCB. Sampling events will take place May and December 2009.

Ongoing monitoring of the ground water is required by the RWQCB. It is not unusual for the RWQCB to require groundwater monitoring for closed landfills and other sites indefinitely.

FISCAL IMPACT: The monitoring fees are estimated at \$8,000.00 annually and will be funded through the Landfill Fund 422-54419-650.

March 12, 2009

Ms. Carol Scianna
City of Winters Department of Public Works
318 First Street
Winters, CA 95694-1923

Proposal for Semi-Annual and Annual Groundwater Monitoring

FORMER LANDFILL

County Road 33 and County Road 88
Winters, California
WKA Proposal No. 3PR09043

Dear Ms. Scianna:

Wallace-Kuhl & Associates, Inc. (WKA) is pleased to provide the City of Winters with this letter describing our suggested approach and estimated budget for semi-annual and annual groundwater sampling of three shallow groundwater monitoring wells that are in the vicinity of the former landfill referenced above. WKA contacted Ms. Mary Boyd of the Central Valley Regional Water Quality Control Board (CVRWQCB) to confirm that the three monitoring wells could be sampled using methods other than purging by pumping. WKA's conversation with Ms. Boyd confirmed that CVRWQCB would likely approve a petition to modify the existing Monitoring and Reporting Program (MRP) to allow sampling using the HydraSleeve sampling device to eliminate the need for pumping to purge the well. WKA attaches to this letter a copy of the HydraSleeve operation manual for the City of Winter's consideration.

Scope of Services

WKA suggests a scope of services that is comprised of five activities that are listed below:

- Preparation and submittal of a letter to CVRWQCB requesting the existing MRP be modified to allow use of the HydraSleeve sampler.
- Collection and laboratory analyses of groundwater samples according to the CVRWQCB's semi-annual schedule for groundwater monitoring.

- Collection and laboratory analyses of groundwater samples according to the CVRWQCBs annual schedule for groundwater monitoring.
- Preparation of a semi-annual groundwater monitoring report.
- Preparation of an annual groundwater monitoring report.

WKA will review well construction details and geologic logs regarding the three monitoring wells for information that will be submitted in support of modifying the existing MRP. CVRWQCB will require the request to modify the MRP include a description of field procedures regarding installation and operation of HydraSleeves; specifications regarding the positioning of the HydraSleeve at the midpoint of the monitoring well screened interval; and, a table to summarize the length of string required to place the HydraSleeve in each of the three monitoring wells. Following CVRWQCB modification of the MRP, this activity includes costs for the initial installation of the HydraSleeves in each of the three monitoring wells.

Schedule

WKA will collect groundwater samples from the three monitoring wells (MW01, MW-2, and MW-4) during June and December 2009. WKA will provide draft reports for the City's consideration at least two weeks prior to the deadline for submitting the reports to the CVRWQCB. WKA will submit the Semi-Annual monitoring report to the CVRWQCB by June 15, 2009. WKA will submit the Annual monitoring report to the CVRWQCB by January 15, 2010. *MAY*

Compensation

WKA requests its compensation be on a time and expense reimbursement basis according to our current Schedule of Fees. WKA estimates the budget for this project at \$8,000, which is summarized in the following table.

Estimated Budget Summary

Activity	Budget
Prepare request to modify the MRP and install first set of HydraSleeves	\$1,000
Perform 2009 Semi-Annual Monitoring Event	\$3,000
Perform 2009 Annual Monitoring Event	\$4,000
Total Estimated Budget	\$8,000



Closing

WKA appreciates receiving this opportunity to assist the City of Winters in monitoring conditions at the former landfill. WKA looks forward to providing the City with environmental, geotechnical, and materials testing services for its future projects.

Please call either Kurt Balasek or me if you have any questions regarding this proposal.

Wallace-Kuhl & Associates, Inc.



Dennis B. Nakamoto, P.G., C.E.G., C.HG.
Senior Hydrogeologist

Attachment: HydraSleeve operation manual





HYDRASleeve

Simple by Design

US Patents No. 6,481,300; No. 6,897,120; others pending

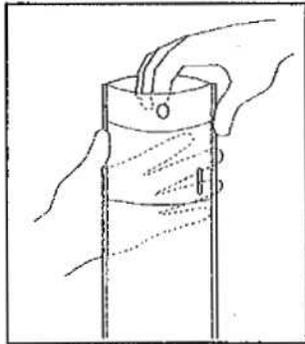
Field Manual

Introduction

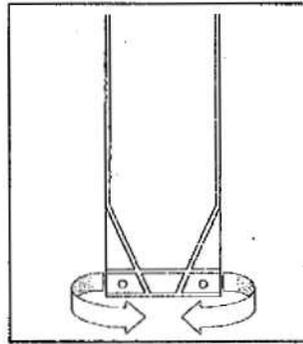
The HydraSleeve groundwater sampler can be used to collect a representative sample for most physical and chemical parameters without purging the well. It collects a whole water sample from a user-defined interval (typically within the well screen), without mixing fluid from other intervals. One or more HydraSleeves are placed within the screened interval of the monitoring well, and a period of time is allocated for the well to re-equilibrate. Hours to months later, the sealed HydraSleeve can be activated for sample collection. When activated, HydraSleeve collects a sample with no drawdown and minimal agitation or displacement of the water column. Once the sampler is full, the one-way reed valve collapses, preventing mixing of extraneous, non-representative fluid during recovery.

Assembly

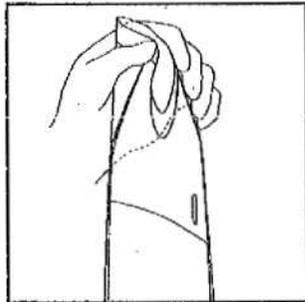
Assembling the HydraSleeve is simple, and can be done by one person in the field, taking only a minute or two.



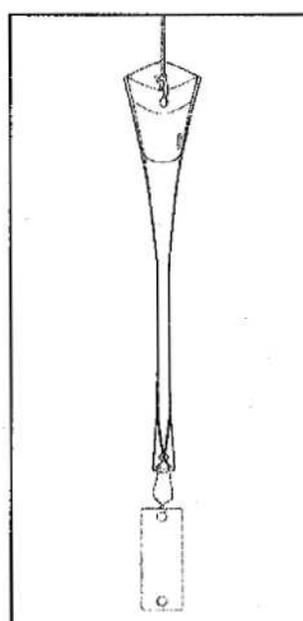
1 Remove HydraSleeve from package and grasp top to "pop" open.



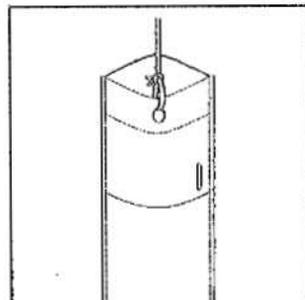
4 Fold the two holes at bottom of HydraSleeve together and attach weight



2 Squeeze side fins together at top to bend reinforcing strips outward.



5 Sampler is ready to insert into the well.



3 Attach line to hole at top of HydraSleeve.

Placing the HydraSleeve(s)

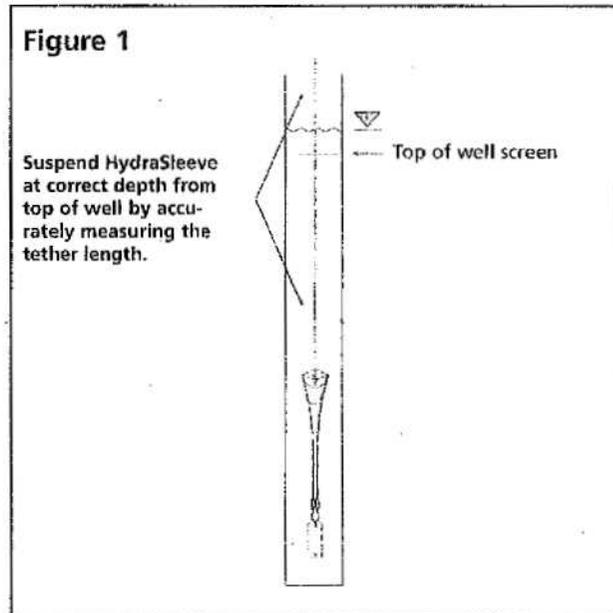
To collect a representative groundwater sample without purging, the well must be allowed time to re-equilibrate after placement of the sampler. When any device is lowered into a well, some mixing of the water column occurs. The diameter of the device and its shape greatly affect the degree of mixing. The flat cross-section of the empty HydraSleeve minimizes the disturbance to the water column as the sampler is lowered into position, reducing the time needed for the well to return to equilibrium.

There are three basic methods for holding a HydraSleeve in position as the well equilibrates.

TOP DOWN DEPLOYMENT (Figure 1)

Measure the correct amount of suspension line needed to "hang" the top of the HydraSleeve(s) at the desired sampling depth (in most cases, this will be at the bottom of the sampling zone). The upper end of the tether can be connected to the well cap to suspend the HydraSleeve at the correct depth until activated for sampling.

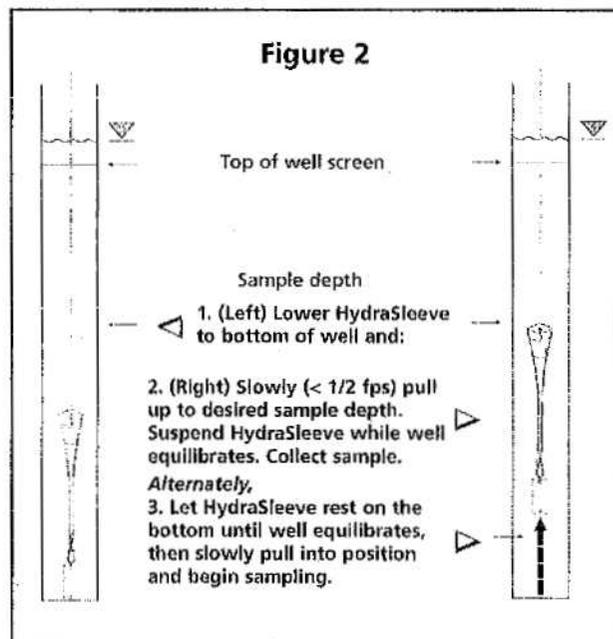
Note: For deep settings, it may be difficult to accurately measure long segments of suspension line in the field. Factory prepared, custom suspension line and attachment points can be provided.



BOTTOM DEPLOYMENT (Figure 2)

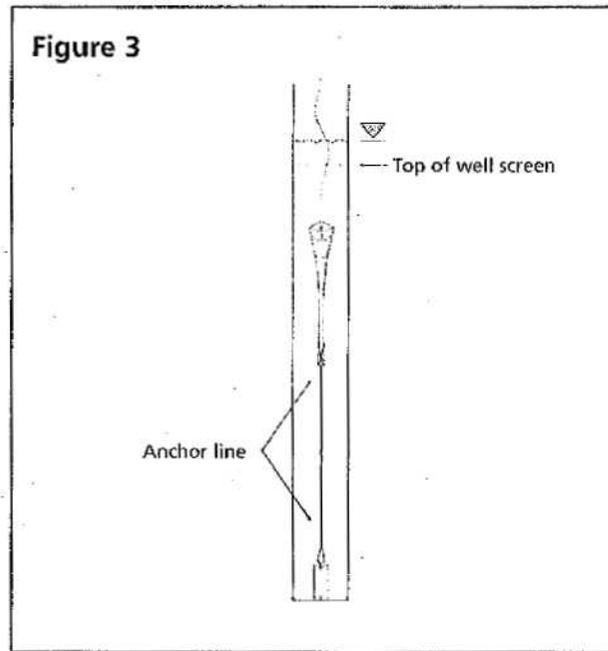
Sound the well to determine the exact depth. Lower the weighted HydraSleeve into the well and let it touch the bottom. Very slowly (less than 1/2 foot per second) raise the sampler to the point where the check valve is at the depth the sample is to be collected. Attach the suspension line to the top of the well to suspend it at this depth. (It is often easier to measure a few feet from the bottom of the well up to the sample point, than it is to measure many feet from the top of the well down.)

Alternately, the sampler can be left on the bottom until the well re-equilibrates. For sampling, it can be very slowly pulled (< 1/2 fps) to sampling depth, then activated (see "Sample Collection," p. 6) to collect the sample, and retrieved to the surface.



BOTTOM ANCHOR (Figure 3)

Determine the exact depth of the well.
Calculate the distance from the bottom of the well to the desired sampling depth.
Attach an appropriate length anchor line between the weight and the bottom of the sampler and lower the assembly until the weight rests on the bottom of the well, allowing the top of the sampler to float at the correct sampling depth.

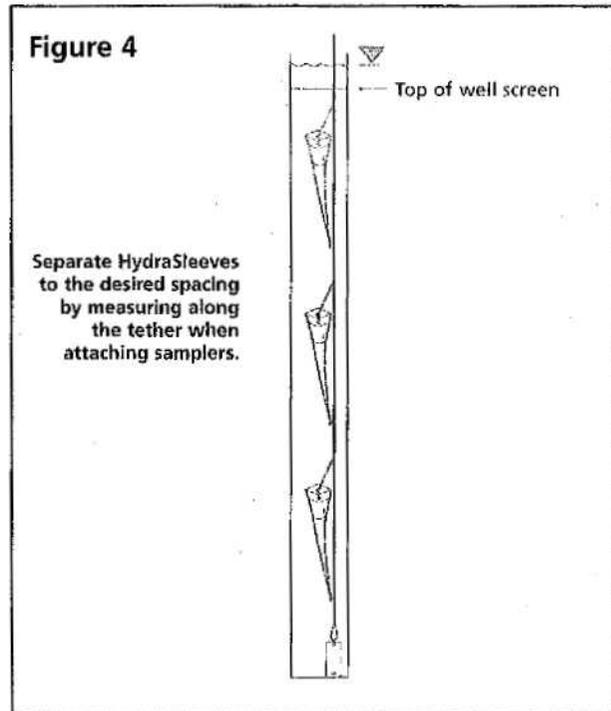


Multiple Interval Deployment

There are two basic methods for placing multiple HydraSleeves in a well to collect samples from different levels simultaneously.

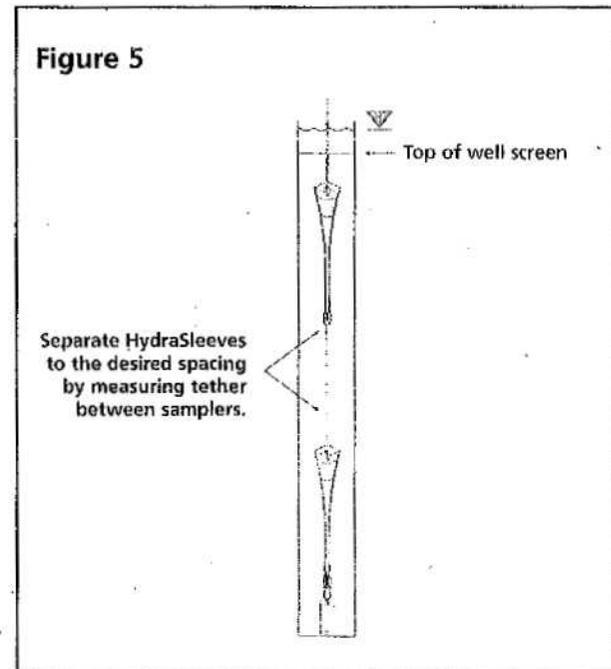
ATTACHED TO A SINGLE TETHER (Figure 4)

To use 3 or more samplers simultaneously, we recommend attaching them all to a tether for support to prevent the sampling string from pulling apart. The weight is attached to a single length of suspension line and allowed to rest on the bottom of the well. The top and bottom of each HydraSleeve are attached to the tether at the desired sample intervals. Cable tie or stainless steel clips (supplied) work well for attaching the HydraSleeves to the line. Simply push one end of the clip between strands of the rope at the desired point before attaching the clip to the HydraSleeve.



ATTACHED END TO END (Figure 5)

To place 2 or 3 stacked HydraSleeves for vertical profiling, use one of the methods described above to locate the bottom sampler. Attach the bottom of the top sampler to the top of the following HydraSleeve(s) with a carefully measured length of suspension cable. Connect the weight to the bottom sampler. Note: if many HydraSleeves are attached to a tether, more weight may be required than with a single sampler.



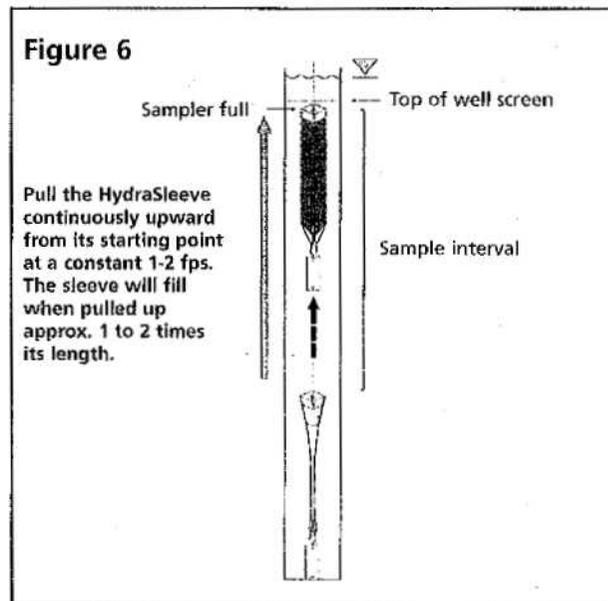
Sample Collection

The HydraSleeve must move upward at a rate of one foot per second or faster (about the speed a bailer is usually pulled upward) for water to pass through the check valve into the sample sleeve. The total upward distance the check valve must travel to fill the sample sleeve is about 1 to 2 times the length of the sampler. For example, a 24-inch HydraSleeve needs a total upward movement of 24 to no more than 48 inches to fill. The upward motion can be accomplished using one long continuous pull, several short strokes, or any combination that moves the check valve the required distance in the open position. A special technique is used for sampling low-yield wells.

CONTINUOUS PULL (Figure 6)

Pull the HydraSleeve continuously upward from its starting point at a constant 1 to 2 feet per second until full. This method usually provides the least turbid samples and is analogous to coring the water column from the bottom up.

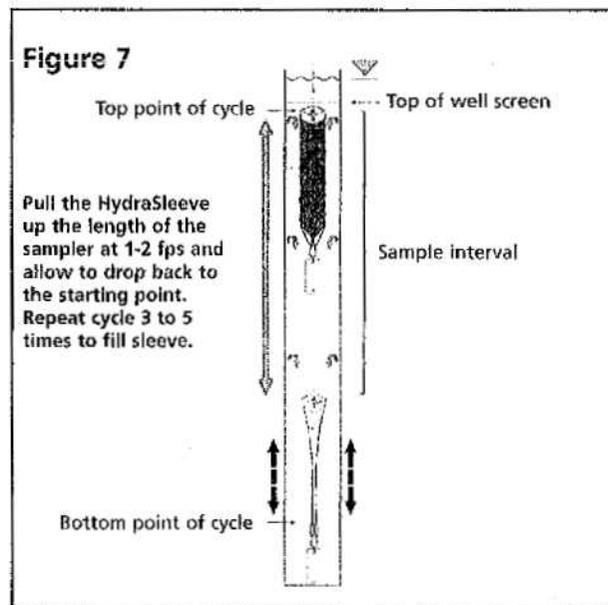
Note: When using this method, the screen interval should be long enough so the sampler fills before exiting the top of the screen.



SHORT STROKES (Figure 7)

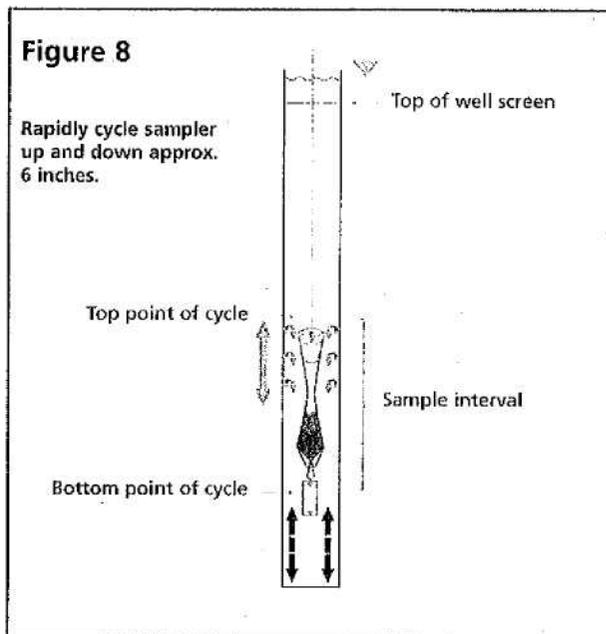
Pull the sampler upward at about 1 to 2 feet per second for the length of the sampler and let it drop back to the starting point. Repeat the cycle 3 to 5 times.

This method provides a shorter sampling interval than the continuous pull method (above), and usually reduces the turbidity levels of the sample below that of numerous rapid, short cycles (below). The sample comes from between the top of the cycle and the bottom of the sampler at its lowest point.



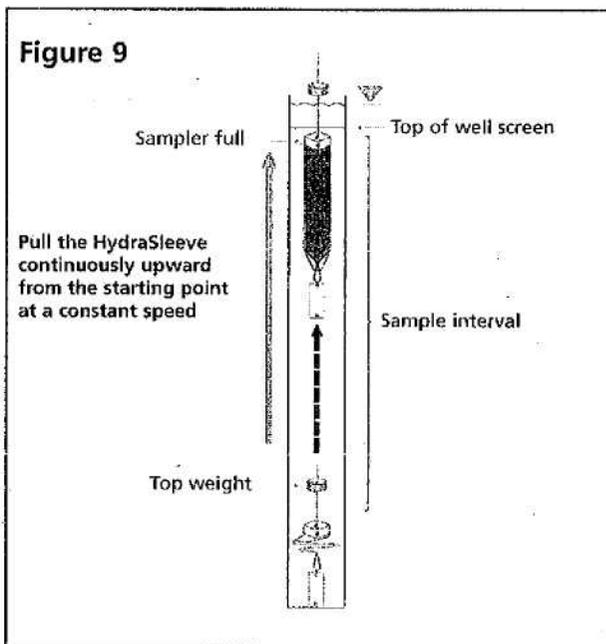
RAPID, SHORT CYCLES (Figure 8)

Cycle the HydraSleeve up and down using rapid, short strokes (6-inch cycle at a minimum of 1 cycle per second) 5 to 8 times. This method provides the shortest sampling interval. Dye studies have shown that when using this method the sample flows into the check valve from along the length of the sampler and immediately above the check valve. The sample interval is from the bottom the sampler at its lowest point in the cycle to the top of the check valve at the peak of the cycle.



SAMPLING LOW-YIELD WELLS (Figure 9)

HydraSleeve provides the best available technology for sampling low yield wells. When pulled upward after the well re-equilibrates, the HydraSleeve will collect a water core from the top of the sampler to about its own length above that point. The sample is collected with no drawdown in the well and minimal sample agitation. An optional top weight can be attached to compress the sampler in the bottom of the well if needed for an extremely short water column. With a top weight, the check valve is pushed down to within a foot of the bottom of the well.



Sample Discharge

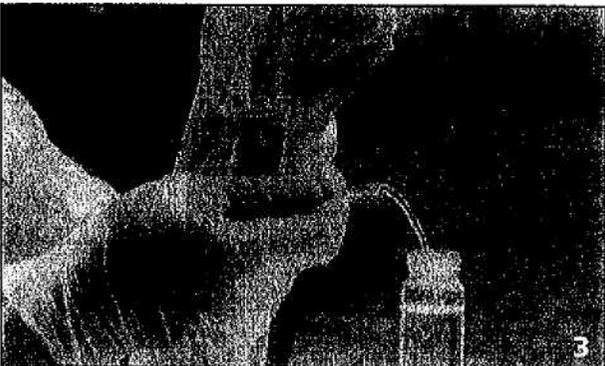
The best way to remove a sample from the HydraSleeve with the least amount of aeration and agitation is with the short plastic discharge tube (included).



First, squeeze the full sampler just below the top to expel water resting above the flexible check valve. (Photo 1, top left)



Then, push the pointed discharge tube through the outer polyethylene sleeve about 3-4 inches below the white reinforcing strips. (Photo 2, middle left)



Discharge the sample into the desired container. (Photo 3, bottom left)

Raising and lowering the bottom of the sampler or pinching the sample sleeve just below the discharge tube will control the flow of the sample. The sample sleeve can also be squeezed, forcing fluid up through the discharge tube, similar to squeezing a tube of toothpaste. With a little practice, and using a flat surface to set the sample containers on, HydraSleeve sampling becomes a one-person operation.



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**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members

DATE: April 21, 2009

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

FROM: Hispanic Advisory Committee

SUBJECT: Request for funding for translation services (not to exceed \$350) for City Services Information Night Monday, May 4, 2009—sponsored by the Hispanic Advisory Committee.

RECOMMENDATION: The City Council approve the request for funding for translation services (not to exceed \$350) for the City Services Information Night scheduled for Monday, May 4, 2009 at 7 p.m. in Council Chambers at City Hall.

BACKGROUND: The Winters Hispanic Advisory Committee was appointed by the City Council in February, 2008 and tasked with the development/improvement of three key areas for the Latino community in Winters: Involvement, Access and Outreach. In the area of outreach, the committee is charged with holding public information meetings focusing on subjects the committee members believe are of importance to the Latino community.

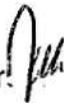
A very successful Estate Planning Workshop was held in February, featuring City Attorney John Wallace. The presentation was translated into Spanish by Juan Goya, with all written materials provided in English and Spanish.

The Committee is planning a second workshop on Monday, May 4, with a focus on City Services. Each department head will provide a brief update on services provided to the community. Following the presentations, there will be a question and answer period. Information to be presented will include: list of projects requiring building permits, contact numbers for public works questions, affordable housing update and recreation programs update. Because the purpose of the meeting is to improve outreach to the Latino community, a translator should be present at this meeting, as well. Again, written workshop materials will be provided in English and Spanish.

FISCAL IMPACT: Not to exceed \$350.



**CITY COUNCIL
STAFF REPORT**

TO: Mayor and City Council
DATE: April 21, 2009
FROM: John W. Donlevy, Jr., City Manager: 
SUBJECT: Downtown Street Naming Report and Designation

RECOMMENDATION:

That the City Council approve the naming of the alley way between Railroad Ave. and First Street in the Main St. and Abbey Street Block Newt's Expressway.

BACKGROUND:

The alley between the Main St. and Abbey St. Block is currently un-named. The businesses which have existed within this area for almost fifty years have been anchored by one key entity, the Winters Express Newspaper, published by Newton "Newt" Wallace.

There are many reasons to recognize Mr. Wallace and the Winters Express, which will be done over the course of the next few years as key milestones are met. In recognition of Newt's many contributions to the Downtown and Winters in general, it is recommended that this alley be officially named in his honor—"Newt's Expressway".

It is also recommended that the dedication occur in conjunction with Mr. Wallace's 90th birthday on June 7, 2009.

FISCAL IMPACT:

\$300 for purchase and installation of street name signs.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE : April 21, 2009
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Dan Maguire, Housing Programs Manager
SUBJECT: Winters Farmers Market Use and License Agreement

RECOMMENDATION:

Approve the attached Resolution authorizing the City Manager to enter into a Use and License Agreement with the Davis Farmers Market Associates (DFMA).

BACKGROUND:

The DFMA has operated a certified farmers market for over 30 years. The Winters Farmers Market will provide a link between farmers and consumers in the community. At the April 7, 2009 Council meeting the City Council conducted a Public Hearing and First Reading of Ordinance 2009-04, an Ordinance adding Chapter 14-01 to the Winters Municipal Code pertaining to Farmers Market, which provides detailed guidelines for the operation of the market. As a next step, it is appropriate to enter into formal agreements regarding the use of Rotary Park.

The Use and License Agreement is a license agreement to hold the market at Rotary Park. The license agreement documents many of the arrangements and the understanding between the City and DFMA. The license agreement also provides better rules for DFMA to share with the vendors. The license is set for a term of (5) five years. The license defines the Market Area setting out what portion of the park can be used for the market. The agreement allows for other areas to be used subject to review and approval of the city. All parties will benefit from the written expectations. The agreement also includes language regarding the use of the Community Center restrooms.

FISCAL IMPACT:

The fiscal impact associated with the license agreement allowing DFMA to use Rotary Park to operate the market and is limited to staff time associated with the market and some utilities. DFMA pays the city a \$1000 fee annually to cover city staff time associated with the market.

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 ___ day 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 five (5) years commencing on the date first written above.

(1.) 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.

(2)
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.

(b) 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

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.

(a) 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:

Davis Farmers Market Association, Inc.
PO Box 1813
Davis, CA 95617
Attn: Randi 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/V'enuue.

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,
a municipal corporation
of the State of California

DAVIS FARMER'S
MARKET ASSOCIATION
INC. (MARKET), a
non-profit 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 Councilmembers
DATE: April 21, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Kate Kelly, Contract Planner
SUBJECT: Public Hearing for Adoption of Mitigated Negative Declaration and Second Reading to Take Action on 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); and to Take Action on Resolution No. 2009-14 - A Resolution of The City Of Winters Adopting a Planned Development Permit Modifying the Height Restrictions and Parking Requirements for The St. Anthony's Church and Rectory Project (Assessor Parcel Number 003-120-03)

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

1. Receive the Staff Report.
2. Conduct Public Hearing.
3. Adopt Mitigated Negative Declaration and Mitigation Monitoring Plan for the St. Anthony's Church and Rectory Project.
4. Hold Second 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).
5. Adopt 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).
6. Adopt Resolution No. 2009-14 - A Resolution of The City Of Winters Adopting a Planned Development Permit Modifying the Height Restrictions and Parking Requirements for The St. Anthony's Church and Rectory Project.

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/Planned Development Permit (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 and a Planned Development Permit 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 to modify on-site parking and maximum height requirements and Planned Development Permit which would permit a maximum height of 52' for the church building and reduce the required

on-site parking to 90% of that required by the Winters Municipal Code.

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 and Planned Development Permit.

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 and Planned Development Permit 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. Resolution No. 2009-14 - A Resolution of The City Of Winters Adopting a Planned Development Permit Modifying the Height Restrictions and Parking Requirements for The St. Anthony's Church and Rectory Project
3. Findings and Conditions of Approval
4. Site Plan
5. Building Elevations
6. Initial Study/Mitigated Negative Declaration
7. 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 April 21, 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 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

RESOLUTION NO. 2009-14

A RESOLUTION OF THE CITY OF WINTERS ADOPTING A PLANNED DEVELOPMENT PERMIT MODIFYING THE HEIGHT RESTRICTIONS AND PARKING REQUIRMENTS FOR THE ST. ANTHONY'S CHURCH AND RECTORY PROJECT (ASSESSOR PARCEL NUMBER 003-120-03)

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, Resolution, or regulation.

i. The City Council has, prior to this approval, considered, approved and ratified a Planned Development Overlay pursuant to Chapter 17.48 of the Winters Municipal Code for the subject property.

j. The City Council held a properly noticed public hearing on the Project on April 21, 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 Resolution (Title 17 of the Winters Municipal Code) and any deviations from the provisions of the R-2 Zone and general standards of the Zoning Resolution 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, a Planned Development Permit is hereby approved to allow a maximum structural height limit of fifty-two (52) feet and to modify the off-street parking requirement to require a minimum of ninety percent (90%) of that required by Section 17.72.020 of Chapter 17.72 of Title 17 of the Winters Municipal Code.

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 height and off-street parking standards permitted by the approval of this Resolution.

SECTION 5. Severability.

If any section, subsection, sentence, clause or phrase of this Resolution 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 Resolution. The City Council of the City of Winters hereby declares that it would have passed this Resolution 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.

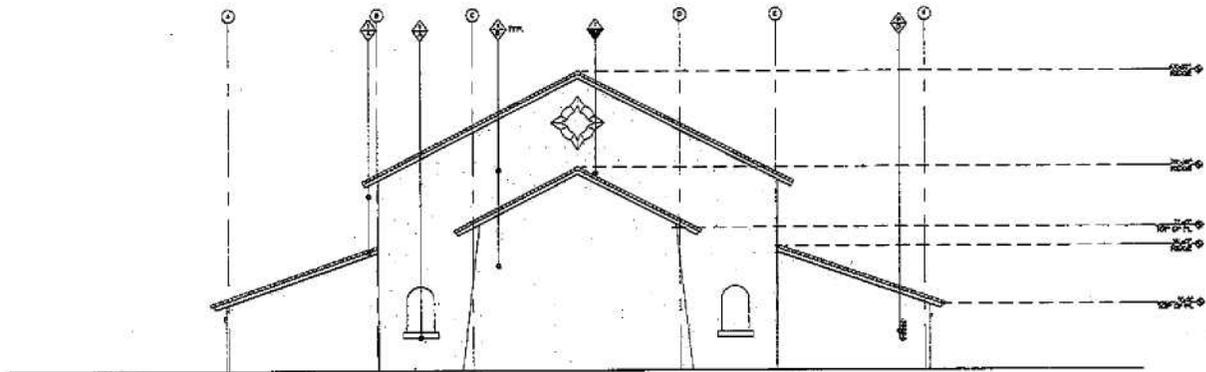
PASSED AND ADOPTED by the City Council, City of Winters, the 21st day of April, 2009 by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Michael Martin, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



MATERIAL	
1	CLAY TILE TO MATCH EXISTING PURPOSE BUILDING
2	MASONRY EXTERIOR
3	BRICK
4	METAL WINDOW
5	COLUMN
6	PAINTED WOOD DOOR
7	DECORATIVE WOOD
8	MASONRY WITH GRASS
9	ROOFING
10	STAIRS
11	GLAZING
12	OPEN
13	WOOD WITH UNPAINTED IRON CASE
FINISH	
A	DARK COLORED "SLACK BRUSH" CEILING
B	DARK COLORED "CLIFFHANGER" CEILING
C	CHESTNUT STAIN
D	BLACK
E	NAPA VALLEY CAST IRON
F	CLEAR

NOTES:

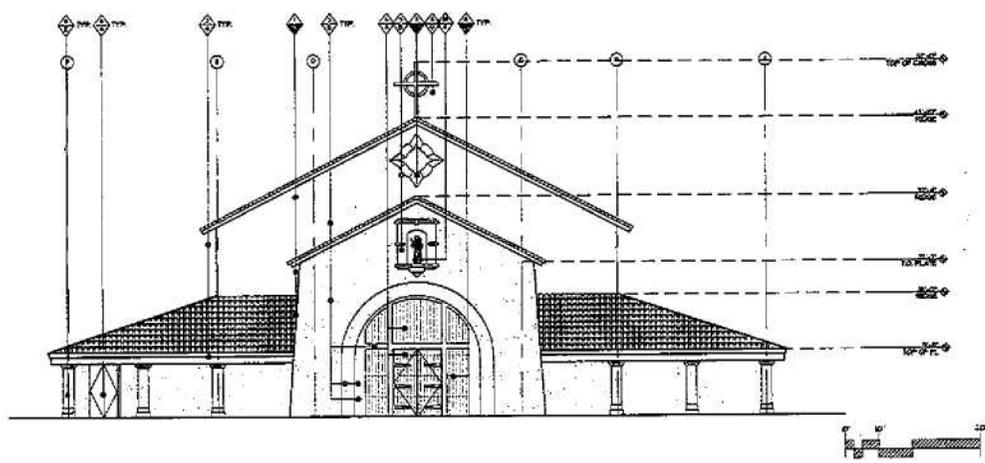
1. BUILDING BRICKS TO BE PAINTED B
2. ALL WOOD DOORS TO BE PAINTED A
3. COLUMNS TO HAVE BRICKS COAT PAINTED D.

REVISIONS

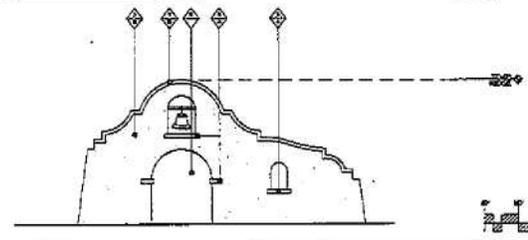
PROPOSED PROJECT:
ST. ANTHONY
 811 MAIN STREET
 UNTERS, CALIFORNIA 94984

MACCANDLASS & ASSOCIATES ARCHITECTS, INC.
 1000 10TH AVENUE
 SAN FRANCISCO, CALIFORNIA 94133
 TEL: 415.774.1100
 FAX: 415.774.1101

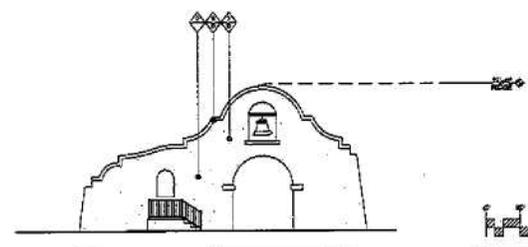
3 SOUTH CHURCH ELEVATION



2 NORTH CHURCH ELEVATION



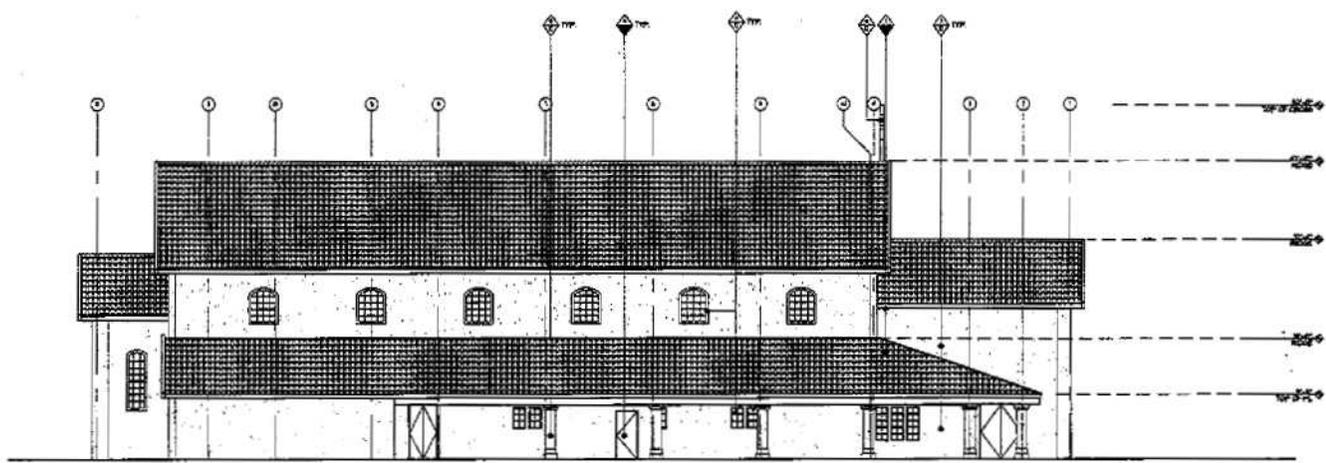
1B NORTH ELEVATION - ENTRY



1A SOUTH ELEVATION - ENTRY

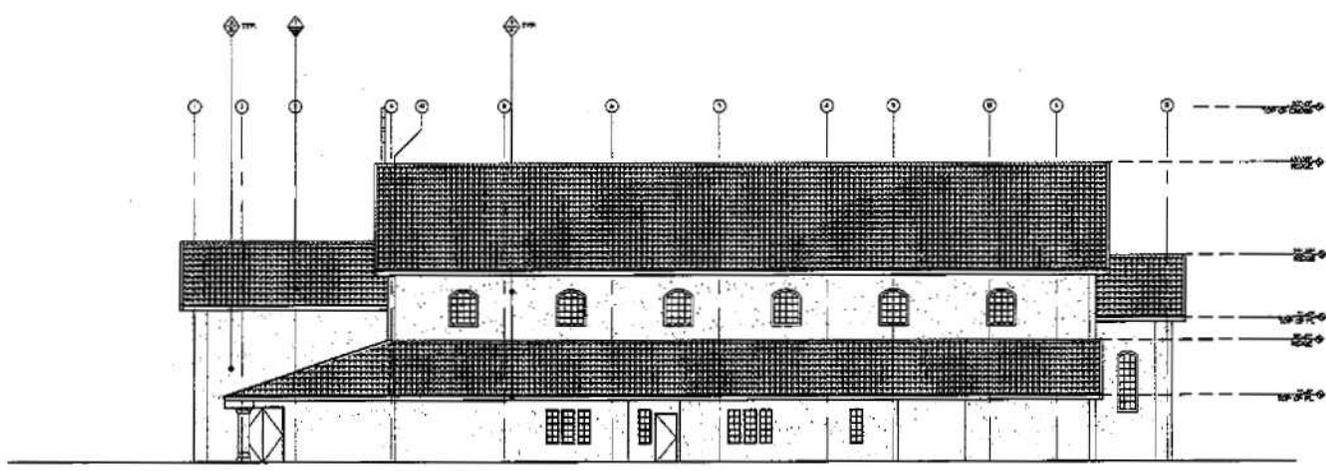
DESIGN REVIEW SET

DESIGN
 CHECKED
 DATE: 11-10-2006
 SCALE: NOTED
 JOB: 06-004
 SHEET: DR4



2 EAST CHURCH ELEVATION

SCALE: 1/8" = 1'-0"



1 WEST CHURCH ELEVATION

SCALE: 1/8" = 1'-0"

MATERIAL	
1	CLAY TILE TO MATCH EX. FIELD PORPHOR ENCLING
2	BRICK / MASON
3	STUCCO
A	STEEL JACKBO
B	COLUMNS
C	STAINED WOOD DOOR
D	DECORATIVE WOOD
E	BRIGHT IRON GRIDS
F	ROMANESQUE
G	GLASSWIT
H	GLAZING
I	OPEN
J	BRICK WITH BRIGHT IRON GRIDS
FINISH	
A	DUN EDWARDS "MIDDLE DROWN" DE 214
B	DUN EDWARDS "SAPPHIRE" DE 110
C	CHESTNUT BRONZE
D	BLACK
E	NAPA VALLEY GRAFT BRONZE
F	CLEAR

NOTES:
 1. BRICKING STUCCO TO BE FINISHED B
 2. ALL BRICK DOORS TO BE FINISHED A
 3. COLUMNS TO HAVE BRICK COAT FINISHED B

REVISIONS	

PROPOSED PROJECT:
ST. ANTHONY
 811 MAIN STREET
 BERTHOSS, CALIFORNIA 94934

MCCANLISSEN & ASSOCIATES ARCHITECTS, INC.
 1000 CALIFORNIA STREET
 SAN FRANCISCO, CA 94108
 TEL: 415.774.1100
 FAX: 415.774.1101
 WWW.MCANLISSEN.COM

DESIGN REVIEW SET

OWNER	
DATE	
SCALE	AS SHOWN
JOB	
BY	

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-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.

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 birds 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 on 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 by 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.

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>	☐	☐	■	☐
<p>b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?</p>	☐	☐	☐	■
<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>	☐	☐	☐	■

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 adverse 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?	□	■	□	□
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?	□	□	□	■
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?	□	□	□	■
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?	□	■	□	□
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	□	□	■	□
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?	□	■	□	□

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?	☐	☐	■	☐
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?	☐	☐	■	☐
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	■	☐
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?	☐	☐	☐	■
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?	☐	☐	☐	■
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?	☐	☐	☐	■
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	■
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?	☐	☐	☐	■

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)?	□	□	■	□
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	□	□	□	■
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	□	□	□	■

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-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.

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.

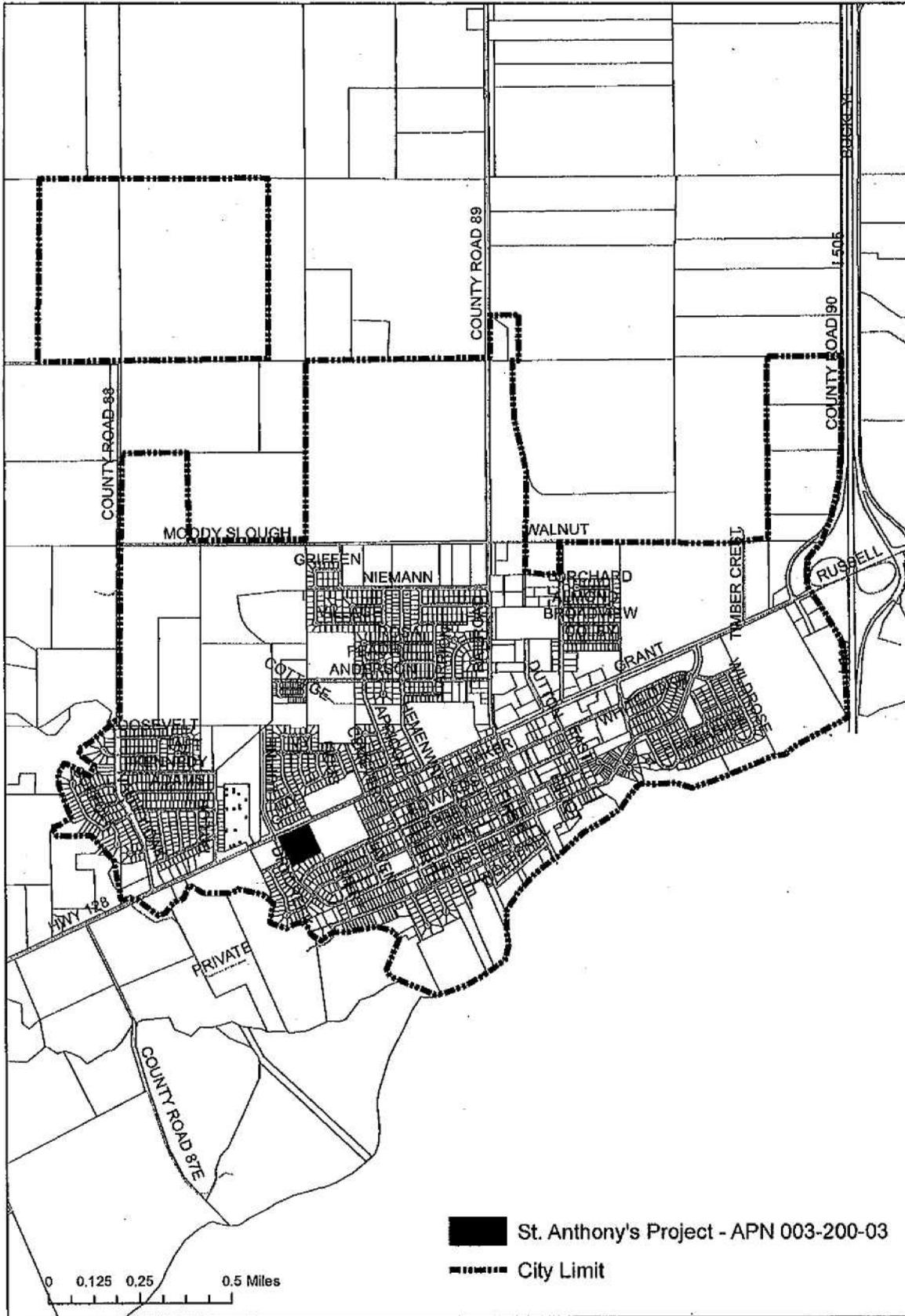
Mitigation Measure Utilities 1 -- The proposed systems for conveying project sewage, water, and drainage shall be finalized and approved by the City Engineer prior to approval of improvement plans. The project is required to fund and construct off-site improvements necessary to support the development. 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



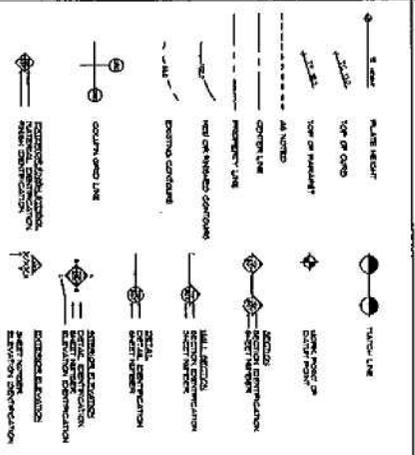
ST. ANTHONY CHURCH & PASTOR'S RESIDENCE

511 MAIN STREET WINTERS CA, 95694

ABBREVIATIONS

1. CONCRETE	2. BRICK	3. STONE	4. METAL	5. WOOD	6. GLASS	7. ASPHALT	8. GRAVEL	9. SAND	10. SOIL	11. VEGETATION	12. FENCE	13. DRIVEWAY	14. SIDEWALK	15. STREET	16. RAILROAD	17. POWER LINE	18. TELEPHONE LINE	19. CABLE TV	20. GAS	21. WATER	22. SEWER	23. DRAINAGE	24. EROSION CONTROL	25. LANDSCAPE	26. SITE	27. PROPERTY LINE	28. EASEMENT	29. ENCROACHMENT	30. ADJACENT PROPERTY	31. ZONING	32. DISTRICT	33. COUNTY	34. STATE	35. FEDERAL	36. NATIONAL	37. INTERNATIONAL	38. GLOBAL	39. PLANETARY	40. UNIVERSE
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LEGEND



PROJECT CONSULTANTS

OWNER	ARCHITECT	LANDSCAPE
ST. ANTHONY CHURCH & PASTOR'S RESIDENCE 511 MAIN STREET WINTERS, CA 95694 TEL: (209) 837-1234	HASSELLBACH ASSOCIATES 1000 MAIN STREET WINTERS, CA 95694 TEL: (209) 837-1234	LANDSCAPE ARCHITECTS 1000 MAIN STREET WINTERS, CA 95694 TEL: (209) 837-1234

SITE ANALYSIS / PROJECT DATA

PROJECT: ST. ANTHONY CHURCH & PASTOR'S RESIDENCE	LOCATION: 511 MAIN STREET, WINTERS, CA
OWNER: ST. ANTHONY CHURCH & PASTOR'S RESIDENCE	ARCHITECT: HASSELLBACH ASSOCIATES
DATE: 10/15/2024	SCALE: AS SHOWN
PROJECT NO: 2024-001	PROJECT NAME: ST. ANTHONY CHURCH & PASTOR'S RESIDENCE
CLIENT: ST. ANTHONY CHURCH & PASTOR'S RESIDENCE	CLIENT ADDRESS: 511 MAIN STREET, WINTERS, CA 95694
PROJECT TYPE: RESIDENTIAL	PROJECT PHASE: PRELIMINARY DESIGN
PROJECT STATUS: IN PROGRESS	PROJECT BUDGET: \$1,000,000
PROJECT RISK: LOW	PROJECT COMPLEXITY: MODERATE
PROJECT SCHEDULE: 12 MONTHS	PROJECT TEAM: ARCHITECT, LANDSCAPE ARCHITECT, ENGINEER

GENERAL BUILDING LIMITATIONS

ALLOWABLE AREA	CONSTRUCTION	TYPE	HEIGHT	AREA	PERCENTAGE	REMARKS
1000	1000	1000	1000	1000	1000	1000
2000	2000	2000	2000	2000	2000	2000
3000	3000	3000	3000	3000	3000	3000
4000	4000	4000	4000	4000	4000	4000
5000	5000	5000	5000	5000	5000	5000
6000	6000	6000	6000	6000	6000	6000
7000	7000	7000	7000	7000	7000	7000
8000	8000	8000	8000	8000	8000	8000
9000	9000	9000	9000	9000	9000	9000
10000	10000	10000	10000	10000	10000	10000

SHEET INDEX

NO.	DESCRIPTION	DATE	BY	CHECKED
1	GENERAL BUILDING LIMITATIONS	10/15/2024	J. SMITH	M. JONES
2	LANDSCAPE ARCHITECTURE	10/15/2024	L. BROWN	M. JONES
3	STRUCTURAL ENGINEERING	10/15/2024	S. GREEN	M. JONES
4	ELECTRICAL ENGINEERING	10/15/2024	D. WHITE	M. JONES
5	Mechanical Engineering	10/15/2024	R. BLACK	M. JONES
6	Plumbing Engineering	10/15/2024	K. GRAY	M. JONES
7	Site Analysis	10/15/2024	J. SMITH	M. JONES
8	Site Plan	10/15/2024	J. SMITH	M. JONES
9	Site Section	10/15/2024	J. SMITH	M. JONES
10	Site Elevation	10/15/2024	J. SMITH	M. JONES
11	Site Detail	10/15/2024	J. SMITH	M. JONES
12	Site Schedule	10/15/2024	J. SMITH	M. JONES
13	Site Budget	10/15/2024	J. SMITH	M. JONES
14	Site Risk	10/15/2024	J. SMITH	M. JONES
15	Site Complexity	10/15/2024	J. SMITH	M. JONES
16	Site Team	10/15/2024	J. SMITH	M. JONES
17	Site Schedule	10/15/2024	J. SMITH	M. JONES
18	Site Budget	10/15/2024	J. SMITH	M. JONES
19	Site Risk	10/15/2024	J. SMITH	M. JONES
20	Site Complexity	10/15/2024	J. SMITH	M. JONES
21	Site Team	10/15/2024	J. SMITH	M. JONES



DESIGN REVIEW SET

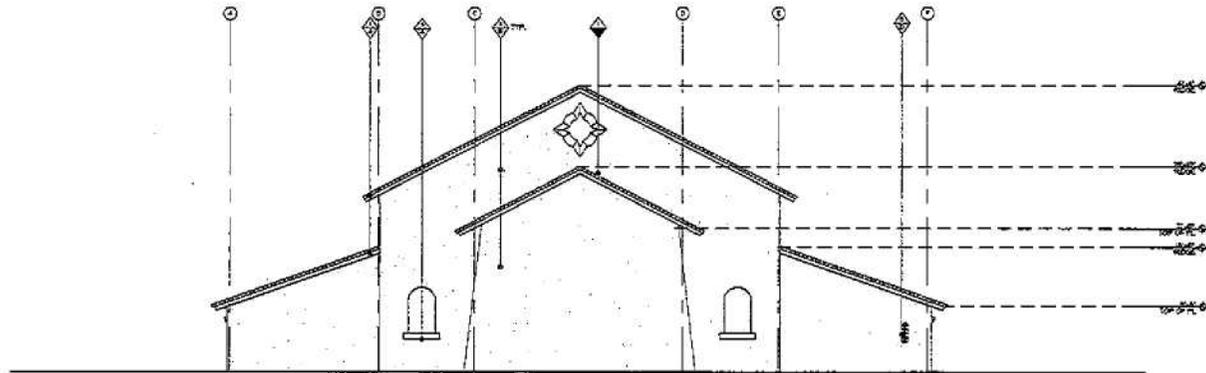
PROJECT NO: 2024-001
DATE: 10/15/2024
SCALE: AS SHOWN
SHEET NO: 1 OF 1

McAnchless & Associates Architects, Inc.
411 DUNDAS STREET
WINTERS, CA 95694
TEL: (209) 837-1234
WWW.MCANCHLESS.COM

PROPOSED PROJECT:
ST. ANTHONY CHURCH & PASTOR'S RESIDENCE
511 MAIN STREET
WINTERS, CALIFORNIA 95694

REVISIONS

NO.	DESCRIPTION	DATE



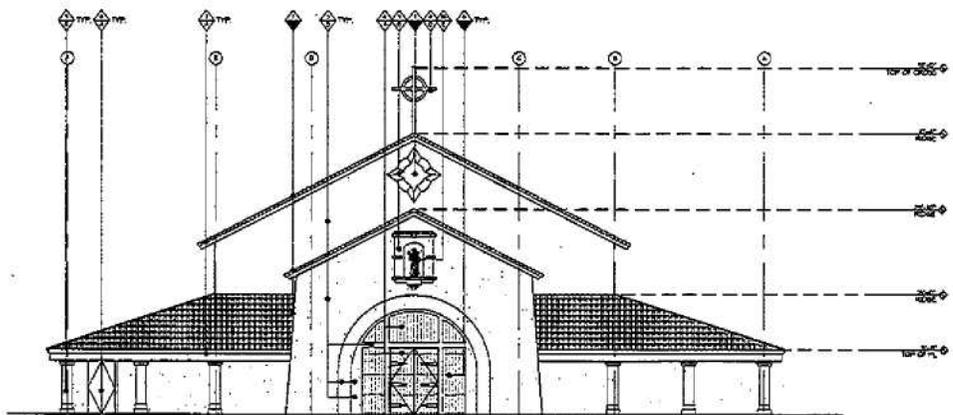
MATERIAL

1	CLAY TILE TO MATCH EXISTING PURPOSE BUILDING
2	PLASTER / GYPST
3	BRICK
4	PETAL WOOD
5	COLUMN
6	SCAPED WOOD DOOR
7	DECORATIVE WOOD
8	BRIGHT IRON CROSS
9	IRONWORK
10	STUCCO
11	GLAZING
12	OPEN
13	WOOD WITH BRIGHT IRON CASE
◆	FINISH
A	DEMI BOURGON MADRAS BRICK DE 144
B	DEMI BOURGON CHAMPAGNE DE 144
C	CREMISE BRICK
D	BLACK
E	NAPA VALLEY GALT STONE
F	GLAZING

NOTES:
 1. BUILDING PRICES TO BE PAIRED 2
 2. ALL WOOD DOORS TO BE PAINTED A
 3. COLUING TO HAVE BRICK COAT PAINTED B

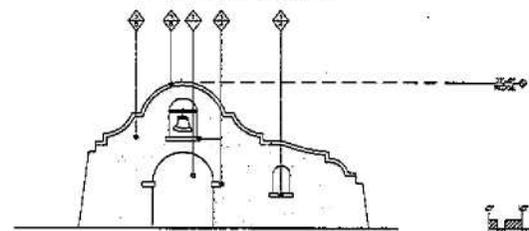
3 SOUTH CHURCH ELEVATION

SCALE: 1/8" = 1'-0"



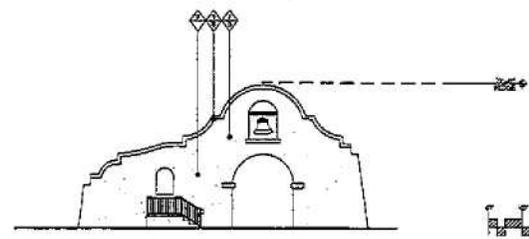
2 NORTH CHURCH ELEVATION

SCALE: 1/8" = 1'-0"



1B NORTH ELEVATION - ENTRY

SCALE: 1/8" = 1'-0"



1A SOUTH ELEVATION - ENTRY

SCALE: 1/8" = 1'-0"

REVISIONS

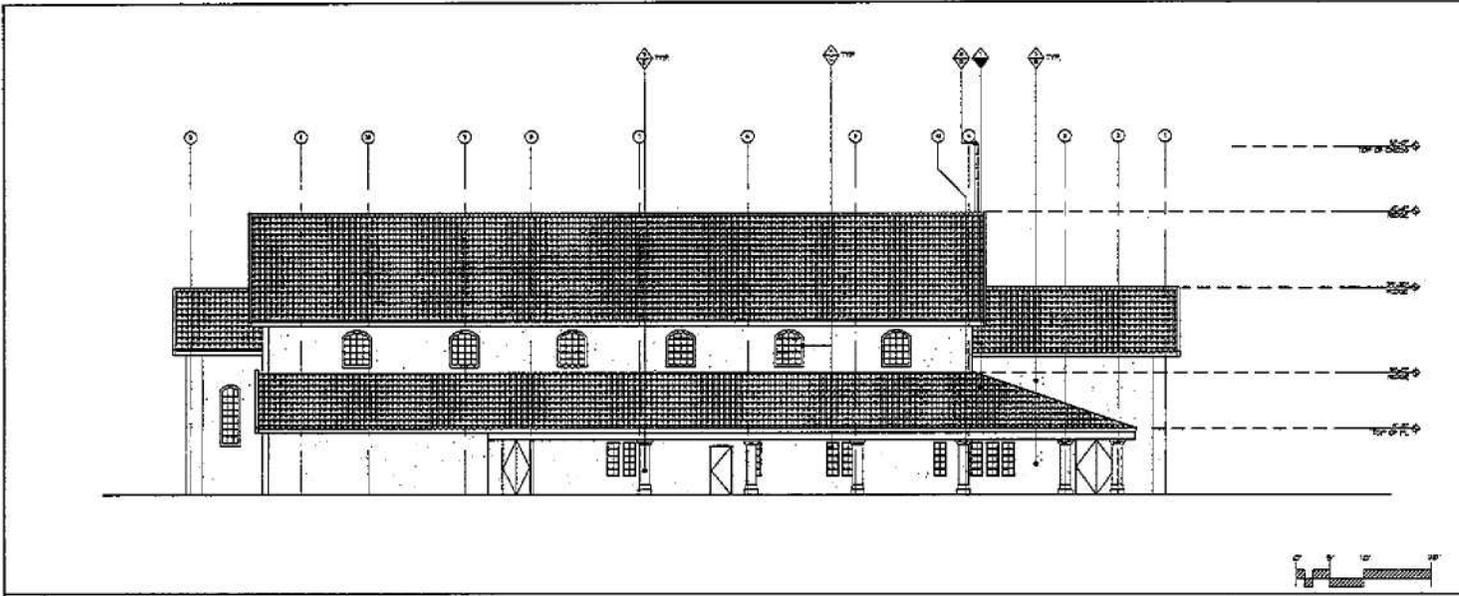
PROPOSED PROJECT:
ST. ANTHONY
 88 MAIN STREET
 WINTERA, CALIFORNIA 95094

MACANDELINA & ASSOCIATES ARCHITECTS, INC.
 1111 MAIN STREET, SUITE 100
 PALM SPRING, CA 92262
 951.444.1111 FAX 951.444.1112

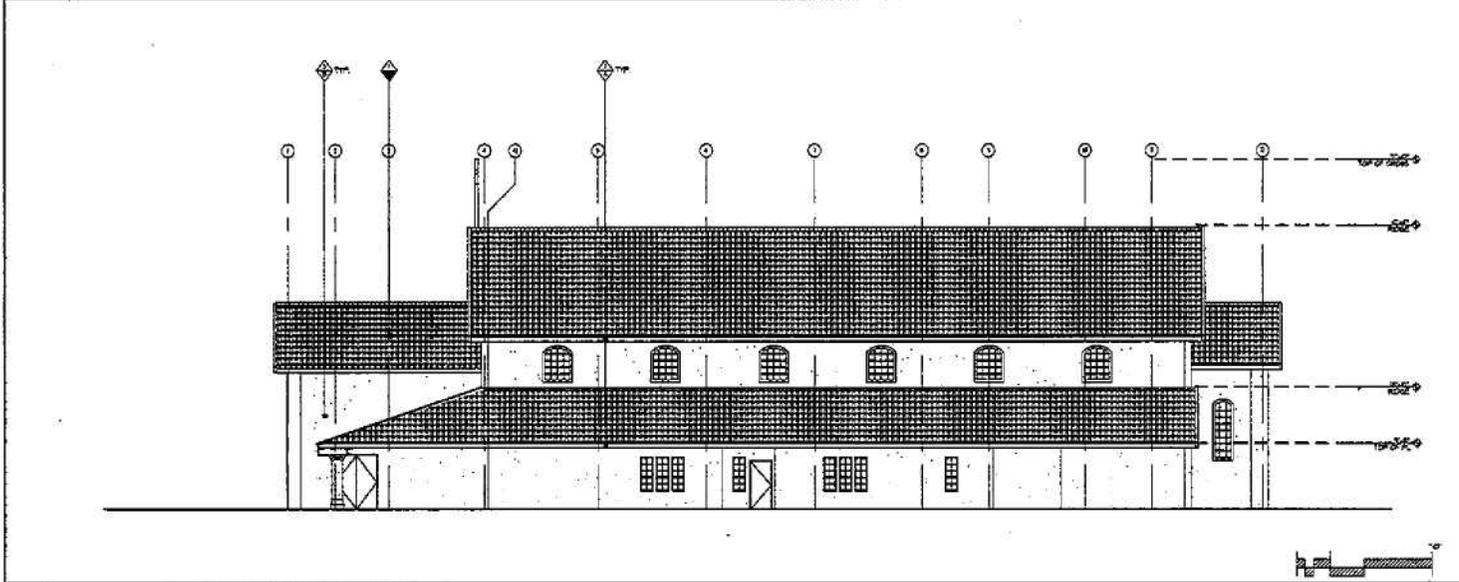


DESIGN REVIEW SET

CREATED BY: [blank]
 DATE: 11-16-2006
 SCALE: 1/8" = 1'-0"
 JOB NO: 06-204
 SHEET: 04



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



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

MATERIAL	
1	CLAY TILE TO MATCH EXISTING, TYPICAL CHALK
2	FABRIC FILTER
3	SPRUE
4	METAL MESH
5	GAUZE
6	PAINTED WOOD DOOR
7	DECORATIVE WOOD
8	SPRUE AT POCH CROSS
9	PLYWOOD
10	STAIRWAY
11	SLABING
12	OPEN

FINISH	
A	DARK BROWN WOOD GRAIN OIL PAINT
B	DARK
C	
D	
E	
F	

1. EXISTING SPRUE TO BE PAINTED B
2. ALL WOOD DOORS TO BE PAINTED A
3. COLUMNS TO HAVE SPRUE COAT PAINTED B.

REVISIONS

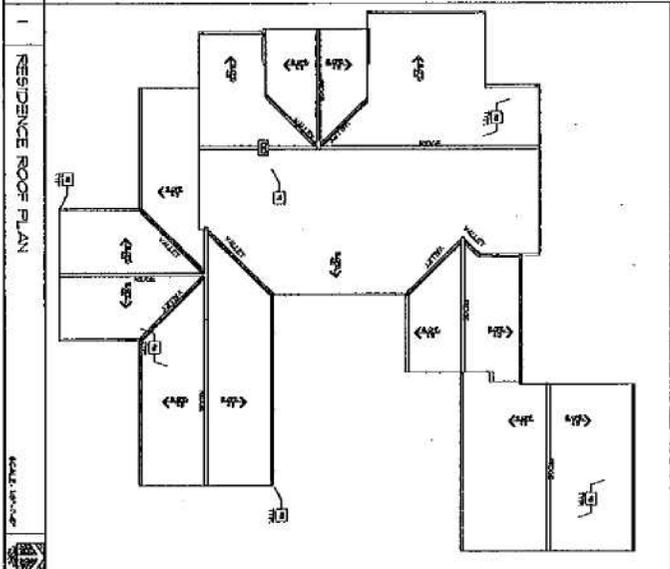
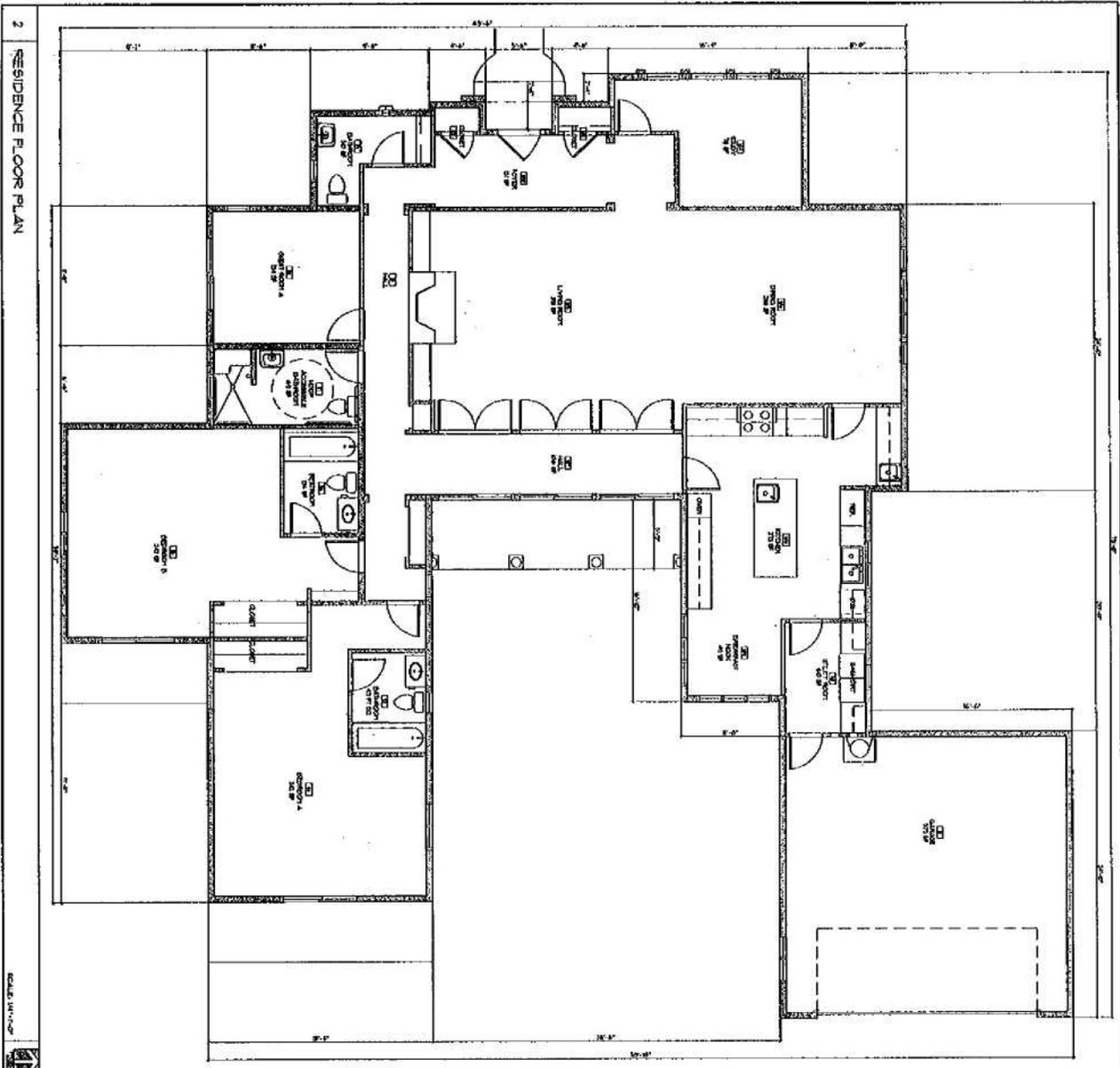
PROPOSED PROJECT:
ST. ANTHONY
 331 MAIN STREET
 BOSTON, CALIFORNIA 95834

McCANDLESS & ASSOCIATES ARCHITECTS, INC.
 1100 14TH STREET
 SAN FRANCISCO, CA 94103
 TEL: 415/774-1100
 FAX: 415/774-1101



DESIGN REVIEW SET

DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 DATE: 03-23-2006
 SCALE: AS SHOWN
 JOB: ST. ANTHONY
 SHEET: 06-202
 DRG



1 RESIDENCE ROOF PLAN
SCALE: 1/8" = 1'-0"

2 RESIDENCE FLOOR PLAN
SCALE: 1/8" = 1'-0"

PLAN LEGEND:

- ROOM NUMBER
- CENTER
- WINDOW SILL
- WINDOW FALL
- WINDOW FULL

ROOF KEY NOTES:

- GUTTER - SEE ELEVATIONS FOR COLOR & MATERIAL
- SLOPE - SEE ELEVATIONS FOR COLOR & MATERIAL
- ROOF PANELS - SEE ELEVATIONS FOR COLOR & MATERIAL

ROOF GENERAL NOTES:

ROOF PANELS AND GUTTERS TO BE EXTENDED OVER 3/4" TO PROTECT CORNER FROM WATER. ALL ROOF PANELS TO BE EXTENDED OVER 3/4" TO PROTECT CORNER FROM WATER.

DESIGN REVIEW SET
DATE: 08/14/2008
SCALE: 1/8" = 1'-0"

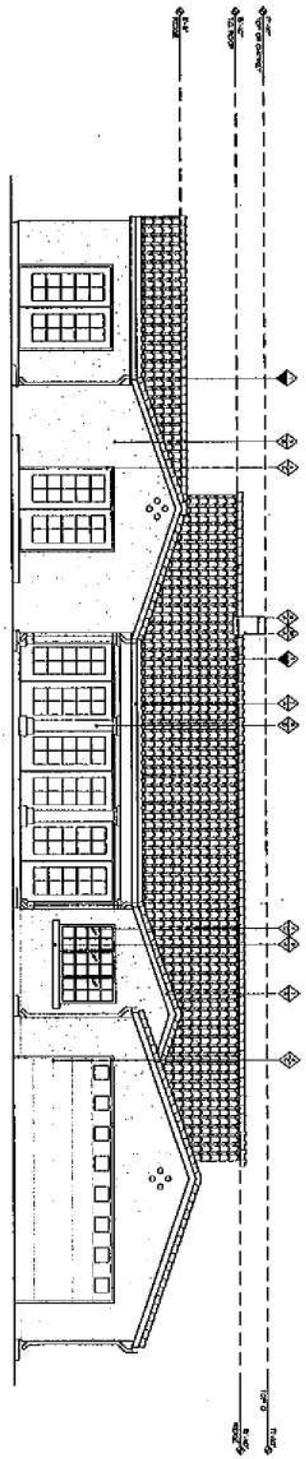
DESIGN REVIEW SET



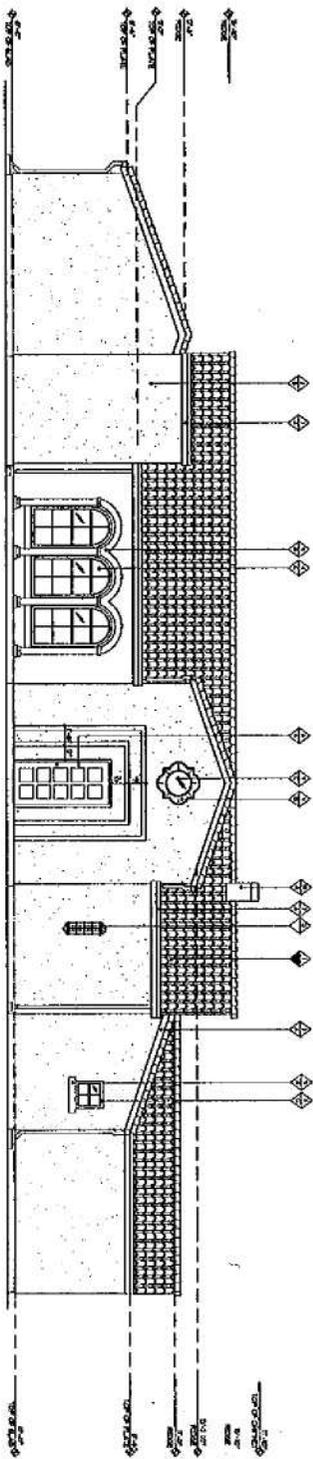
MCCANDLESS & ASSOCIATES ARCHITECTS, INC.
2144 Grand Oak Drive
Berkeley, CA 94709
PH: 415.862.1100
FAX: 415.862.1100

PROPOSED PROJECT:
ST. ANTHONY
81 MAN STREET
UNTERS, CALIFORNIA 95604

REVISIONS



EAST ELEVATION



WEST ELEVATION

SCALE: 1/4"=1'-0"

SCALE: 1/4"=1'-0"

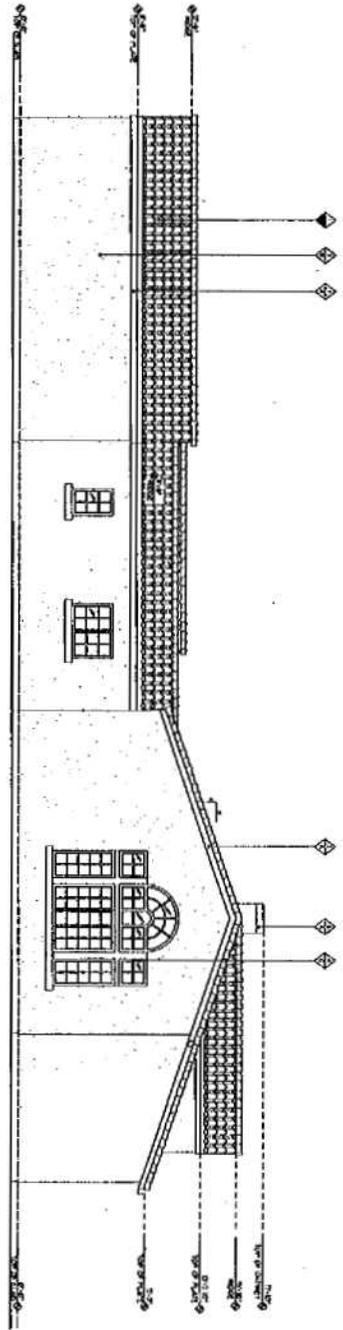
MATERIAL

1	CLAY TILE ON WOOD SHAKES
2	MASONRY
3	STUCCO
4	VERT. LINEN ON WOOD
5	CLAY TILE
6	STAINLESS STEEL
7	CONCRETE
8	ALUMINUM
9	PAINT
10	WOOD
11	WOOD

- FINISH**
- 1. DARK BROWN, MEDIUM GRAIN, OAK
 - 2. DARK BROWN, MEDIUM GRAIN, OAK
 - 3. DARK BROWN, MEDIUM GRAIN, OAK
 - 4. DARK BROWN, MEDIUM GRAIN, OAK
 - 5. DARK BROWN, MEDIUM GRAIN, OAK
 - 6. DARK BROWN, MEDIUM GRAIN, OAK
 - 7. DARK BROWN, MEDIUM GRAIN, OAK
 - 8. DARK BROWN, MEDIUM GRAIN, OAK
 - 9. DARK BROWN, MEDIUM GRAIN, OAK
 - 10. DARK BROWN, MEDIUM GRAIN, OAK
 - 11. DARK BROWN, MEDIUM GRAIN, OAK

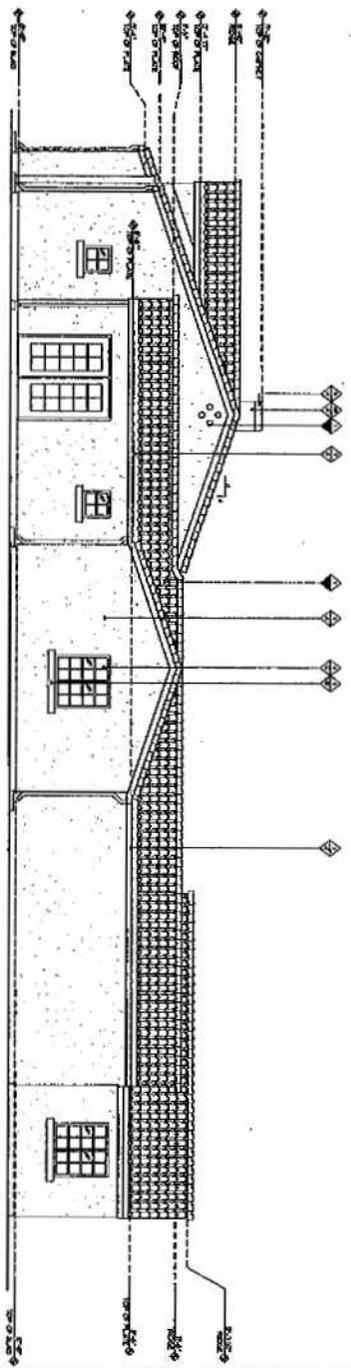
- NOTES**
1. MATERIALS TO BE USED AS SHOWN
 2. ALL WORK TO BE DONE BY THE CONTRACTOR
 3. ALL WORK TO BE DONE BY THE CONTRACTOR
 4. ALL WORK TO BE DONE BY THE CONTRACTOR
 5. ALL WORK TO BE DONE BY THE CONTRACTOR
 6. ALL WORK TO BE DONE BY THE CONTRACTOR
 7. ALL WORK TO BE DONE BY THE CONTRACTOR
 8. ALL WORK TO BE DONE BY THE CONTRACTOR
 9. ALL WORK TO BE DONE BY THE CONTRACTOR
 10. ALL WORK TO BE DONE BY THE CONTRACTOR
 11. ALL WORK TO BE DONE BY THE CONTRACTOR

<p>DESIGN REVIEW SET</p>		<p>McCandless & Associates Architects, Inc. 444 South First Street San Francisco, CA 94104 Tel: 415.774.1100 Fax: 415.774.1101</p>	<p>PROPOSED PROJECT: ST. ANTHONY 511 MAIN STREET WATERS, CALIFORNIA 95664</p>	<p>REVISED</p>
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1 NORTH ELEVATION

SCALE: 1/4" = 1'-0"



2 SOUTH ELEVATION

SCALE: 1/4" = 1'-0"

MATERIAL

1	CLAY TILE SHINGLES BY T.S. FARRINGTON BUILDING
2	WOOD / GUTTER
3	STAINED
4	TRIPLE LAMINATE OR DOOR
5	CEILING
6	STAINED WOOD FLOOR
7	EXTERIOR DOOR
8	W/ALUMINUM
9	EXTERIOR WALLS
10	CEILING
11	DOOR
12	WOOD OR METAL TRIM / CASE

FINISH

1	DOWN EXTERIOR SHINGLES / DOWN / DOOR
2	DOWN EXTERIOR SHINGLES / DOWN / DOOR
3	DOWN EXTERIOR SHINGLES / DOWN / DOOR
4	DOWN EXTERIOR SHINGLES / DOWN / DOOR
5	DOWN EXTERIOR SHINGLES / DOWN / DOOR
6	DOWN EXTERIOR SHINGLES / DOWN / DOOR
7	DOWN EXTERIOR SHINGLES / DOWN / DOOR
8	DOWN EXTERIOR SHINGLES / DOWN / DOOR
9	DOWN EXTERIOR SHINGLES / DOWN / DOOR
10	DOWN EXTERIOR SHINGLES / DOWN / DOOR
11	DOWN EXTERIOR SHINGLES / DOWN / DOOR
12	DOWN EXTERIOR SHINGLES / DOWN / DOOR

NOTES

1. ALL WORK SUBJECT TO BE FINISHED.
2. ALL WORK SUBJECT TO BE FINISHED.
3. CALLING TO THE RIGHT AND FINISH TO THE LEFT.
4. WORK SUBJECT TO BE FINISHED.

PROPOSED PROJECT:
ST. ANTHONY PASTOR'S RESIDENCE
 88 MAIN STREET
 UNTERIA, CALIFORNIA 95694

McCandless & Associates Architects, Inc.
 888 Third Street
 Berkeley, CA 94710
 Tel: (415) 841-1100
 Fax: (415) 841-1108

PROGRESS SET

DRB
 08/11/2008



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers

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

FROM: Nelia C. Dyer, Community Development Director

DATE: April 21, 2009

SUBJECT: **Public Hearing to Take Action on Proposed Resolution 2009-20, A Resolution of the City Council of the City of Winters, Amending Schedule C (Public Works and Engineering Fees) of City Council Resolution 2008-07, Establishing Fees for Sidewalk Cafes**

RECOMMENDATION:

Staff recommends that the City Council take the following actions: 1) Receive the staff report and conduct the Public Hearing; and 2) Approve of the Amendment of Schedule C (Public Works and Engineering Fees) of City Council Resolution 2008-07 and approve the following proposed changes:

- a. Add a one time sidewalk café application fee for \$150.
- b. Replace the annual permit of \$486 for sidewalk dining with an annual fee based on the square footage of the Sidewalk Café with an annual rate set at \$1 per square foot.

BACKGROUND:

On October 25, 2008, the Planning Commission recommended approval to the City Council of an ordinance adding Chapter 17.116 to the Winters Municipal Code pertaining to sidewalk cafes. The purpose of the ordinance is to accommodate and regulate the operation of sidewalk cafes in the public rights-of-way in the City of Winters. The Ordinance language includes a requirement for a payment of a fee to compensate for the commercial use of public rights-of-way areas. The Ordinance specifies that the fee would be set by [separate] resolution of the City Council.

Presently, Schedule C (Public Works and Engineering Fees) of City Council Resolution 2008-07 shows an annual permit fee of \$486 for sidewalk dining.

DISCUSSION:

The annual permit fee is distinguished from the separate application fee that would be charged for the administrative costs of processing an application for a Sidewalk Café Permit. The application fee is proposed to be a one-time fee of \$150.00.

Information regarding the annual permit fees of other jurisdictions is contained in Attachment 2. A review of the information shows that some of the jurisdictions do not charge a fee for the commercial use of the right-of-way area. Other jurisdictions charge a flat, yearly fee and others charge a fee based on the size (square footage) of the portion of the right-of-way used for the Sidewalk Café. Others charge a fee based on the number of seats at a Sidewalk Café, and one jurisdiction charges based on a combination of a flat fee and an area-used calculation.

Based on the research, the following options were considered:

- 1) Flat fee charged on a yearly basis, per Sidewalk Café operation.
- 2) Flat Fee charged once, at a time of issuance of a three-year Sidewalk Café Permit, and charged at the time of subsequent three-year Sidewalk Café Permit Renewal Permits.
- 3) Yearly fee charged based on square footage of a Sidewalk Café area with calculation of the square footage based on the entirety of the demarked Sidewalk Café as such demarcation is required in the Sidewalk Café Ordinance.
- 4) One-time fee charged based on the square footage of the Sidewalk Café area.
- 5) Yearly fee charge based on a flat fee plus a charge based on the square footage of the Sidewalk Café area.
- 6) One-time fee charged based on a flat fee plus a charge based on square footage of the Sidewalk Café area.
- 7) A one-time or yearly fee charged based on the number of seats in the Sidewalk Café area. Staff has concern with this methodology because of the potential necessity of monitoring the number of seats in the Sidewalk Cafe.

After review of the methodologies used by other jurisdictions, staff recommends an annual fee based on the square footage of the Sidewalk Café. In an attempt to encourage the use of Sidewalk Cafes, while recovering costs for use of the public right-of-way, staff further recommends that the annual rate be set at \$1 per square foot.

APPLICABLE REGULATIONS:

This course of action is subject to the following regulations:

- The California Environmental Quality Act (CEQA)
- State Planning and Zoning Law

PUBLIC NOTIFICATION:

Public notice advertising for the public hearing on this project was prepared by the Community Development Department's Administrative Assistant in accordance with notification procedures set forth in the City of Winters' Municipal Code and State Planning Law. A legal notice was published in the Winters Express on Thursday, April 9, 2008. Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since Thursday, April 16, 2008.

ENVIRONMENTAL ASSESSMENT:

The Resolution is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines, pursuant to Article 19, Section 15303.

RECOMMENDATION:

Staff recommends that the City Council approve the subject resolution by making an affirmative motion as follows:

I MOVE THAT THE WINTERS CITY COUNCIL APPROVE RESOLUTION 2009-20 AMENDING SCHEDULE C (PUBLIC WORKS AND ENGINEERING FEES) OF CITY COUNCIL RESOLUTION 2008-07, ESTABLISHING FEES FOR SIDEWALK CAFES

ALTERNATIVES:

The City Council can modify the resolution or deny the resolution.

ATTACHMENTS:

1. Resolution 2009-20
2. Summary of Methods Employed by Other Jurisdictions

RESOLUTION NO. 2009-20

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS,
AMENDING SCHEDULE C (PUBLIC WORKS AND ENGINEERING FEES) OF
CITY COUNCIL RESOLUTION 2008-07 AND ESTABLISHING FEES FOR
SIDEWALK CAFES**

WHEREAS, the City of Winters has adopted an ordinance adding Chapter 17.116 to the Winters Municipal Code pertaining to Sidewalk Cafes; and

WHEREAS, Chapter 17.116 provides in section 17.116.040 that an application fee for sidewalk cafes shall be established by resolution of the City Council; and

WHEREAS, Chapter 17.116 provides, in section 17.116.110 that a permit fee shall be established by resolution of the City Council; and

WHEREAS, Such fees are established by the city for the purpose of assuring that the city's current and ongoing costs of granting and regulating private access to, and the use of, public rights-of-way are fully compensated by the persons seeking such access and causing such costs. The fees are designed to secure fair and reasonable compensation to the city and its residents for permitting private use of the public right of way; and

WHEREAS, Schedule C (Public Works and Engineering Fees) of City Council Resolution 2008-07 includes a Sidewalk Dining Annual Permit Fee in the amount of \$486, which does not account for the amount of public right of way used for sidewalk cafes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters, California, that Schedule C (Public Works and Engineering Fees) of City Council Resolution 2008-07 be amended by this resolution as follows:

SECTION 1. The application fee for a permit to operate a sidewalk café shall be \$150. No application fee shall be charged for any renewal.

SECTION 2. The annual permit fee for a sidewalk cafe shall be \$1 per square foot. The square footage of the sidewalk café shall be based on the entirety of the demarked sidewalk café area as such demarcation is required by the Sidewalk Café Ordinance.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted to the City Council of the City of Winters, County of Yolo, State of California, on the 21st day of April, 2009 by the following vote:

AYES:

NOES:

ABSENT:

ABTAIN:

Michael Martin, Mayor

ATTEST:

Nanci G. Mills, City Clerk

Attachment 2 – Summary of Methods Employed by Other Jurisdictions

Annapolis, MD	Flat Rate - \$300 yearly
Athens, GA	Square Foot Rate - \$1 yearly
Cedar Rapids, Iowa	Square Foot Rate - \$5 yearly
Coronado, CA	Flat Rate - \$634 yearly
Corvallis, OR	Flat Rate - \$100 yearly PLUS Square Foot Rate
District of Columbia	Flat Rate - \$260 yearly
Encinitas, CA	No User Fee
Halifax, Nova Scotia	Flat Rate - \$100 yearly PLUS \$2.50 per Square Foot
Mountain View, CA	Square Foot Rate - \$3 yearly
San Francisco, CA	Per Seat Rate - \$36 yearly in range of: \$100 minimum/\$360 maximum
Santa Barbara, CA	Per Seat Rate - \$220 per seat
Santa Monica, CA	Square Foot Rate (fee unknown)
Sausalito, CA	Square Foot Rate - \$2 yearly
Solana Beach, CA	No User Fee
White Plains, NY	Square Foot Rate - \$3 yearly



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
THROUGH: John W. Donlevy, Jr., City Manager *[Signature]*
FROM: Nelia C. Dyer, Community Development Director
DATE: April 21, 2009
SUBJECT: **Second Reading of the Proposed Ordinance 2009-02 – Adding Chapter 17.116 to Winters Municipal Code Pertaining to Sidewalk Cafes**

RECOMMENDATION:

Staff recommends that the City Council take the following actions:

- 1) Receive the staff report;
- 2) Conduct the Public Hearing
- 3) Adopt Ordinance 2009-02 Adding Chapter 17.116 to Winters Municipal Code Pertaining to Sidewalk Cafes

SUMMARY OF THE ORDINANCE:

The Sidewalk Café Ordinance was prepared to encourage the establishment of sidewalk cafes in the City of Winters and to provide for the creation of a more urban pedestrian environment. The ordinance requires the approval of a permit by the Community Development Director prior to the placement and/or maintenance of a sidewalk cafe. The issuance of a permit to establish a sidewalk café is subject to a number of factors, which include, but are not limited to, the dimensions of the sidewalk in relation to the size and width of the proposed sidewalk café; applicable state and federal law accessibility requirements, and the convenience and safety of pedestrians, property owners, occupants, customers, residents, or tenants in the vicinity of the proposed sidewalk café (See Sections 17.116.060 and 17.116.090). Should the applicant desire to serve alcoholic beverages at a proposed or existing sidewalk café, the ordinance requires that the applicant be licensed to serve alcohol by the California State Department of Alcoholic Beverage Control; and the applicant is in compliance with all conditions and restrictions of his or her state liquor license. The ordinance also includes special conditions related to the service of alcoholic beverages at a sidewalk

café (See Section 17.116.100). Each permanent food service establishment operating a sidewalk café shall pay an annual sidewalk café permit fee, which will be established by resolution of the City Council at a later date.

DISCUSSION:

The introduction and first reading of the ordinance took place on February 17, 2009 City Council Meeting. During the public hearing, members of the public commented on the ordinance. In particular, members of the public expressed concerns regarding the proposed requirement of removing sidewalk café furniture and other portable appurtenances from the sidewalk at the end of each business day. Staff has since removed the requirement from the ordinance.

APPLICABLE REGULATIONS:

This project is subject to several regulations:

- The California Environmental Quality Act (CEQA)
- State Planning and Zoning Law
- City of Winters General Plan
- City of Winters Zoning Ordinance

PROJECT NOTIFICATION:

Public notice advertising for the public hearing on this project was prepared by the Community Development Department's Administrative Assistant in accordance with notification procedures set forth in the City of Winters' Municipal Code and State Planning Law. A legal notice was published in the Winters Express on Thursday, April 9, 2009. Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since Thursday, April 16, 2009.

ENVIRONMENTAL ASSESSMENT:

The Ordinance is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061 (b)(3).

RECOMMENDATION:

Staff recommends that the City Council approve the proposed Ordinance by making the affirmative motion as follows:

**I MOVE THAT THE WINTERS CITY COUNCIL ADOPT ORDINANCE 2009-02
ADDING CHAPTER 17.116 TO THE WINTERS MUNICIPAL CODE PERTAINING TO
SIDEWALK CAFES**

PLANNING COMMISSION ACTION:

The proposed Ordinance was heard and considered by the Planning Commission on October 28, 2008. The Planning Commission recommended approval of the proposed Ordinance to City Council.

ATTACHMENTS:

1. Ordinance 2009-02
2. Sidewalk Café Permit Application
3. Sidewalk Café Application Acknowledgement Form

ORDINANCE NO. 2009-02

**AN ORDINANCE OF THE CITY OF WINTERS
ADDING CHAPTER 17.116 TO THE WINTERS MUNICIPAL CODE
PERTAINING TO SIDEWALK CAFES**

The City Council of the City of Winters hereby ordains as follows:

SECTION 1.

- A. The City Council desires to enhance the pedestrian-friendly character of the City of Winters, and encourage entertainment activity, especially along Main Street and Railroad Avenue.
- B. The establishment of sidewalk cafes 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 of Winters Planning Commission conducted a noticed public hearing regarding this Ordinance and has recommended approval of the amendment adding Chapter 17.116 to regulate the establishment of sidewalk cafes to the Winters Municipal Code.
- D. The City Council of the City of Winters has given the required notice of its intention to adopt this amendment to add Chapter 17.116 to the Winters Municipal Code, and conducted a public hearing thereon on April 21, 2009.
- E. This Ordinance is exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3).

SECTION 2. Chapter 17.116, "Sidewalk Café" is hereby added to the Winters Municipal Code to read as follows:

17.116.010 Purpose.

The sidewalk café regulations as established in this chapter are intended to encourage the establishment of sidewalk cafés in the City of Winters, to provide for the creation of a more urban pedestrian environment, and to promote and protect the public health, safety, and general welfare. These goals include among others the following specific purposes:

- 1. To encourage and promote sidewalk cafes as visual amenities which in turn intensify pedestrian activity and make street life more attractive;
- 2. To enhance the character of the City of Winters; and
- 3. To ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes.

17.116.020 Definitions.

The definitions set forth in this chapter shall govern the application and interpretation of this chapter.

“Premises” shall mean the restaurant, as defined in Section 17.08.030(R) of this Title, and any sidewalk café as authorized by this chapter.

“Sidewalk” shall mean that part of the public right-of-way dedicated to pedestrian circulation.

“Sidewalk Café” shall mean a dining area located partially or wholly on a public sidewalk or parkway.

“Permanent Food Service Establishment” shall mean an establishment licensed by the Yolo County Environmental Health Department for which the principal use is the service of prepared food and beverages in a permanently constructed structure. Examples include restaurants, cafeterias, markets, delis, and bakeries.

17.116.030 Permit Required

No owner or operator of a permanent food service establishment shall erect, place or maintain in or upon any sidewalk or parking contiguous or adjacent to said permanent food service establishment, umbrellas, tables, benches, chairs and other portable appurtenances for the purpose of serving to customers thereon, food and/or beverages for consumption at such sidewalk tables, benches, or chairs, unless such owner or operator has a obtained a sidewalk café permit approved by the community development director.

17.116.040 Application.

The application for a permit to establish a sidewalk café shall contain the following information and any additional information as required by the community development director:

1. The name, date of birth, driver’s license number, and mailing address of the applicant;
2. The name and address of the restaurant seeking a sidewalk café permit;
3. The hours that the area is to be occupied as a sidewalk café;
4. A detailed drawing to scale of the proposed site indicating the following: the existing façade; the points of ingress and egress; and the proposed location, the number, and the arrangement of umbrellas, tables, chairs, serving equipment, planters, awnings, lighting, delimiting ropes or chains and other facilities to be included in the café operation. The detailed scale drawing must indicate the location of the existing public improvements including the following: fire hydrants, streetlights, street signs, trees, tree grates, planting boxes, and/or planting areas, and any other public or private obstruction.

5. A menu of the proposed food and beverages to be served at the sidewalk café.
6. A copy of a valid business license and, if applicable, a copy of a valid state liquor license for the permanent food serviced establishment.
7. An acknowledgement that the applicant has received, reviewed, and understood the regulations pertaining to sidewalk cafes.
8. An sidewalk café permit application fee as established by resolution of the City Council.
9. A copy of a permit to operate a food service establishment from the Yolo County Environmental Health Department.

17.116.050 Review of Application.

The community development director shall consider the following factors in the review of the permit application:

1. The convenience and safety of pedestrians, property owners, occupants, customers, residents, or tenants of offices, stores, shops or dwellings in the vicinity;
2. Dimensions of the sidewalk, especially in relation to the size and width of the proposed sidewalk cafe;
3. Location of nearby fire hydrants, utility poles, sign poles, and trees;
4. Applicable state and federal law accessibility requirements; and
5. Other unique or special factors that may be relevant to the particular location.

17.116.060 Findings.

The community development director may issue a permit for establishment of a sidewalk café only upon making the following findings:

1. Establishment of a sidewalk café at the proposed location will not create a nuisance by causing excessive noise or light, interfering with the use and enjoyment of adjacent properties; unduly restricting pedestrian use of the sidewalk; or, in other ways that are adverse to the public health safety or general welfare.
2. Establishment of a sidewalk café at the proposed location will enhance the character of the surrounding area; and
3. The sidewalk café, as proposed, adequately protects the convenience and safety of pedestrians, property owners, occupants, customers, resident or tenants of offices, stores, shops or dwellings in the vicinity.
4. The sidewalk café will not cause a negative cumulative effect when considered in conjunction with the cumulative effect of other sidewalk cafes in the immediate neighborhood.

17.116.070 Amendment of Existing Permits for Service of Alcohol.

Existing sidewalk café permits may be amended to authorize service of alcoholic beverages by submitting a new permit application in accordance with the provisions of this chapter. The findings previously made pursuant section 17.116.060 of this chapter may be reconsidered.

17.116.080 Special Findings—Service of Alcohol.

The service of alcoholic beverages at a sidewalk café shall be authorized by the community development director only if the following are made:

1. The applicant is licensed to serve alcohol by the California State Department of Alcoholic Beverage Control; and
2. The applicant is in compliance with all conditions and restrictions of his or her state liquor license.

17.116.090 Conditions and Restrictions

The issuance of a permit to establish a sidewalk café shall be subject to the following minimum conditions and restrictions, together with such other conditions as may be deemed necessary in order to fulfill the general purposes of this chapter. The community development director may, in issuing a permit, impose more stringent conditions or supplement these conditions and restrictions as necessary.

1. At all times, the operator of a permanent food service establishment that has been issued a sidewalk café permit must:
 - a. Maintain a clear distance of a minimum of five (5) unobstructed feet in width, measured from the face of the building toward the sidewalk curb. Where the City has installed a permanent structure, including, but not limited to planters, light poles, or other structures, the permittee of the sidewalk café shall make accommodation for the required clearance for pedestrian passage. The sidewalk café must not interfere with the passage of pedestrians, vehicle flow, or access to buildings;
 - c. Not place sidewalk tables, benches, or chairs in a location that interferes with the operation of fire hydrants, pedestrian crosswalks, intersections, or in a location that is harmful to trees or other plantings;
 - d. Not utilize any of the required or non-required parking space area for sidewalk tables, benches, chairs, or other furniture and materials associated with the sidewalk café.
 - e. Comply with applicable state and federal laws regarding accessibility.
2. Equipment for the service of customers, including but not limited to trays or carts, eating or drinking utensils, linens, and cooking appliances shall not be placed or maintained on any portion of the sidewalk, unless the sidewalk café is adequately separated from pedestrian traffic;

3. At least one (1) covered outdoor trash container shall be provided in the sidewalk café area during the hours of operation and shall be maintained in a clean and sanitary condition;
4. The permittee shall maintain the sidewalk cafe in a clean and sanitary condition at all times;
5. At no time shall any music or other sound originating from any part of the premises create a nuisance;
6. The permittee must at all times comply with all federal, state, and local laws, including those laws regarding the operation of the premises, and the sale, service and consumption of alcohol;
7. The applicant shall submit to the City Manager a signed agreement, in a form approved by the City Attorney, to defend, indemnify, save, and hold harmless the city and all of its officers, agents, or employees from any liability for damages resulting from any and all operations under a permit granted pursuant to this chapter;
8. Each permittee shall, at his or her own cost and expense, obtain and maintain in full force and effect necessary insurance coverage for the full term of the permit or any renewal thereof. The insurance coverage shall include a certificate of insurance covering the period of the outdoor operations, including coverage of comprehensive general liability insurance and other appropriate coverage as determined by the city. The level of coverage shall be in the amount to be determined by the City Manager, in consultation with the City Attorney. The city is to be named as an additional insured on the face of the certificate. Any changes or cancellations shall require that the city be notified in writing at least thirty (30) days prior to the effective date of the change or cancellation
9. No permit issued under this chapter may be transferred or assigned, except upon prior written approval of the community development director;
10. No public sidewalk shall be painted, landscaped or altered in any way without prior written approval of the community development director and City Engineer;
11. The permit does not constitute a deed or grant of an easement by the city and is revocable or may be suspended by the community development director at any time, with or without cause.
12. A sidewalk café shall not be open for business when the interior part of the permanent food service establishment is not open for business, unless the sidewalk café is being used by the permanent food service establishment for a private party.

17.116.100 Special Conditions—Service of Alcohol

1. The applicant must remain in full compliance with all provisions of this chapter;
2. No person shall serve alcoholic beverages at a sidewalk café unless and until the permittee has obtained a state liquor license and a permit from the community development director specifically authorizing the service of alcohol at the sidewalk café;
3. Alcoholic beverages shall be consumed only on the permittee's premises. The permittee shall not allow patrons to leave the confines of the premises with any alcoholic beverage and shall not allow patrons to give or sell alcoholic beverages to any person outside the premises; and
4. The sidewalk café shall maintain full food service and shall operate as a restaurant at all times that it is in operation. No sidewalk café may function as a bar.

17.116.110 Sidewalk Café Permit Fee

Each permanent food service establishment operating a sidewalk café shall pay an annual sidewalk café permit fee as established by resolution of the City Council.

SECTION 3. 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 City Clerk of the City of Winters shall cause this Ordinance to be published and posted in accordance with 36933 of the Government Code of the State of California.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Winters, California, held on February 17, 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 Mills, City Clerk

1122007.3

CITY OF WINTERS
SIDEWALK CAFÉ APPLICATION
COMMUNITY DEVELOPMENT DEPARTMENT
318 FIRST STREET, WINTERS, CA 95694
PHONE - (530) 795-4910 X 112 FAX - (530) 795-4935

Community Development Department Use Only

Date Routed: _____ INITIAL: _____

Date Approved: _____ INITIAL: _____

COMPLETE THIS APPLICATION LEGIBLY IN BLUE OR BLACK INK OR TYPE

BUSINESS NAME: _____

BUSINESS OWNER(S): _____

PHYSICAL BUSINESS ADDRESS: _____

MAILING ADDRESS (IF DIFFERENT FROM ABOVE): _____

FEDERAL EMPLOYER NUMBER	STATE EMPLOYER NUMBER	BOARD OF EQUALIZATION NUMBER	DRIVER'S LIC. NUMBER OF APPLICANT
DATE OF BIRTH OF APPLICANT	BUSINESS PHONE NUMBER	MOBILE PHONE NUMBER	EMAIL ADDRESS
ZONING DESIGNATION	SIDEWALK CAFÉ START DATE	SIDEWALK CAFÉ OPERATION HOURS	NUMBER OF EMPLOYEES

<p>\$</p> <p>SIDEWALK CAFÉ FEE</p>	<p><input checked="" type="checkbox"/> PAYMENT TYPE</p> <p><input type="checkbox"/> CASH</p> <p><input type="checkbox"/> CHECK</p> <p style="text-align: center;">#</p>	<p><input checked="" type="checkbox"/> REQUIRED DOCUMENTS</p> <p><input type="checkbox"/> SITE DRAWINGS – DRAWN TO SCALE (EXISTING FACADE, INGRESS/EGRESS, LAYOUT OF PROPOSED SIDEWALK CAFÉ INCLUDING TABLES/CHAIRS/UMBRELLAS/EQUIPMENT/ETC, LOCATIONS OF TREES/POLES/HYDRANTS, AND ANY OTHER PUBLIC/PRIVATE OBSTRUCTION)</p> <p><input type="checkbox"/> EXAMPLE MENU</p> <p><input type="checkbox"/> COPY OF VALID BUSINESS LICENSE & LIQUOR LICENSE</p> <p><input type="checkbox"/> COPY OF YOLO COUNTY FOOD SERVICE PERMIT</p> <p><input type="checkbox"/> ACKNOWLEDGEMENT FORM</p>
---	---	---

SIGNATURE OF APPLICANT _____ PRINTED NAME OF APPLICANT _____ DATE _____

SIGNATURE OF PROPERTY OWNER _____ PRINTED NAME OF PROPERTY OWNER _____ DATE _____

FOR CITY OF WINTERS USE ONLY - DEPARTMENT COMMENTS:

APPLICATION RECEIVED BY : SIGN AND DATE _____

APPLICATION APPROVED BY: SIGN AND DATE _____

CITY OF WINTERS

SIDEWALK CAFÉ APPLICATION – ACKNOWLEDGEMENT FORM

COMMUNITY DEVELOPMENT DEPARTMENT

318 FIRST STREET, WINTERS, CA 95694

Phone - (530) 795-4910 X 112 FAX - (530) 795-4935

This document outlines the regulations pertaining to the operation of Sidewalk Cafes.

17.116.020 Definitions

The definitions set forth in this chapter shall govern the application and interpretation of this chapter.

“Premises” shall mean the restaurant, as defined in Section 17.08.030@ of this Title, and any sidewalk café as authorized by this chapter.

“Sidewalk” shall mean that part of the public right-of-way dedicated to pedestrian circulation.

“Sidewalk Café” shall mean a dining area located partially or wholly on a public sidewalk or parkway.

“Permanent Food Service Establishment” shall mean an establishment licensed by the Yolo County Environmental Health Department for which the principal use is the service of prepared food and beverages in a permanently constructed structure. Examples include restaurants, cafeterias, markets, delis, and bakeries.

17.116.030 Permit Required

No owner or operator of a permanent food service establishment shall erect, place, or maintain in or upon any sidewalk or parking contiguous or adjacent to said permanent food service establishment, umbrellas, tables, benches, chairs, and other portable appurtenances for the purpose of serving to customers thereon, food and/or beverages for consumption at such sidewalk tables, benches, or chairs, unless such owner or operator has obtained a sidewalk café permit approved by the Community Development Director.

17.116.040 Application

The application for a permit to establish a sidewalk café shall contain the following information and any additional information as required by the Community Development Director.

1. The name, date of birth, driver’s license number, and mailing address of the applicant;
2. The name and address of the restaurant seeking a sidewalk café permit;
3. The hours that the area is to be occupied as a sidewalk café;
4. A detailed drawing to scale of the proposed site indicating the following: the existing façade; the points of ingress and egress; and the proposed location, the number, and the arrangement of umbrellas, tables, chairs, serving equipment, planters, awnings, lighting, delimiting ropes or chains and other facilities to be included in café operation. The detailed scale drawing must indicate the location of the existing public improvements including the following: fire hydrants, streetlights, street signs, tree, tree grates, planting boxes, and/or planting area, and any other public or private obstruction.
5. A menu of the proposed food and beverages to be served at the sidewalk café.
6. A copy of a valid business license and, if applicable, a copy of a valid state liquor license for the permanent food service establishment
7. An acknowledgement that the applicant has received, reviewed, and understood the regulations pertaining to sidewalk cafes.
8. A sidewalk café permit application fee as established by resolution of the City Council.
9. A copy of a permit to operate a food service establishment from the Yolo County Environmental Health Department.

17.116.050 Review of Application

The Community Development Director shall consider the following factors in the review of the permit application:

1. The convenience and safety of pedestrians, property owners, occupants, customers, residents, or tenants of offices, stores, shops or dwellings in the vicinity;
2. Dimensions of the sidewalk, especially in relation to the size and width of the proposed sidewalk café;

3. Location of nearby fire hydrants, utility poles, sign poles, and trees;
4. Applicable state and federal law accessibility requirements; and
5. Other unique or special factors that may be relevant to the particular location.

17.116.060 Findings

The Community Development Director may issue a permit for establishment of a sidewalk café only upon making the following findings:

1. Establishment of a sidewalk café at the proposed location will not create a nuisance by causing excessive noise or light, interfering with the use and enjoyment of adjacent properties; unduly restricting pedestrian use of the sidewalk; or, in other ways that are adverse to the public health safety or general welfare.
2. Establishment of a sidewalk café at the proposed location will enhance the character of the surrounding area; and
3. The sidewalk café, as proposed, adequately protects the convenience and safety of pedestrians, property owners, occupants, customers, residents or tenants of offices, stores, shops or dwelling in the vicinity.
4. The sidewalk café will not cause a negative cumulative effect when considered in conjunction with the cumulative effect of other sidewalk cafes in the immediate neighborhood.

17.116.080 Special Findings—Service of Alcohol.

The service of alcoholic beverages at a sidewalk café shall be authorized by the community development director only if the following are made:

1. The applicant is licensed to serve alcohol by the California State Department of Alcoholic Beverage Control; and
2. The applicant is in compliance with all conditions and restrictions of his or her state liquor license.

17.116.090 Conditions and Restrictions

The issuance of a permit to establish a sidewalk café shall be subject to the following minimum conditions and restrictions, together with such other conditions as may be deemed necessary in order to fulfill the general purposes of this chapter. The community development director may, in issuing a permit, impose more stringent conditions or supplement these conditions and restrictions as necessary.

1. At all times, the operator of a permanent food service establishment that has been issued a sidewalk café permit must:
 - a. Maintain a clear distance of a minimum of five (5) unobstructed feet in width, measured from the sidewalk curb and from any public improvements within the right of way, including, but not limited to, signs, and planters or the ropes or chains delimiting the sidewalk café area as indicated on the approved permit;
 - b. Not interfere with the passage of pedestrians, vehicle flow, or access to buildings;
 - c. Not place sidewalk tables, benches, or chairs in a location that interferes with the operation of fire hydrants, pedestrian crosswalks, intersections, or in a location that is harmful to trees or other plantings;
 - d. Not utilize any of the required or non-required parking space area for sidewalk tables, benches, chairs, or other furniture and materials associated with the sidewalk café.
 - e. Comply with applicable state and federal laws regarding accessibility.
2. Equipment for the service of customers, including but not limited to trays or carts, eating or drinking utensils, linens, and cooking appliances shall not be placed or maintained on any portion of the sidewalk, unless the sidewalk café is adequately separated from pedestrian traffic;
3. All umbrellas, tables, chairs and other portably appurtenances shall be removed from the sidewalk café at the end of each business day at the hour specified in the permit;
4. At least one (1) covered outdoor trash container shall be provided in the sidewalk café area during the hours of operation and shall be maintained in a clean and sanitary condition;
5. The permittee shall maintain the sidewalk cafe in a clean and sanitary condition at all times;

6. At no time shall any music or other sound originating from any part of the premises create a nuisance;
7. The permittee must at all times comply with all federal, state, and local laws, including those laws regarding the operation of the premises, and the sale, service and consumption of alcohol;
8. The applicant shall submit to the City Manager a signed agreement, in a form approved by the City Attorney, to defend, indemnify, save, and hold harmless the city and all of its officers, agents, or employees from any liability for damages resulting from any and all operations under a permit granted pursuant to this chapter;
9. Each permittee shall, at his or her own cost and expense, obtain and maintain in full force and effect necessary insurance coverage for the full term of the permit or any renewal thereof. The insurance coverage shall include a certificate of insurance covering the period of the outdoor operations, including coverage of comprehensive general liability insurance and other appropriate coverage as determined by the city. The level of coverage shall be in the amount to be determined by the City Manager, in consultation with the City Attorney. The city is to be named as an additional insured on the face of the certificate. Any changes or cancellations shall require that the city be notified in writing at least thirty (30) days prior to the effective date of the change or cancellation.
10. No permit issued under this chapter may be transferred or assigned, except upon prior written approval of the community development director;
11. No public sidewalk shall be painted, landscaped or altered in any way without prior written approval of the community development director and City Engineer;
12. The permit does not constitute a deed or grant of an easement by the city and is revocable or may be suspended by the community development director at any time, with or without cause.
13. A sidewalk café shall not be open for business when the interior part of the permanent food services establishment is not open for business.

17.116.100 Special Conditions—Service of Alcohol

1. The applicant must remain in full compliance with all provisions of this chapter;
2. No person shall serve alcoholic beverages at a sidewalk café unless and until the permittee has obtained a state liquor license and a permit from the community development director specifically authorizing the service of alcohol at the sidewalk café;
3. Alcoholic beverages shall be consumed only on the permittee's premises. The permittee shall not allow patrons to leave the confines of the premises with any alcoholic beverage and shall not allow patrons to give or sell alcoholic beverages to any person outside the premises; and
4. The sidewalk café shall maintain full food service and shall operate as a restaurant at all times that it is in operation. No sidewalk café may function as a bar.

17.116.110 Sidewalk Café Permit Fee

Each permanent food service establishment operating a sidewalk café shall pay an annual sidewalk café permit fee as established by resolution of the City Council.

I, _____, acknowledge that I have received, reviewed, and understand the regulations pertaining to sidewalk cafes.

Signed Name of Applicant Date

Printed Name of Applicant Date



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers

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

FROM: Nelia C. Dyer, Community Development Director
Joanna Smith, Contract Attorney, Meyers Nave

DATE: April 21, 2009

SUBJECT: **Public Hearing to consider four ordinances of the City of Winters adding Chapters 16.01, 16.02, 16.03 and 16.04 to the Winters Municipal Code pertaining to tentative subdivision maps, final subdivision maps, parcel maps and vesting tentative subdivision maps.**

RECOMMENDATION:

Staff recommends that the City Council take the following actions:

- 1) Receive the staff report;
- 2) Conduct a public hearing; and
- 3) Waive first reading, read by title only and introduce:
 - a) An Ordinance adding Chapter 16.01 to Title 16 of the Winters Municipal Code pertaining to tentative subdivision maps;
 - b) An Ordinance adding Chapter 16.02 to Title 16 of the Winters Municipal Code pertaining to parcel maps;
 - c) An Ordinance adding Chapter 16.03 to Title 16 of the Winters Municipal Code pertaining to final subdivision maps; and
 - d) An Ordinance repealing Chapter 16.04, entitled General Provisions, and adding Chapter 16.04 to Title 16 of the Winters Municipal Code pertaining to vesting tentative maps.

BACKGROUND:

The Subdivision Map Act (California Government Code Sections 66410 *et seq.*), governs and provides the general framework for the processing of maps that subdivide land. The Subdivision Map Act ("Act") distinguishes between a subdivision of land consisting of five or more parcels and a subdivision of land consisting of four or fewer

parcels. In dealing with these two different scenarios, there are four types of maps that the City may need to process: (1) a tentative subdivision map (or tentative map), (2) a vesting tentative map, (3) a final subdivision map (or final map) and (4) a parcel map.

Under the Act, a subdivision of land consisting of five or more parcels requires a tentative map and a final map, subject to certain exceptions. (Govt. Code Sections 66426, 66499.30.) The purpose of a tentative map is to show "the design and improvement of a proposed subdivision and the existing conditions in and around it." (Govt. Code Section 66424.5(a).) A tentative map is commonly approved with a number of conditions that must be satisfied before approval and recordation of a final map. (Govt. Code Section 66452.1.) A vesting tentative map is an alternative to a tentative map, which confers a vested right, that would not exist otherwise, to proceed with development in substantial compliance with the local laws and regulations in effect at the time the application for the vesting tentative map is complete. (Govt. Code Section 66498.1.) A final map must be substantially the same as a tentative map, but it is a more detailed map that is based on a survey. (Govt. Code Sections 66441, 66442(a)(2).) Once a final map is recorded, the parcels shown on it may be individually sold, financed, or leased and/or construction on a parcel may commence. (Govt. Code Section 66499.30.) On the other hand, only a parcel map is required for a subdivision of land involving four or fewer parcels, subject to certain exceptions. (Govt. Code Section 66426.)

Although the Act provides the framework for the processing of maps that subdivide land, the Act also requires local agencies to adopt ordinances that specify the procedures that will be applicable to the local agency with regard to the filing, processing, approval, conditional approval and disapproval of the maps. For instance, the Act provides that, except as provided by the Act, the procedure for filing, processing, approving, conditionally approving, and disapproving parcel maps "shall be as provided by local ordinance." (Govt. Code Section 66463.) Because the Act includes only a few regulations regarding the procedure for filing, processing, approving, conditionally approving, and disapproving parcel maps, the procedures relating to parcel maps are largely determined by local ordinance.

Chapter 16.04, entitled General Provisions, of Title 16 of the Winters Municipal Code currently governs the City's procedures for processing maps that subdivide land. However, Chapter 16.04 is comprised solely of Section 16.04.010, which states that the processes outlined in the Subdivision Map Act are to be used for all matters relating to the division of land. As a result of Section 16.04.010, there is currently a gap in the City's procedures for filing, processing, approving, conditionally approving, and disapproving maps subdividing land in those instances that the Act requires a local ordinance to provide the procedures. The attached proposed Ordinances will close this gap and provide the City with comprehensive procedures to govern the filing, processing and approval, conditional approval and disapproval of maps subdividing land within the City. As a necessary step, the proposed Ordinances will repeal and replace the current Chapter 16.04.

PROJECT NOTIFICATION:

Public notice for the public hearing on this project was prepared by the Community Development Department's Administrative Assistant in accordance with notification procedures set forth in the City of Winters' Municipal Code, the Subdivision Map Act and State Planning Law. A legal notice was published in the Winters Express on Thursday, April 16, 2009. Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since Thursday, April 23, 2009.

ENVIRONMENTAL ASSESSMENT:

The proposed Ordinances are exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3).

RECOMMENDATION:

Staff recommends that the City Council approve the proposed Ordinances by making four affirmative motions as follows:

1. **I MOVE THAT THE WINTERS CITY COUNCIL WAIVE THE FIRST READING, READ BY TITLE ONLY AND INTRODUCE AN ORDINANCE OF THE CITY OF WINTERS ADDING CHAPTER 16.01 TO TITLE 16 OF THE MUNICIPAL CODE PERTAINING TO TENTATIVE SUBDIVISION MAPS**
2. **I MOVE THAT THE WINTERS CITY COUNCIL WAIVE THE FIRST READING, READ BY TITLE ONLY AND INTRODUCE AN ORDINANCE OF THE CITY OF WINTERS ADDING CHAPTER 16.02 TO TITLE 16 OF THE MUNICIPAL CODE PERTAINING TO PARCEL MAPS**
3. **I MOVE THAT THE WINTERS CITY COUNCIL WAIVE THE FIRST READING, READ BY TITLE ONLY AND INTRODUCE AN ORDINANCE OF THE CITY OF WINTERS ADDING CHAPTER 16.03 TO TITLE 16 OF THE MUNICIPAL CODE PERTAINING TO FINAL SUBDIVISION MAPS**
4. **I MOVE THAT THE WINTERS CITY COUNCIL WAIVE THE FIRST READING, READ BY TITLE ONLY AND INTRODUCE AN ORDINANCE OF THE CITY OF WINTERS REPEALING CHAPTER 16.04, ENTITLED GENERAL PROVISIONS, FROM TITLE 16 OF THE MUNICIPAL CODE AND ADDING CHAPTER 16.04 TO TITLE 16 OF THE MUNICIPAL CODE PERTAINING TO VESTING TENTATIVE MAPS**

ALTERNATIVES:

The City Council may modify, in compliance with the Subdivision Map Act, the Ordinances or the City Council may choose to not introduce and adopt the Ordinances.

ATTACHMENTS:

1. An Ordinance adding Chapter 16.01 to Title 16 of the Winters Municipal Code pertaining to tentative subdivision maps

2. An Ordinance adding Chapter 16.02 to Title 16 of the Winters Municipal Code pertaining to parcel maps
3. An Ordinance adding Chapter 16.03 to Title 16 of the Winters Municipal Code pertaining to final subdivision maps
4. An Ordinance repealing Chapter 16.04, entitled General Provisions, and adding Chapter 16.04 to Title 16 of the Winters Municipal Code pertaining to vesting tentative maps

ORDINANCE NO. 2009-05

**AN ORDINANCE OF THE CITY OF WINTERS ADDING
CHAPTER 16.01 TO TITLE 16 OF THE MUNICIPAL CODE
PERTAINING TO TENTATIVE SUBDIVISION MAPS**

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

SECTION 1.

Chapter 16.01, entitled Tentative Subdivision Maps, is hereby added to Title 16 of the Municipal Code of the City of Winters to read as follows:

16.01.010 Division of Land-Five or More Parcels

A tentative and final map shall be required for all divisions of land when determined by the community development director that such land is proposed to be divided into five (5) or more parcels, five (5) or more condominiums, a community apartment project containing five (5) or more parcels, or for the conversion of a dwelling to a stock cooperative containing five (5) or more dwelling units, except where:

- A. The land before division contains less than five (5) acres, each parcel created by the division abuts upon a maintained public street or highway and no dedications or improvements are required by the legislative body; or
- B. Each parcel created by the division has a gross area of twenty (20) acres or more and has an approved access to a maintained public street or highway; or
- C. The land consists of a parcel or parcels of land having approved access to a public street or highway which comprises part of a tract of land zoned for industrial or commercial development and which has the approval of the governing body as to street alignments and widths; or
- D. Each parcel created by the division has a gross area of not less than 40 acres or is not less than $\frac{1}{4}$ of a $\frac{1}{4}$ section; or
- E. The land being subdivided is solely for the creation of an environmental subdivision pursuant to Section 66418.2 of the Subdivision Map Act.

16.01.020 Applicability

The form and contents, submittal and approval of tentative maps for five (5) or more parcels in accordance with Section 16.01.010 shall be governed by the provisions of this chapter, and the Subdivision Map Act.

16.01.030 Exceptions

The provisions of this chapter shall not apply to the exceptions provided for in Section 66412 of the Subdivision Map Act.

16.01.040 Tentative Map Application; Form and Contents

The tentative map application shall be prepared in a manner acceptable to the community development director and shall be prepared by a registered civil engineer or land surveyor. The tentative map shall be clearly drawn and shall contain not less than the following:

- A. A title which shall contain the subdivision number, subdivision name, and type of subdivision;
- B. Name and address of legal owner, subdivider, and person preparing the map, including registration or license number;
- C. Sufficient legal description to define the boundary of the proposed subdivision;
- D. The names and numbers of adjacent subdivisions and the names of the owners of adjacent unplatted land;
- E. Date, north arrow, scale, contour interval, and source and date of existing contours;
- F. The total number of lots and gross and net acreage of the subdivision;
- G. A statement of present zoning and of existing and proposed uses of the property as well as any proposed zoning charges, whether immediate or future;
- H. A vicinity map showing roads, adjoining subdivisions, county areas, creeks, and other data sufficient to locate the proposed tentative map and show its relation to the community;
- I. Existing topography of the proposed site and at least one hundred feet (100') beyond its boundary, including but not limited to:
 1. Existing contours at two (2) foot intervals if the existing ground slope is less than twenty percent (20%) and not less than five (5) foot intervals for existing ground slopes equal or greater than twenty percent (20%). Contour intervals shall not be spread more than one hundred fifty (150) feet apart. Existing contours shall be represented by dashed lines.

2. Type, circumference, and drip line of existing trees with trunk diameter of four (4) inches or more. Any trees proposed to be removed shall be so indicated.
 3. The location and outline of existing structures identified by type. Structures to be removed shall be so indicated.
 4. The approximate location of all areas of potential storm water overflow; the location, width, and direction of flow of each water course; and the flood zone.
 5. The location, pavement, and right-of-way width, grade, and name of existing streets and highways.
 6. The widths, location, and identity of all existing easements.
 7. The location and size of existing sanitary sewers, fire hydrants, water mains, and storm drains. The approximate slope of existing sewers and storm drains shall be indicated. The locations of existing sewers and storm drains shall be indicated. The location of all existing overhead and underground utility lines on peripheral streets shall be indicated.
- J. Proposed improvements to be shown shall include but not be limited to:
1. The location, grade, centerline radius, and arc length of curves, pavement, right-of-way width, and name of all streets. Typical sections of all streets shall be shown. Proposed private streets shall be clearly indicated.
 2. The location and radius of all curb returns and cul-de-sacs.
 3. The location, width, and purpose of all easements.
 4. The angle of intersecting streets if such angle deviates from a right angle by more than four (4) degrees.
 5. The approximate lot layout and the approximate dimensions of each lot and each building site. Engineering data shall show the approximate finished grading of each lot, the preliminary design of all grading, the elevation of proposed building pads, the top and toe of cut and fill slopes to scale, the number of each lot, and the elevation of adjacent parcels.
 6. For all lots with a slope of twenty (20) percent or greater, specific locations of building envelopes and driveways shall be shown.
 7. Proposed contours at two (2) foot intervals shall be shown if the existing ground slope is less than twenty (20%) percent and not less than five (5)

foot intervals for existing ground slope of twenty (20%) percent or more. A separate grading plan may be submitted.

8. Proposed recreation sites, trails, and parks for private or public use.
 9. Proposed common areas to be dedicated to public open space.
 10. The location and size of sanitary sewers, fire hydrants, water mains, and storm drains. Proposed slopes and approximate elevations of sanitary sewers and storm drains shall be indicated. The proposed routing of storm water runoff by a one hundred year (100) flood.
 11. A statement as to the intention of the subdivider in regard to slope planting and erosion control.
 12. Such other improvements the installation of which is necessary to ensure consistency with/or implementation of, the general plan, or any applicable specific plan.
- K. The name or names of any geologist or soils engineer whose services were required in the preparation of the design of the tentative map;
- L. The size of each sheet shall be 18 by 26 inches or 460 by 660 millimeters. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch or 025 millimeters. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown;
- M. If the subdivider plans to develop the site in units or phases, the proposed units or phrases and their proposed sequence of construction shall be shown;
- N. The subdivider shall specify any deviation from these standards and provide the justification for such deviation;
- O. The community development director may require other drawings, data, or information as deemed necessary by the community development director to accomplish the purposes of the Subdivision Map Act and this title; and
- P. Upon written request of the subdivider, the community development director may waive any of the above tentative map requirements if the community development director determines that the type of tentative map does not justify compliance with these requirements, or if the community development director determines that other circumstances justify a waiver. The community development director may require other drawings, data, or information as deemed necessary by the

community development director to accomplish the purposes of the Subdivision Map Act and this chapter.

16.01.050 Tentative Map Application; Accompanying Data and Reports

The tentative map application shall be accompanied by the following data and reports:

- A. Street Names. A list of proposed streets names for any unnamed street or alley for review by the community development director.
- B. Soils Reports. A preliminary soils report prepared in accordance with the provisions of Uniform Building Code. If the preliminary soils reports indicate the presence of critically expansive soil or other soils problems, which if not corrected, would lead to structural defects, the soils report accompanying the final map shall contain an investigation of each lot.
- C. Grading Plan. A preliminary grading plan prepared in accordance with the provisions of the Uniform Building Code shall be submitted.
- D. Title Reports. A preliminary title report, acceptable to the community development director, showing the legal owners at the time of filing the tentative map.
- E. Environmental Review. Information shall be submitted as required by the community development director to allow a determination on environmental review to be made in accordance with CEQA. The subdivider shall deposit and pay all fees as may be required for the preparation and processing of environmental review documents.
- F. Preliminary Engineering Calculations. Information shall be submitted as required by the standard engineering specifications to demonstrate the adequacy of the design of the proposed improvements. Such information shall include design parameters and engineering calculations.
- G. Phasing. If the subdivider plans to file multiple final maps on the tentative map, the subdivider shall submit a written notice to this effect to the community development director.
- H. Other Reports. Any other data or reports deemed necessary by the community development director.

16.01.060. Geotechnical Reports.

- A. Three copies of a preliminary engineers soils report and engineering geology report, prepared by a civil engineer and engineering geologist registered in the state and based upon adequate borings, shall be submitted to the city engineer.

- B. A preliminary soils and/or geology report may be waived by the city engineer provided the city engineer finds that, due to the knowledge that the city has as to the soil and geologic conditions in the subdivision, no preliminary analysis is necessary. Such knowledge would include the nature, distribution and strength of the existing soils and the necessary grading procedures and design criteria for corrective measures and the geology of the site and the effect of geologic conditions on the proposed development.
- C. If the city has knowledge of, or the preliminary soils and geology reports indicate, the presence of soil or geologic conditions which, if corrective measure are not taken, could lead to structural defects, a soils and/or geologic investigation of each lot in the subdivision may be required by the city engineer. Such soils and/or geologic investigation shall be done by a civil engineer and/or geologist registered in the state who shall recommend regarding the adequacy of the sites to be developed by the proposed grading and the effect of the soil or geologic conditions on the proposed development. The city may approve the subdivision, or portion thereof, where soils or geologic problems exist if the city determines that the recommended actions provide for procedures and design criteria for corrective measures as necessary covering the structures and adequacy of the sites to be developed by the proposed grading. A condition of the issuance of any building permit may require that the approved recommended action be incorporated in the grading plans and/or specifications and, if necessary, the plans and specifications for the construction of each structure.
- D. Where preliminary soils and/or geology reports are prepared, final reports shall be submitted prior to the acceptance of the improvements indicating the specific actions taken pursuant to the preliminary report recommendations. Such reports shall have sufficient field data submitted to indicate full compliance with the preliminary or subsequent progress report recommendations as they were applied to specific areas or improvements.
- E. Geotechnical reports must also comply with applicable city standards.

16.01.070 Street Names

Each street which is to be dedicated which is a continuation of, or approximately the continuation of, any existing dedicated street shall be shown on the tentative subdivision map and shall be submitted to the community development director for approval in accordance with current city street naming policies. The approved street name shall be shown on the final map.

16.01.080 Community Development Director Review

- A. Application Filing and Review by Applicable Agencies. The tentative map application shall be filed with the community development director. The

subdivider shall file the number of tentative maps that the community development director deems necessary. The community development director shall forward copies of the tentative map to the affected public agencies and utilities which may, in turn, forward to the department their findings and recommendations. Public agencies and utilities shall certify that the subdivision can be adequately served.

- B. Application Deemed Complete. The application shall be deemed complete by the community development director only when the form and contents of the tentative map conform to the requirements of Section 16.01.040 and when all accompanying data and reports, as required by Section 16.01.050 and Section 16.01.060, and all fees and/or deposits as required by Section 16.01.140 have been submitted and accepted by the community development director. If the community development director does not determine whether a tentative map application is complete within thirty (30) days of receiving application, then the application shall be deemed complete.
- C. Environmental Review. If an environmental impact report is prepared, the report shall be certified within one (1) year from the date that the application is deemed complete, unless an extension of time is granted by the subdivider. If a negative declaration is prepared, the negative declaration shall be adopted within one hundred and eighty days (180) from the date that the application is deemed complete, unless an extension of time is granted by the subdivider.

16.01.090 Planning Commission Action

- A. Notice of Public Hearings. Upon determination that a tentative map application is complete in accordance with Section 16.01.080, the community development director shall prepare a report with recommendations, and shall set the matter for a public hearing before the planning commission. A copy of the community development director's report shall be forwarded to the subdivider at least seven (7) days prior to the public hearing. At least ten (10) days before the public hearing, a notice shall be given of the time, date and place of the hearing, including a general explanation of the matter to be considered and a general description of the area affected, and the street address, if any, of the property involved. The notice shall be published at least once in a newspaper of general circulation in the city. In addition to notice by publication, the community development director shall give notice of the hearing by mail or delivery to the subdivider, the owner of the subject real property, if different from the subdivider and to all persons, including businesses, corporations, or other public or private entities, show on the last equalized assessment roll as owning real property within three hundred (300) feet of the property which is the subject of proposed application. The community development director shall also give notice of the hearing by mail or delivery to each agency expected to provide water, sewage, streets, roads, schools or other essential facilities or services to the subdivision, whose ability to provide those facilities and services may be significantly

affected. A proposed conversion of residential real property to a condominium, community apartment or stock cooperative project shall be noticed in accordance with Section 66451.3 of the Subdivision Map Act. In the event that the proposed application has been submitted by a person other than the property owner shown on the last equalized assessment roll, the city shall also give notice by mail or delivery to the owner of the property as shown on the last equalized assessment roll. In addition, notice shall be given by mail or personal delivery to any person who has filed a written request with the city. The request may be submitted at any time during the calendar year and shall apply for the balance of the calendar year. The community development director may give such other notice that he or she deems necessary or advisable.

- B. Action. The planning commission shall recommend approval, conditional approval or denial of the tentative map and the community development director shall report the decision of the planning commission to the city council and the subdivider within fifty (50) days after certification of the environmental impact report, adoption of a negative declaration, or a determination by the planning commission that the project is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.
- C. Approval. The tentative map may be recommended for approval or conditional approval by the planning commission if it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the Subdivision Map Act, the general plan, any applicable specific plan and all applicable provisions of this code. The planning commission may require as a condition of its recommendation of approval that the subdivider pay all of the development fees required to be paid at the time of the application for, or issuance of, a building permit or other similar permit. Such payment shall be made at the rate for such fees in effect at the time of such application or issuance. The planning commission may add additional requirements as a condition of its recommendation of approval. If no action is taken by the planning commission within the time limits specified in this chapter, the tentative map, as filed, shall be deemed to be recommended for approval insofar as it complies with all other applicable provisions of the Subdivision Map Act, the general plan, any applicable specific plan, and this code, and it shall be the duty of the city clerk to certify or state his or her approval.
- D. Denial. The tentative map may be recommended for denial by the planning commission on any of the grounds provided by the Subdivision Map Act or this code. The planning commission shall recommend denial of the tentative map if it makes any of the following findings:
1. That the proposed map or the design or improvement of the proposed subdivision is inconsistent with the general plan, any applicable specific plan, and the provisions of the code;
 2. That the site is not physically suitable for the type of development;

3. That the site is not physically suitable for the proposed density of development;
4. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. Notwithstanding the foregoing, the planning commission may recommend approval of such a tentative map if an EIR was prepared with respect to the project and a finding was made pursuant to paragraph (3) subdivision (a) of Section 21081 of CEQA that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR;
5. That the design of the subdivision or the type of improvements are likely to cause serious public health or safety problems;
6. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The planning commission may recommend for approval or approval a map if it finds that alternate easements, for access or for use, will be provided and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is granted to the planning commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision;
7. Subject to Section 66474.4 of the Subdivision Map Act, that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (commencing with Section 51200 of the Government Code) and that the resulting parcels following a subdivision of the land would be too small to sustain their agriculture use.

16.01.100 City Council Action

Upon recommending approval, condition approval or denial of the tentative map, the planning commission shall transmit its recommendation to the city council for action. The city council, shall conduct a public hearing after giving notice pursuant to Section 16.01.090(A). In addition, notice of the public hearing shall be given to the planning commission. The public hearing shall be scheduled at the next regular meeting of the city council following the receipt of the planning commission recommendation. The city council may add, modify or delete conditions if the city council determines that such changes are necessary to ensure that the tentative map conforms to the provisions of the Subdivision Map Act, the general plan, any applicable specific plan, and this code. The

city council may deny the tentative map on any of the grounds contained in Section 16.01.090(D). Following the conclusion of the hearing, the city council shall render its decision to approve, conditionally approve or deny the tentative map. The decision of the city council must occur within thirty (30) days of receipt of the planning commission recommendation on the tentative map. If the tentative map is deemed approved, the subdivider shall be entitled, upon request to the community development director, to receive a written certification of approval. If the city council does not act within the time limits set forth in this section, the tentative map shall be deemed to have been approved or conditionally approved as last recommended for approval, or conditional approval by the planning commission insofar as it complies with all other applicable provisions of the Subdivision Map Act, the general plan, any applicable specific plan and this code.

16.01.110 Extension of Time for Planning Commission or City Council Action

Any applicable time limits for acting on the tentative map application may be extended by written consent of the planning commission or the city council. A waiver of applicable time limits may be required to permit concurrent processing of related approvals or an environmental review on the same development project.

16.01.120 Expiration

An approved or conditional approved tentative map shall expire at the end of the applicable time period provided for in Section 66452.6 of the Subdivision Map Act.

16.01.130 Extensions

- A. Request by Subdivider. The subdivider may request an extension of the expiration date of the approved or conditionally approved tentative map by written application to the community development director. The application shall be filed before the map is to expire and shall state the reasons for requesting the extension.
- B. Planning Commission Action. The community development director shall review the request and submit the application for the extension together with a report to the planning commission. The planning commission shall conduct a public hearing on the extension within sixty (60) days after the application is filed after giving notice pursuant to Section 16.01.090(A). A copy of the community development director's report shall be forwarded to the subdivider prior to the planning commission meeting on the extension. In recommending approval, conditional approval or denial of the request for extension, the planning commission shall make findings supporting its decision, including findings with respect to the potential impact of any increases in applicable development fees which have occurred since the date of approval or conditional approval of the tentative map.
- C. City Council Action. Upon recommending approval, conditional approval or denial of the request for extension the planning commission shall transmit its

recommendation to the city council for action. The city council shall conduct a public hearing after giving notice pursuant to Section 16.01.090(A). In addition, notice of the public hearing shall be given to the planning commission. If the city council does not act within the time limits set forth in 16.01.090(A), the extension shall be deemed to have been approved or conditionally approved as recommended by the planning commission, insofar as the tentative map complies with all other applicable provisions of the Subdivision Map Act, this title, this code, the general plan and any applicable specific plan.

- D. Time Limit of Extensions. The time at which the tentative map expires may be extended for a period not exceeding a total of five (5) years.

16.01.140 Fees and Deposits

All persons submitting applications for the approval of a tentative map pursuant to this chapter shall pay all fees and/or deposits as established by resolution of the city council.

SECTION 2. 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 3. 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 _____, and was passed and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2009-06

**AN ORDINANCE OF THE CITY OF WINTERS ADDING CHAPTER 16.02 TO
TITLE 16 OF THE MUNICIPAL CODE PERTAINING TO PARCEL MAPS**

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

SECTION 1.

Chapter 16.02, entitled Parcel Maps, is hereby added to Title 16 of the Municipal Code of the City of Winters to read as follows:

16.02.010 Applicability

This chapter sets forth the provisions governing the form, contents, submittal, approval, and filing of a parcel map. A parcel map shall be required for all divisions of land into four (4) or less parcels, except that a parcel map shall not be required for:

- A. Subdivisions of a portion of the operating right-of-way of a railroad corporation, as defined by Section 230 of the Public Utilities Code, that are created by short-term leases (terminable by either party on not more than thirty (30) days notice in writing); or
- B. Land conveyed to or from a government agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to that public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map. For purposes of this subdivision, land conveyed to or from a governmental agency shall include a fee interest, a leasehold interest, an easement, or a license; or
- C. The exclusions provided for in Section 66412 of the Subdivision Map Act; or
- D. Parcel maps waived by the planning commission in accordance with section 16.02.020.

16.02.020 Waiver of Parcel Map Requirement

- A. Waiver. After notice and public hearing in accordance with the terms of Section 16.01.090, the planning commission may waive the requirement of submission of a parcel map for subdivisions for which a parcel map is required under subdivisions (a), (b), (c), (d), or (e) of Section 66426 of the Government Code and other subdivisions for which a final map is not required under the Subdivision Map Act, if the planning commission finds that the proposed division of land complies with the legal requirements as to area, improvement and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection and other

requirements of the Subdivision Map Act, the general plan, any applicable specific plan and this code which are applicable to the division of such land.

- B. Certificate of Compliance. Upon the waiver of the parcel map requirement by the planning commission, the city engineer shall file with county recorder a certificate of compliance for the land to be divided, and a plat map showing the division. The certificate shall include a certificate by the county tax collector stating that all taxes due have been paid or that a tax bond or other adequate form of security assuring payments of all taxes which are a lien but not yet payable has been filed with the county.
- C. Conditions. A waiver by the planning commission may be conditioned to provide for, among other things, payment by the subdivider of parkland dedication, drainage and other fees that are permitted by law by a method approved by the city council.
- D. Report to City Council. If any waiver is approved or conditionally approved pursuant to this section, the planning commission shall make a written report thereof to the city council within ten (10) days of such action. If the city council, by a majority vote, decides to review the waiver and conditions, it shall conduct a public hearing after giving notice pursuant to Sections 65090 and 65091 of the Government Code. The public hearing shall be held within thirty (30) days after the date of the request for review. The city council may add, modify or delete conditions if the planning commission determines that such changes are necessary to ensure that the waiver conforms to the Subdivision Map Act, the general plan, any applicable specific plan, and this code. Within ten (10) days following the conclusion of the hearing, the city council shall render its decision. If the city council does not act within the time limits set forth in this section, the waiver shall be deemed to have been approved or conditionally approved as last approved or conditionally approved by the planning commission insofar as it complies with all other applicable provisions of the Subdivision Map Act, the general plan, any applicable specific plan, and this code.
- E. Timeframe for Action. An application for a waiver shall be acted upon no later than sixty (60) days after the application for a waiver is deemed complete, unless that time limit is extended by mutual consent of the subdivider and the community development director.

16.02.030 Parcel Map; Form and Contents

The parcel map shall be prepared in a manner acceptable to the planning commission and shall be prepared by a registered civil engineer or land surveyor. The form and contents of the parcel map shall conform to all of the following provisions:

- A. The parcel map shall show the locations of streets and property lines bounding the property;

- B. It shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificate or statements, affidavits, and acknowledgements may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility;
- C. The size of each sheet of the parcel map shall be 18 by 26 inches or 460 by 660 millimeters. A marginal line shall be drawn around each sheet, leaving an entirely blank margin of one inch or 25 millimeters. The scale of the map shall be large enough to show all details clearly and enough streets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown;
- D. Each parcel shall be numbered or lettered and each block may be numbered or lettered. Each street shall be named or otherwise designated. The subdivision number shall be shown together with the description of the real property being subdivided;
- E.
 - 1. The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated.
 - 2. The map shall show the location of each parcel and its relation to surrounding surveys. If the map includes a "designated remainder" parcel or similar parcel, and the gross area of the "designated remainder" parcel or similar parcel is five acres or more, that remainder parcel need not be shown on the map and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder parcel.
 - 3. A parcel designated as "not a part" shall be deemed to be a "designated remainder" for the purposes of this section.
- F. Subject to the provisions of Section 66436 of the Subdivision Map Act, a statement, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the parcel map is required.

With respect to a division of land into four or fewer parcels, where dedications or offers of dedications are not required, the statement shall be signed and acknowledged by the subdivider only. If the subdivider does not have a record title ownership interest in the property to be divided, the local agency may require that the subdivider provide the local agency with satisfactory evidence that the persons with record title ownership have consented to the proposed division. For purposes of this paragraph, "record title ownership" means fee title of record

unless a leasehold interest is to be divided, in which case "record title ownership" means ownership of record of the leasehold interest. Record title ownership does not include ownership of mineral rights of other subsurface interests that have been severed from ownership of that surface.

- G. Statements and acknowledgments required pursuant to subdivision (E) shall be made by separate instrument to be recorded concurrently with the parcel map being filed for record;
- H. No additional survey and map requirements shall be included on a parcel map that do not affect record title interests;
- I. Whenever a certificate or acknowledgment is made by separate instrument, there shall appear on the parcel map a reference to the separately recorded document. This reference shall be completed by the county recorder pursuant to Section 66434.2 of the Government Code;
- J. The parcel map shall contain a statement by the engineer or surveyor responsible for the preparation of the map that states that all monuments are of the character and occupy the positions indicated, or that they will be site in those positions on or before a specified date, and that the monuments are, or will be, sufficient to enable the survey to be retraced; and
- K. Any public streets or public easements to be left in effect after the subdivision shall be adequately delineated on the map. The filing of the parcel map shall constitute abandonment of all public streets and public easements not shown on the map, provided that a written notation of each abandonment is listed by reference to the recording data or other official record creating these public streets or public easements and certified to on the map by the clerk of the legislative body or the designee of the legislative body approving the map. Before a public easement vested in another public entity may be abandoned pursuant to this section, that public entity shall receive notice of the proposed abandonment. No public easement vested in another entity shall be abandoned pursuant to this section if that public entity objects to the proposed abandonment.

16.02.040 Parcel Map; Data and Reports

The subdivider shall also comply with the data and report requirements contained in Section 16.01.050 and Section 16.01.060 of this Title, unless otherwise waived by the community development director.

16.02.050 Engineer's (Surveyor's) and Recorder's Statements

A statement of the engineer's or surveyor's conformance with the requirements of the Subdivision Map Act and this chapter shall appear on the parcel map in accordance with Section 66449 of the Subdivision Map Act.

16.02.060 Field Survey Requirement

In all cases where a parcel map is required, the parcel map shall be based upon a field survey made in conformity with the Land Surveyors or be compiled from recorded or filed data when sufficient recorded or filed survey monumentation presently exists to enable the retracement of the exterior boundary lines of the parcel map and the establishment of the interior parcel or lot lines of the parcel map.

16.02.070 Preliminary Submittal

The subdivider shall submit prints of the parcel map to the city engineer for checking. The preliminary prints shall be accompanied by copies of the data, reports, and documents required by Section 16.02.040 of this chapter.

16.02.080 Review by City Engineer

The city engineer shall review the parcel map and the subdivider shall make corrections or additions until the map is acceptable to the city engineer.

16.02.090 City Engineer's Statement

The city engineer shall prepare a statement in accordance with the provisions in Section 66450 of the Subdivision Map Act upon completing the review of the parcel map as provided for in Section 16.02.080.

16.02.100 Review and Approval of Parcel Map

- A. Application Filing and Review by Applicable Agencies. After review by the city engineer, the parcel map application shall be filed with the community development director. The subdivider shall file the number of parcel maps that the community development director deems necessary. The community development director shall forward copies of the parcel map to the affected public agencies and utilities which may, in turn, forward to the department their findings and recommendations. Public agencies and utilities shall certify that the subdivision can be adequately served.
- B. Application Deemed Complete. The application shall be deemed complete by the community development director only when the form and contents of the parcel map conform to the requirements of Section 16.02.030 and when all accompanying data and reports, as required by Section 16.02.040 have been submitted and accepted by the community development director. If the community development director does not determine whether a parcel map application is complete within thirty (30) days of receiving application, then the application shall be deemed complete.
- C. Approval. After notice and a public hearing in accordance with the terms of Section 16.01.090(A), the planning commission shall approve, conditionally

approve or deny the parcel map. Any action by the planning commission shall be supported by findings that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the Subdivision Map Act, the general plan, any applicable specific plan and all applicable provisions of this code. Such action shall occur within fifty (50) days after certification of the environmental impact report, adoption of a negative declaration, or a determination by the planning commission that the project is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code).

16.02.110 Grounds for Denial

The planning commission shall deny approval of a parcel upon making any of the following findings:

- A. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451 of the Government Code;
- B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans;
- C. That the site is not physically suitable for the type of development;
- D. That the site is not physically suitable for the proposed density of development;
- E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
- F. That the design of the subdivision or type of improvements is likely to cause serious public health problems; or
- G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the planning commission may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

16.02.120 Appeal

The subdivider or any interested person adversely affected by any action of the planning commission with respect to the parcel map may, within ten (10) days after the decision, file an appeal in writing with the city council. The city council shall consider the appeal within thirty (30) days after the date of filing of the appeal, unless the appellant consents to a continuance. Within ten (10) days following the conclusion of the hearing, the city council shall render its decision. The appeal shall be a public hearing after notice has been given according to Section 16.01.090(A). In addition, notice of the public hearing shall be given to the planning commission. The city council may sustain, modify, reject or overrule any recommendations or rulings of the planning commission and may make any findings which are consistent with the provisions of the Subdivision Map Act, the general plan, any applicable specific plan or this code.

16.02.130 City Clerk to Transmit Parcel Map to County Recorder

Upon approval of a parcel map by the planning commission or the city council, whichever occurs last, and after all certificates or statements and security required by Section 66493 of the Subdivision Map Act have been filed and deposited with the city clerk, the city clerk shall transmit the parcel map to the county recorder pursuant to the provisions of Section 66464 of the Subdivision Map Act.

16.02.140 Amendments to Approved or Conditionally Approved Parcel Map

After a parcel map is filed with the county recorder, it may be amended by a certificate of correction or an amending map pursuant to provisions of Section 66469 et seq., of the Subdivision Map Act.

16.02.150 Judicial Review; Action must be within 90 days

Any action or proceedings to attack, review, set aside, void or annul the decision of the planning commission, or the city council concerning the subdivision, or of any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced and service of summons effected within ninety (90) days after the date of such decision. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such decision or of such proceedings, acts or determinations. Any such proceeding shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain and forcible entry and unlawful detainer proceedings.

16.02.160 Processing Fees

Reasonable fees for processing a parcel map may be established by resolution of the city council.

SECTION 2. 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 3. 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 _____, and was passed and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2009-07

**AN ORDINANCE OF THE CITY OF WINTERS ADDING
CHAPTER 16.03 TO TITLE 16 OF THE MUNICIPAL CODE
PERTAINING TO FINAL SUBDIVISION MAPS**

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

SECTION 1.

Chapter 16.03, entitled Final Subdivision Maps, is hereby added to Title 16 of the Municipal Code of the City of Winters to read as follows:

16.03.010 General.

- A. The form, contents, accompanying data and filing of the final map shall conform to the provisions of the Subdivision Map Act and this chapter.
- B. The final map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor.

16.03.020 Phasing.

- A. Multiple final maps relating to an approved or conditionally approved tentative map may be filed prior to the expiration of the tentative map if the subdivider, at the time the tentative map application is filed, notifies the community development director in writing of the subdivider's intention to file multiple final maps on the tentative map in accordance with Section 16.01.050(G), or after filing of the tentative map, the community development director and the subdivider concur in the filing of multiple final maps. In providing the notice, the subdivider shall not be required to define the number or configuration of the proposed multiple maps. The city council may determine the number, configuration, or sequence at the time of approval of the tentative map.
- B. The filing of a final map on a portion of an approved or conditionally approved tentative map shall not invalidate any part of the tentative map. Each final map which constitutes a part or unit of the approved or conditionally approved tentative map shall have a separate subdivision number. The subdivision improvement agreement executed by the subdivider shall provide for the construction of improvements as required to constitute a logical and orderly development of the whole subdivision.

16.03.030 Survey Required.

- A. An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer or licensed land surveyor. All monuments, property lines,

centerline of streets, alleys or easements adjoining or within the subdivision shall be tied into the survey. The allowable error of closure on any portion of the final map shall not exceed 1/10,000 for field closures and 1/20,000 for calculated closures.

- B. At the time of making the survey for the final map, the engineer or surveyor shall set sufficient durable monuments to conform with the standards described in Section 8771 of the Business and Professions Code so that another engineer or surveyor may readily retrace the survey. A least one (1) exterior boundary line shall be monumented prior to recording the final map. Other monuments shall be set as required by the city engineer.

16.03.040 Form.

The form of the final map shall be consistent with Section 66434 of the Subdivision Map Act

16.03.050 Contents.

The contents of the final map shall conform to the Subdivision Map Act and as follows:

- A. Boundary. The boundary of the subdivision shall be designated by a heavy black line in such a manner as not to obliterate figures or other data;
- B. Title. Each sheet shall have a title showing the subdivision number and name and the location of the property being subdivided with reference to map which have been previously recorded, or by reference to the plat of a United States Survey. The following shall appear in the title, "City of Winters, Yolo County."
- C. Scale, North Point and Basis of Bearings. There must appear on each map sheet the scale, the north point, the basis of bearings and the equation of the bearing to true north. The basis of bearings shall be approved by the city engineer.
- D. Linear, Angular and Radial Data. Sufficient linear, angular, and radial data shall be shown to determine the bearing and lengths of monument lines, street centerline, the boundary lines of the subdivision, the boundary lines of every lot and parcel which is part of the subdivision and ties to existing monuments used to establish the boundary. Arc length, radius and total central angle and radial bearings of all curves shall be shown. Ditto marks shall not be used in the dimensions and data shown on the map;
- E. Monuments. The location and description of all existing and proposed monuments shall be shown. Standard city monuments shall be set at the following locations; or on city engineer approved offsets:
 - 1. The intersection of street centerline,

2. Beginning and end of curves or intersection of tangents on centerline,
 3. At other locations as may be required by the city engineer.
- F. Lot Numbers. Lot numbers shall begin with the number one (1) in each subdivision and shall continue consecutively with no omissions or duplications except where contiguous lands, under the same ownership, are being subdivided in successive units, in which event lot numbers may begin with the next consecutive number following the last number in the proceeding unit. Each lot shall be shown entirely on one (1) sheet of the final map, unless approved by the city engineer.
- G. Adjoining Properties. The adjoining corners of all adjoining subdivisions shall be identified by subdivision number or name when not identified by official number and reference to the book and page of the filed map showing such subdivision; and if no subdivision is adjacent, then by the name of the owner and reference to the recorded deed by book and page number for the last record owner.
- H. City Boundaries. City boundaries which cross or join the subdivision shall be clearly designated.
- I. Street Names. The names of all streets, alleys or highways within or adjoining the subdivision shall be shown.
- J. Easements and Dedications.
1. Easements and dedications for roads or streets, trails, bicycle facilities, parks and recreation facilities, open space, landscaping, paths, alleys, utilities, local transit facilities, stormwater drainage, sanitary sewers or other public use as may be required, shall be dedicated to the public for acceptance by the city or other public agency and the use shall be specified on the map;
 2. All easements of record shall be shown on the map, together with the name of the grantee and sufficient recording data to identify the conveyance, e.g., recorder's serial number and date, or book and page of official records;
 3. Easements not disclosed by the records in the office of the county recorder and found by the surveyor or engineer to be existing, shall be specifically designated on the map, identifying the apparent dominant tenements for which the easement was created;

4. The sidelines of all easements of record shall be shown by dashed lines on the final map with the widths, lengths and bearings of record. The width and location of all easements shall be approved by the city engineer.
- K. Greenbelt Areas. Greenbelt areas may be shown, subject to the approval of the city. Public greenbelt areas shall be dedicated in fee unless otherwise specified in the approval or conditional approval of the tentative map. Private greenbelt areas shall be dedicated as open space easements unless otherwise specified in the approval or conditional approval of the tentative map.
- L. Building Setback Line. Approved building setback lines shall be shown.
- M. Building Envelope. For all lots with a slope of twenty (20) percent or greater, specific location of building envelopes and driveways shall be shown.
- N. Areas Subject to Inundation. A statement about any lot or lots within the subdivision being subject to inundation shall be shown on the map.

16.03.060 Preliminary Submittal for City Approval

The subdivider shall submit prints of the final map along with the appropriate fees to the city engineer for checking. The preliminary prints shall be accompanied by the following data, plans, reports and documents in a form as approved by the city engineer and, where applicable, the city attorney:

- A. Improvement Plans. Improvement plans as required by this Title.
- B. Soils Report. A soils report prepared in accordance with Section 16.01.050(B) and the Uniform Building Code.
- C. Title Report. A title report showing the legal owners at the time of submittal of the final map.
- D. Tax Certificate. A certificate from the county tax collector stating that all taxes dues have been paid or that a tax bond or other adequate form of security assuring payments of all taxes which are a lien but not yet payable has been filed with the county.
- E. Deeds of Easements or Rights-of-Way. Deeds for off-site easements or rights-of-way required for road or drainage purposes which have not been dedicated on the final map. Written evidence acceptable to the city in the form of rights of entry or permanent easements across private property outside of the subdivision permitting or granting access to perform necessary construction work and permitting the maintenance of the facility.

- F. Traverse Closures. Traverse closures for the boundary blocks, lots, easements, street centerline and monument lines.
- G. Hydraulic and Hydraulic Calculations. Complete hydrology and hydraulic calculations of all stormdrains and flood flow.
- H. Governing Documents. The submittal of the final map for a common interest development within the meaning of Sections 1350 et seq. of the State Civil Code shall include the proposed declaration of covenants, conditions and restrictions containing the provisions described in Section 1353 of the Civil Code and all other governing documents for the subdivision as are appropriate pursuant to Section 1363 of the Civil Code. The submittal of the final map for all subdivisions other than a common interest development shall include any declaration of covenants, conditions and restrictions proposed in connection therewith. All documents shall be subject to review and approval by the city engineer and city attorney.
- I. Guarantee of Title. A guarantee of title, in form acceptable to the city engineer and city attorney, shall be issued by a competent title company to and for the benefit and protection of the city and shall be continued complete up to the instant of recording of the final map, guaranteeing that the names of all persons whose consent is necessary to pass a clear title to the land being subdivided and all public easements being offered for dedication and all acknowledgments thereto, appear on the proper certificates and are correctly shown on the map, both as to consents as to the making thereof and affidavits of dedication where necessary.
- J. Improvement Agreement. In the event sewer, water, drainage, grading, paving or other improvements required pursuant to this Title have not been completed prior to the presentation of the final map, a subdivision improvement agreement shall be filed for the improvement thereof. The subdivider shall secure the performance of the subdivision improvement agreement.
- K. Liability Agreement and Insurance. A hold-harm-less agreement obligating the subdivider to hold the city and its officers, agents and employees harmless from any liability for damages or claims for damages for personal injury or death which arise from the operations of the subdivider and/or the subdivider's subcontractors in connection with the subdivision. A certificate of insurance reporting to the city the amount of insurance the subdivider carries for the subdivider's own liability for damages or claims for damages for personal injury or death which arise from the operations of the subdivider or his subcontractors in connection with the subdivision. The certificate of insurance shall name the city as a named insured. The agreement and certificate required by this subsection shall be subject to prior review and approval by the city engineer and city attorney.
- L. Deed Restrictions. One copy of the deed restrictions shall be submitted to the city engineer at the time of final map submission.

- M. Building Envelope. For all lots with a slope of twenty (20) percent or greater, specific locations of buildings envelopes and driveways shall be shown.
- N. Any additional data, reports or information as required by the city engineer or city attorney.

16.03.070 Review by City Engineer.

The city engineer shall review the final map along with the appropriate fees and any other required information and the subdivider shall make corrections and/or additions until acceptable to the city engineer.

16.03.080. Engineer's Statements

The city engineer shall comply the statement requirements provided for in Sections 66441, 66442, and 66443 of the Subdivision Map Act.

16.03.090 Approval by City Engineer.

The subdivider shall submit to the city engineer the original tracing of the map and any duplicates per county requirements, corrected to its final form and signed by all parties required to execute the certificates on the map. Original signatures shall appear on the original drawing and on the blueline duplicate. Upon receipt of all required certificates and submittals required pursuant to Section 66435 et seq., of the Subdivision Map Act, the city engineer shall sign the appropriate certificates and transmit the original map to the city clerk.

16.03.100 Approval by City Council

- A. The final map approved by the city engineer as complying with the approved or conditionally approved tentative map shall be filed with the city council for approval after all required certificates have been signed. The date the map shall be deemed filed with the city council is the date on which the city clerk receives the map. The city council shall consider the final map for approval at its next regular meeting after the city clerk receives the map. Before approving the final map, the city council shall consider approval of the subdivision improvement agreement.
- B. If the subdivision improvement agreement and final map are approved by the city council, it shall instruct the mayor to execute the agreement on behalf of the city. At the time the city council approves the final map, it shall also accept, subject to improvement or reject any offer of dedication. The city clerk shall certify or state on the final map the action of the city council. If any streets, paths, alleys, public utility easements, trails, bicycle facilities, open space easements, landscaping easements, parks and recreation facilities, local transit facilities, or storm drainage easements are rejected, subject to Section 771.010 of the Code of Civil Procedure,

the offer of dedication shall remain open and the city council may, by resolution at any later date and without further action by the subdivider, rescind its action and accept and open the streets, paths, alleys, trails, bicycle facilities, open space easements, landscaping easements, parks and recreation facilities, local transit facilities, or storm drainage easements, which acceptance shall be recorded in the office of the county recorder.

- C. The city may accept any dedicating lying outside the subdivision boundary which require a separate grant deed. The acceptance shall be recorded in the office of the county recorder.
- D. If the subdivision improvement agreement and/or final map is unacceptable, the city council shall make its recommended corrections, instruct the city engineer to draft a new agreement and/or revise the final map and defer approval until an acceptable agreement and/or final map has been resubmitted.
- E. The city council shall not postpone or refuse approval of a final map because the subdivider has failed to meet a tentative map condition requiring construction or installation of off-site improvements on land which neither the subdivider nor the city has sufficient title or interest to permit the improvements to be made.

16.03.110 Denial by City Council

The city council shall not deny approval of the final map if the city has previously approved a tentative map for the proposed subdivision and if the city council finds that the final map is in compliance with the requirements of the Subdivision Map Act, this code, the general plan, any applicable specific plan, the tentative map and all conditions thereof.

16.03.120 Filing with the County Recorder

Upon approval of the final map by the city council, the city clerk shall execute the appropriate certificate on the certificate sheet and shall, subject to the provisions of Section 66464 of the Subdivision Map Act, transmit the map, or have an authorized agent forward the map, to the county recorder.

16.03.130 Amendments to Final Map

After a final map is filed with the county recorder, it may be amended by a certificate of correction or an amending map pursuant to provisions of Section 66469 et seq., of the Subdivision Map Act.

16.03.140 Processing Fees

Reasonable fees for processing a final map may be established by resolution of the city council.

SECTION 2. 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 3. Effective Date.

This Ordinance shall be in full force and effective thirty (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 _____, and was passed and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2009-08

**AN ORDINANCE OF THE CITY OF WINTERS REPEALING
CHAPTER 16.04, ENTITLED GENERAL PROVISIONS, FROM TITLE 16
OF THE MUNICIPAL CODE AND ADDING CHAPTER 16.04 TO TITLE 16 OF
THE MUNICIPAL CODE PERTAINING TO VESTING TENTATIVE MAPS**

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

SECTION 1.

Chapter 16.04, entitled General Provisions, of Title 16 of the Municipal Code of the City of Winters is hereby repealed in its entirety.

SECTION 2.

Chapter 16.04, entitled Vesting Tentative Maps, is hereby added to Title 16 of the Municipal Code of the City of Winters to read as follows:

16.04.010 Authority and Purpose.

- A. This chapter is enacted pursuant to the authority granted by Chapter 4.5 (commencing with Section 66498.1) of the Subdivision Map Act (hereinafter referred to as the Vesting Tentative Map Statute) and may be cited as the City of Winters Vesting Tentative Map Ordinance. The purpose of this chapter is to establish appropriate local procedures for the implementation of the Vesting Tentative Map Ordinance.
- B. To accomplish this purpose, the regulations contained in this chapter are determined to be necessary for the preservation of the public health, safety and general welfare and for the promotion of orderly growth and development.

16.04.020 Consistency.

No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose which is inconsistent with the general plan or any applicable specific plan of the city or which is not permitted by the provisions of this code.

16.04.030 Definitions.

- A. "Vesting tentative map" means a tentative map for a subdivision that shall have printed conspicuously on its face the words "VESTING TENTATIVE MAP" at the time it is filed in accordance with Section 16.04.050 and is thereafter processed in accordance with the provisions hereof.

16.04.040 Application.

- A. Whenever a provision of the Subdivision Map Act, as implemented and supplemented by this title, requires the filing of a tentative map, a vesting tentative map may instead be filed, in accordance with provisions of this chapter.
- B. If a subdivider does not seek the rights conferred by the vesting tentative map ordinance, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.

16.04.050 Filing and Processing

A vesting tentative map shall be filed in the same form and have the same contents, accompanying data and reports and shall be processed in the same manner as set forth for a tentative map pursuant to chapter 16.01 of this Title except as hereinafter provided.

- A. At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words "VESTING TENTATIVE MAP."
- B. The filing of a vesting tentative map may be conditioned upon the prior or simultaneous discretionary land use approvals.

16.04.060 Fees

- A. Upon filing a vesting tentative map, the subdivider shall pay all fees and/or deposits in accordance with Section 16.01.140.
- B. The planning commission or city council, as the case may be, may require as a condition of its approval that the subdivider pay all development fees required to be paid at the time of the application for, or issuance of, a building permit or other similar permit. Such payment shall be made at the rate for such fees in effect at the time of such application or issuance.

16.04.070 Rights of a Vesting Tentative Map.

- A. The approval or conditional approval of a vesting tentative shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies and standards in effect at the date the local agency has determined that the application is complete. However, if Section 66474.2 is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies and standards in effect at the time the vesting tentative map is approved or conditionally approved.

- B. Notwithstanding subsection A of this section, a permit, approval, extension or entitlement may be conditioned or denied if any of the following are determined:
1. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both;
 2. The condition or denial is required, in order to comply with state or federal law.
- C. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 16.01.120. If the final map is approved, these rights shall last for the following periods of time:
1. An initial period of one (1) year beyond the recording of the final map or parcel map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this one (1) year initial time period shall begin for each phase when the final map for the phase is recorded;
 2. The one (1) year initial period set forth in subdivision 1 of this subsection shall be automatically extended by any time used for processing a complete application for a grading permit, if one is required, or for any required design or architectural review, if such processing exceeds thirty (30) days from the date a complete application is filed;
 3. A subdivider may apply to the city council, for a one (1) year extension at any time before the initial time period set forth in subdivision 1 of this subsection expires; and
 4. If the subdivider submits a complete application for a building permit during the periods of time specified in subdivisions 1 through 3 of this subsection, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.
- D. Consistent with subsection A of this section, an approved or conditionally approved vesting tentative map shall not limit the city from imposing reasonable conditions on subsequent required approvals or permits necessary for the development.

Section 16.04.080 Amendment to Approved Vesting Tentative Map

If the ordinances, policies, or standards described in Section 16.04.070(A) are changed subsequent to the approval or conditional approval of a vesting tentative map, the subdivider, or his or her designee, at any time prior to the expiration of the vesting tentative map pursuant to Section 16.04.070(C), may apply for an amendment to the

vesting tentative map to secure a vested right to proceed with the changed ordinances, policies, or standards. An application for an amendment shall clearly specify the changed ordinances, policies, or standards for which the amendment is sought.

Section 16.04.090 Applications Inconsistent with Current Policies

Notwithstanding any provision of this chapter to the contrary, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies, and standards described in Section 16.04.080, and the city may grant these approvals or issue these permits to the extent the departures are authorized by this code, the general plan, any applicable specific plan and other applicable law.

SECTION 3. 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 4. 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 _____, and was passed and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE : April 21, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Dan Maguire, Housing Programs Manager
SUBJECT: Second Reading of Ordinance 2009-04, Adding Chapter 14-01 to the Winters Municipal Code Pertaining to Farmers Market

RECOMMENDATION:

Staff recommends the Council conduct a Second Reading of the proposed City of Winters Farmers Market Ordinance (Ordinance 2009-04). Subsequent to the Second Reading, 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. Staff modified the existing City of Davis Farmers Market Ordinance to revise it into the Winters Farmers Market Ordinance (Ordinance 2009-04) The Ordinance will add Chapter 14.01 to the Winters Municipal Code to establish a legal framework for a flexible system of management over a Farmers Market that is responsive to public input and acts in the interests of its citizens and provides the framework for control over space allocation and enforcement of rules.

The City Council conducted the required Public Hearing, Introduction and First Reading of Ordinance 2009-04 at the City Council meeting on April 7, 2009.

FISCAL IMPACT:

None by this action

ATTACHMENTS:

City of Winters Farmers Market Ordinance (Ordinance 2009-04)

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 if 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 sellers 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



**COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT**

TO: Chairman and Members of the Board of Directors
DATE: April 21, 2009
FROM: John W. Donlevy, Jr., Executive Director 
SUBJECT: Property Acquisition- 311 First Street

RECOMMENDATION:

That the Community Development Agency Board of Directors:

1. Receive a Staff Report on the recommended purchase of 311 First Street.
2. Conduct a Public Hearing regarding the acquisition of 311 First Street
3. Approve the Summary Report and findings regarding the property acquisition pursuant to Section 33433 of the Health and Safety Code.
4. Approve the Purchase and Sale Agreement.
5. Authorized the Executive Director to execute said agreements and purchase the properties.

BACKGROUND:

Since 2005, the Community Development Agency Staff has been in negotiation for the acquisition of the property located at 311 First Street. The property is approximately 9,000 square feet and is located adjacent to and between properties owned by the City. The property is a "flagged lot" which separates key parcels of property within the Downtown Master Plan Area.

The negotiation has been prolonged and has included multiple offers and stalled agreements between the agency and the property owners.

DISCUSSION:

In 2006, the Agency received an appraisal on the property which listed it at approximately \$382,000. This was a challenging appraisal since no commercial properties of comparison has sold in Winters in many years. In 2007, a property on Abbey and Elliot St. sold for \$750,000.

The Agency Staff continued the pursuit of this property based on its strategic nature to

the overall redevelopment project area and the implementation to the Downtown Master Plan. Literally, its need for the redevelopment of the key block off of Main Street is necessary.

In February, 2009, the property owners accepted the previous offer from the Agency for the acquisition of the property. The purchase price is \$455,000. Total costs for closing are estimated to make the final Agency costs approximately \$465,000.

The purchase price is over the previous appraisal for the property by \$90,000. A key factor for recommending the purchase of the property at a premium is because the appraisal did not consider the Agency's planned acquisition of the fire station property which increases the value of the property to the Agency. The unusual costs of relocation are not present nor the legal and consultant costs which would typically exceed the costs associated with the premium paid for this purchase.

It is the view and recommendation that the purchase price is appropriate as negotiated.

In order to proceed, the Agency will need to:

- Conduct a Public Hearing regarding the acquisition of 311 First Street
- Approve the Summary Report and findings regarding the property acquisition pursuant to Section 33433 of the Health and Safety Code.
- Approve the Purchase and Sale Agreement.
- Authorized the Executive Director to execute said agreements and purchase the properties.

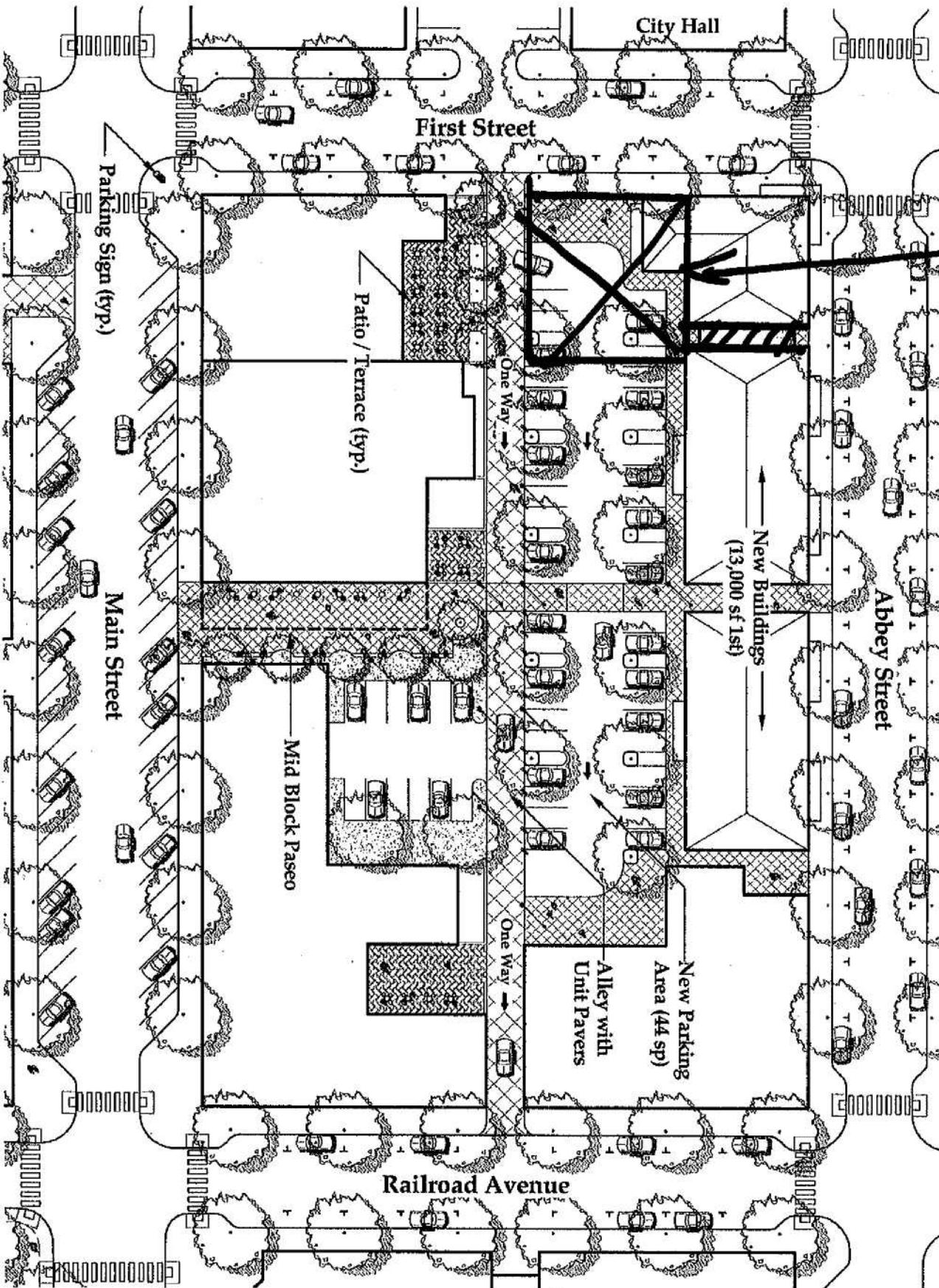
Also included in this report is a map from the Downtown Master Plan which identifies the property in relation to planned development.

FISCAL IMPACT:

The total costs for the land purchase is approximately \$465,000.

ATTACHMENTS:

Summary Report on Property Purchase- H&S Code 33433
Purchase and Sale Agreement



*Property
Location*

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Winters Community Development Agency, 318 First Street (Council Chambers), Winters, California, on April 21, 2009, at 7:30 p.m. Purpose of the public hearing is to consider acquisition of the real property located at 311 First Street, Winters, California.

The Summary Report of the acquisition, pursuant to California Redevelopment law Section 33433, is as follows:

SUMMARY REPORT FOR PROPOSED PURCHASE OF REAL PROPERTY Premises: 311 First 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 of Winters Community Development Agency ("Agency") has set on or after 7:30 p.m. on Tuesday, April 21, 2009 in the Council Chambers in the City Hall of the City of Winters, 318 First Street, Winters, California, as the time, date and place for a public hearing to hear testimony with reference to a proposed purchase of real property ("Purchase") between the Agency (as Buyer) and William L. Portello, Jr. and Mary Alison Portello, as Trustees of the Portello Family Trust Established December 21, 2000 ("Seller"). The real property is specifically described as LOTS 17, 18, AND 21, BLOCK 10, TOWN (NOW CITY) OF WINTERS, SHOWN ON THE MAP THEREOF, FILED MAY 22, 1875 IN BOOK S OF DEEDS, PAGE 154, YOLO COUNTY RECORDS, Yolo County Assessor's Parcel Number 003-204-002. At the close of said public hearing, the Agency may take action to approve, disapprove, or approve a modified version of the Purchase.

I. COPY OF THE PROPOSED PURCHASE AGREEMENT

Copies of the proposed Purchase Agreement are on file with the Winters City Clerk, 318 First Street (City Hall), Winters, California and are incorporated herein by reference.

II. COST OF THE AGREEMENT TO AGENCY

1. PURCHASE PRICE

The Premises consist of a metal building and fenced storage area. The Agency will incur the following costs under the Purchase Agreement:

- a. Purchase Price of \$455,000.00.

- b. Escrow Fees: The agreement provides for the Agency to contribute up to \$10,000 in escrow fees for title and escrow costs, and costs of facilitating a 1031 or 1033 Exchange.
- c. Condition.: The Property is to be purchased in its current condition, subject only to the Agency's approval as to title.
- d. Administrative Costs: The Agency has incurred administrative costs associated with the Purchase, including staff time and legal costs for the negotiation and preparation of the Agreement and other related documents. The Agency will incur ongoing and administrative and staff costs related to the Agency's finalizing the purchase.

III. ESTIMATED VALUE OF INTEREST TO BE PURCHASED, DETERMINED AT THE HIGHEST AND BEST USES PERMITTED UNDER THE DEVELOPMENT PLAN

Agency staff obtained a formal appraisal previously on the property, at \$365,000. The appraisal did not consider the Agency's planned future acquisition of the adjacent Fire District property, which increases the value to the Agency of this real property. The appraisal did not consider the impact on the City of Winters Downtown Master Plan of the loss of this property. The usual costs of relocation are not present, which would normally exceed the price negotiated. Agency staff, therefore, considers this acquisition to be appropriate at the price negotiated, and not excessive.

IV. COVENANTS AND COSTS REQUIRED BY THE AGREEMENT;

The Agreement calls for the preservation of the citrus trees on the property, to the extent not interfering with future development. There are no costs of relocation.

V. REASONS FOR THE DIFFERENCE BETWEEN THE TOTAL PURCHASE PRICE AND THE FAIR MARKET VALUE OF THE REAL PROPERTY APPRAISAL

The Agency has determined that the overall consideration to be paid by The Seller is a fair price for the property in light of the above, and the following benefits to the Redevelopment Project area and the City of Winters:

- (a) furthers the Agency's goals to develop the downtown area as a stable, diversified and strong 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 existing customer service businesses within the Project Area to a larger location on a prime area of the community;
- (g) enhances the viability of 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) 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 and still be able to expand.

The difference between the fair market value of the interest being purchased and the total consideration to be paid by the Agency is justified given these benefits that will inure to the Project Area and the City of Winters.

VI. EXPLANATION OF WHY THE PURCHASE 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, on file with the Winters City Clerk. The Premises consists of a currently vacant retail space located within a building adjacent to the 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 completion of the Purchase will, together with the acquisition of the first district property adjacent, provide commercial space to draw additional businesses and customers to the downtown area, providing for expansion of other retail and commercial uses in the community, and thereby allowing the Agency to initiate other redevelopment activities.

VII. CONSISTENCY OF THE PURCHASE WITH THE IMPLEMENTATION PLAN

The PURCHASE will help implement and is 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 (Coupling the property with a larger parcel) 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 and iii) provide the necessary assistance to retain local employment opportunities, primarily through the renovation of vacant or underutilized land. 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 Purchase 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 Purchase will assist in the

renovation and occupancy of undeveloped commercial space within the community's historic 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.

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.

All citizens are invited to attend the hearing or, in lieu of attendance, may present written input to the Winters City Clerk, 318 First Street, Winters, California by 5 p.m. on April 21, 2009.

Dated: April 14, 2009

John C. Wallace, Counsel,
Winters Community Development Agency



CALIFORNIA
ASSOCIATION
OF REALTORS®

**COMMERCIAL PROPERTY PURCHASE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

(NON-RESIDENTIAL)
(C.A.R. Form CPA, Revised 10/02)

Date 4/10/09 at WINTERC
California.

1. OFFER:

"CDA"

A. **THIS IS AN OFFER FROM** WINTERC COMMUNITY DEVELOPMENT AGENCY ("Buyer").

Individual(s), A Corporation, A Partnership, An LLC, An LLP, or Other

B. **THE REAL PROPERTY TO BE ACQUIRED** is described as 311 FIRST ST., WINTERC
Assessor's Parcel No. 002-204-002, situated in
WINTERC County of YOLO, California, ("Property").

C. **THE PURCHASE PRICE** offered is FOUR HUNDRED AND FIFTY-FIVE THOUSAND Dollars \$ 455,000.

D. **CLOSE OF ESCROW** shall occur on OR BEFORE 4/30/09 (date) (or Days After Acceptance).

2. **FINANCE TERMS:** Obtaining the loans below is a contingency of this Agreement unless: (i) either 2L or 2M is checked below; or (ii) otherwise agreed in writing. Buyer shall act diligently and in good faith to obtain the designated loans. Obtaining deposit, down payment and closing costs is not a contingency. Buyer represents that funds will be good when deposited with Escrow Holder.

A. **INITIAL DEPOSIT:** Buyer has given a deposit in the amount of _____ \$

to the agent submitting the offer (or to _____), by Personal Check
(or _____), made payable to _____

which shall be held uncashed until Acceptance and then deposited within 3 business days after Acceptance or
 _____, with Escrow Holder,

or into Broker's trust account.

B. **INCREASED DEPOSIT:** Buyer shall deposit with Escrow Holder an increased deposit in the amount of . . . \$ _____
within _____ Days After Acceptance, or _____

C. **FIRST LOAN IN THE AMOUNT OF** _____ \$

NEW First Deed of Trust in favor of Lender, Seller,

OR ASSUMPTION of (or "subject to") Existing First Deed of Trust
encumbering the Property, securing a note payable at maximum interest of _____% fixed rate, or
_____% initial adjustable rate with a maximum interest rate of _____%, balance due in _____
years, amortized over _____ years. (If checked: and with a margin not to exceed _____%, tied
to the following index _____.) Buyer shall pay loan fees/points not to exceed _____
Additional terms _____

D. **SECOND LOAN IN THE AMOUNT OF** _____ \$

NEW Second Deed of Trust in favor of Lender, Seller,

OR ASSUMPTION of (or "subject to") Existing Second Deed of Trust
encumbering the Property, securing a note payable at maximum interest of _____% fixed rate, or _____%
initial adjustable rate with a maximum interest rate of _____%, balance due in _____ years, amortized
over _____ years. (If checked: and with a margin not to exceed _____%, tied to the following
index _____.) Buyer shall pay loan fees/points not to exceed _____
Additional terms _____

E. **ADDITIONAL FINANCING TERMS:** _____ \$

F. **BALANCE OF PURCHASE PRICE** (not including costs of obtaining loans and other closing costs) in the amount of . . . \$ 455,000
to be deposited with Escrow Holder within sufficient time to close escrow.

G. **PURCHASE PRICE (TOTAL):** _____ \$ 455,000

H. **LOAN APPLICATIONS:** Within 7 (or _____) Days After Acceptance, Buyer shall provide Seller a letter from lender or
mortgage loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or
preapproved for any NEW loan specified above.

I. **VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Buyer (or Buyer's lender or loan broker pursuant to 2H) shall,
within 7 (or _____) Days After Acceptance, provide Seller written verification of Buyer's down payment and closing costs.

J. **LOAN CONTINGENCY REMOVAL:** (i) Within 17 (or _____) Days After Acceptance Buyer shall, as specified in paragraph
17, remove the loan contingency or cancel this Agreement; OR (ii) (if checked) loan contingency shall remain in effect until
the designated loans are funded.

K. **APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (OR, if checked, IS NOT) contingent upon the Property
appraising at no less than the specified purchase price. Buyer shall, as specified in paragraph 17, remove the appraisal
contingency or cancel this Agreement when the loan contingency is removed (or, if checked within 17 (or _____) Days
After Acceptance).

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CPA REVISED 10/02 (PAGE 1 OF 10) Print Date BDC Apr 04

Buyer's Initials [Signature] ()
Seller's Initials ()

Reviewed by _____ Date _____



- L. **NO LOAN CONTINGENCY** (if checked): Obtaining any loan, in paragraphs 2C, 2D, 2E or elsewhere in this Agreement, is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.
- M. **ALL CASH OFFER** (if checked): No loan is needed to purchase the Property. Buyer shall, within 7 (or _____) Days After Acceptance, provide Seller written verification of sufficient funds to close this transaction.
- N. **SELLER FINANCING**: For any Seller financing designated above, Buyer is to execute a note secured by a deed of trust in favor of Seller, on the terms and conditions set forth in the attached addendum (C.A.R. Form SFA).
- O. **ASSUMED OR "SUBJECT TO" FINANCING**: Seller represents that Seller is not delinquent on any payments due on any loans. Seller shall, within the time specified in paragraph 17, provide Copies of all applicable notes and deeds of trust, loan balances and current interest rates to Buyer. Buyer shall then, as specified in paragraph 17, remove this contingency or cancel this Agreement. Differences between estimated and actual loan balances shall be adjusted at Close Of Escrow by cash down payment. Impound accounts, if any, shall be assigned and charged to Buyer and credited to Seller. Seller is advised that Buyer's assumption of an existing loan may not release Seller from liability on that loan. If the Property is acquired subject to an existing loan, Buyer and Seller are advised to consult with legal counsel regarding the ability of an existing lender to call the loan due, and the consequences thereof.

3. CLOSING AND OCCUPANCY

- A. **Seller-Occupied or Vacant Units**: Occupancy shall be delivered to Buyer at _____ AM/PM, on the date of Close Of Escrow; on _____; or no later than _____ Days After Close Of Escrow. (C.A.R. Form PAA, paragraph 2.) If transfer of title and occupancy do not occur at the same time, Buyer and Seller are advised to: (i) enter into a written occupancy agreement; and (ii) consult with their insurance and legal advisors.
- B. **Tenant Occupied Units**: Possession and occupancy, subject to the rights of tenants under existing leases, shall be delivered to Buyer on Close Of Escrow.
- C. At Close Of Escrow, Seller assigns to Buyer any assignable warranty rights for items included in the sale and shall provide any available Copies of such warranties. Brokers cannot and will not determine the assignability of any warranties.
- D. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys and/or means to operate all locks, mailboxes, security systems, alarms and garage door openers. If the Property is a unit in a condominium or located in a common-interest subdivision, Buyer may be required to pay a deposit to the Owners' Association ("OA") to obtain keys to accessible OA facilities.

4. **SECURITY DEPOSITS**: Security deposits, if any, to the extent they have not been applied by Seller in accordance with any rental agreement and current Law, shall be transferred to Buyer on Close Of Escrow. Seller shall notify each tenant, in compliance with the Civil Code.

5. **ALLOCATION OF COSTS** (if checked): Unless otherwise specified here, this paragraph only determines who is to pay for the report, inspection, test or service mentioned. If not specified here or elsewhere in this Agreement, the determination of who is to pay for any work recommended or identified by any such report, inspection, test or service is by the method specified in paragraph 17.

A. INSPECTIONS AND REPORTS:

- (1) Buyer Seller shall pay for sewer connection, if required by Law prior to Close Of Escrow _____.
- (2) Buyer Seller shall pay to have septic or private sewage disposal system inspected _____.
- (3) Buyer Seller shall pay to have domestic wells tested for water potability and productivity _____.
- (4) Buyer Seller shall pay for a natural hazard zone disclosure report prepared by _____.
- (5) Buyer Seller shall pay for the following inspection or report _____.
- (6) Buyer Seller shall pay for the following inspection or report _____.

B. GOVERNMENT REQUIREMENTS AND RETROFIT:

- (1) Buyer Seller shall pay for smoke detector installation and/or water heater bracing, if required by Law. Prior to Close Of Escrow, Seller shall provide Buyer a written statement of compliance in accordance with state and local Law, unless exempt.
- (2) Buyer Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards, inspections and reports if required as a condition of closing escrow under any Law.
- (3) Buyer Seller shall pay for installation of approved fire extinguisher(s), sprinkler(s), and hose(s), if required by Law, which shall be installed prior to Close Of Escrow. Prior to Close Of Escrow Seller shall provide Buyer a written statement of compliance, if required by Law.

C. ESCROW AND TITLE:

- (1) Buyer Seller shall pay escrow fee _____
Escrow Holder shall be _____
- (2) Buyer Seller shall pay for owner's title insurance policy specified in paragraph 16 _____
Owner's title policy to be issued by _____
(Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)

D. OTHER COSTS:

- (1) Buyer Seller shall pay County transfer tax or transfer fee _____
- (2) Buyer Seller shall pay City transfer tax or transfer fee _____
- (3) Buyer Seller shall pay OA transfer fees _____
- (4) Buyer Seller shall pay OA document preparation fees _____
- (5) Buyer Seller shall pay for _____
- (6) Buyer Seller shall pay for ESCROW COSTS NOT TO EXCEED \$10,000

Buyer's Initials ADL ()
Seller's Initials ()

Reviewed by _____ Date _____



Property Address: 311 First St, Winters Date: 4/10/09

6. SELLER DISCLOSURES:

A. NATURAL AND ENVIRONMENTAL DISCLOSURES: Seller shall, within the time specified in paragraph 17, if required by Law: (i) deliver to Buyer earthquake guides (and questionnaire) and environmental hazards booklet; (ii) even if exempt from the obligation to provide an NHD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.

B. ADDITIONAL DISCLOSURES: Within the time specified in paragraph 17, Seller shall provide to Buyer, in writing, the following disclosures, documentation and information:

(1) **RENTAL SERVICE AGREEMENTS:** (i) All current leases, rental agreements, service contracts, and other agreements pertaining to the operation of the Property; and (ii) a rental statement including names of tenants, rental rates, period of rental, date of last rent increase, security deposits, rental concessions, rebates, or other benefits, if any, and a list of delinquent rents and their duration. Seller represents that no tenant is entitled to any concession, rebate, or other benefit, except as set forth in these documents.

(2) **INCOME AND EXPENSE STATEMENTS:** The books and records, including a statement of income and expense for the 12 months preceding Acceptance. Seller represents that the books and records are those maintained in the ordinary and normal course of business, and used by Seller in the computation of federal and state income tax returns.

(3) **TENANT ESTOPPEL CERTIFICATES:** (If checked) Tenant estoppel certificates (C.A.R. Form TEC) completed by Seller or Seller's agent, and signed by tenants, acknowledging: (i) that tenants' rental or lease agreements are unmodified and in full force and effect (or if modified, stating all such modifications); (ii) that no lessor defaults exist; and (iii) stating the amount of any prepaid rent or security deposit.

(4) **SURVEYS, PLANS AND ENGINEERING DOCUMENTS:** Copies of surveys, plans, specifications and engineering documents, if any, in Seller's possession or control.

(5) **PERMITS:** If in Seller's possession, Copies of all permits and approvals concerning the Property, obtained from any governmental entity, including, but not limited to, certificates of occupancy, conditional use permits, development plans, and licenses and permits pertaining to the operation of the Property.

(6) **STRUCTURAL MODIFICATIONS:** Any known structural additions or alterations to, or the installation, alteration, repair or replacement of, significant components of the structure(s) upon the Property.

(7) **GOVERNMENTAL COMPLIANCE:** Any improvements, additions, alterations or repairs made by Seller, or known to Seller to have been made, without required governmental permits, final inspections, and approvals.

(8) **VIOLATION NOTICES:** Any notice of violations of any Law filed or issued against the Property and actually known to Seller.

(9) **MISCELLANEOUS ITEMS:** Any of the following, if actually known to Seller: (i) any current pending lawsuit(s), investigation(s), inquiry(ies), action(s), or other proceeding(s) affecting the Property, or the right to use and occupy it; (ii) any unsatisfied mechanic's or materialman's lien(s) affecting the Property; and (iii) that any tenant of the Property is the subject of a bankruptcy.

7. **ENVIRONMENTAL SURVEY** (If checked): Within _____ Days After Acceptance, Buyer shall be provided a phase one environmental survey report paid for and obtained by Buyer Seller. Buyer shall then, as specified in paragraph 17, remove this contingency or cancel this Agreement.

8. CONDOMINIUM/PLANNED UNIT DEVELOPMENT DISCLOSURES:

A. SELLER HAS: 7 (or _____) Days After Acceptance to disclose to Buyer whether the Property is a condominium, or located in a planned unit development or other common interest subdivision.

B. If Property is a condominium, or located in a planned unit development or other common interest subdivision, Seller has 3 (or _____) Days After Acceptance to request from the OA (C.A.R. Form HOA): (i) Copies of any documents required by Law; (ii) disclosure of any pending or anticipated claim or litigation by or against the OA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of OA minutes for regular and special meetings; and (v) the names and contact information of all OA's governing the Property. (Collectively, "CI Disclosures.") Seller shall itemize and deliver to Buyer all CI Disclosures received from the OA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 17.

9. **SUBSEQUENT DISCLOSURES:** In the event Seller, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer of which Buyer is otherwise unaware, Seller shall promptly provide a subsequent or amended disclosure or notice in writing, covering those items. However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies disclosed in reports ordered and paid for by Buyer.

10. CHANGES DURING ESCROW:

A. Prior to Close Of Escrow, Seller may only engage in the following acts, ("Proposed Changes"), subject to Buyer's rights in paragraph 17: (i) rent or lease any vacant unit or other part of the premises; (ii) alter, modify, or extend any existing rental or lease agreement; (iii) enter into, alter, modify or extend any service contract(s); or (iv) change the status of the condition of the Property.

B. At least 7 (or _____) Days prior to any Proposed Changes, Seller shall give written notice to Buyer of any Proposed Changes.

11. CONDITIONS AFFECTING PROPERTY:

A. Unless otherwise agreed: (i) the Property is sold (a) in its **PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's investigation rights;** (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debris and personal property not included in the sale shall be removed by Close Of Escrow.

B. SELLER SHALL, within the time specified in paragraph 17, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, AND MAKE OTHER DISCLOSURES REQUIRED BY LAW.

Buyer's Initials _____ ()
Seller's Initials _____ ()

Reviewed by _____ Date _____



Property Address: 311 FRET ST. WINTERS

Date: 4/10/09

C. **NOTE TO BUYER:** You are strongly advised to conduct investigations of the entire Property in order to determine its present condition since Seller may not be aware of all defects affecting the Property or other factors that you consider important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.

D. **NOTE TO SELLER:** Buyer has the right to inspect the Property and, as specified in paragraph 17, based upon information discovered in those inspections: (i) cancel this Agreement; or (ii) request that you make Repairs or take other action.

12. **ITEMS INCLUDED AND EXCLUDED:**

A. **NOTE TO BUYER AND SELLER:** Items listed as included or excluded in the MLS, flyers or marketing materials are not included in the purchase price or excluded from the sale unless specified in 12B or C.

B. **ITEMS INCLUDED IN SALE:**

- (1) All EXISTING fixtures and fittings that are attached to the Property;
- (2) Existing electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, private integrated telephone systems, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water softeners, water purifiers, security systems/alarms;
- (3) A complete inventory of all personal property of Seller currently used in the operation of the Property and included in the purchase price shall be delivered to Buyer within the time specified in paragraph 17.
- (4) Seller represents that all items included in the purchase price are, unless otherwise specified, owned by Seller. Within the time specified in paragraph 17, Seller shall give Buyer a list of fixtures not owned by Seller.
- (5) Seller shall deliver title to the personal property by Bill of Sale, free of all liens and encumbrances, and without warranty of condition.
- (6) As additional security for any note in favor of Seller for any part of the purchase price, Buyer shall execute a UCC-1 Financing Statement to be filed with the Secretary of State, covering the personal property included in the purchase, replacement thereof, and insurance proceeds.

C. **ITEMS EXCLUDED FROM SALE:**

13. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**

A. Buyer's acceptance of the condition of, and any other matter affecting the Property is a contingency of this Agreement, as specified in this paragraph and paragraph 17. Within the time specified in paragraph 17, Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to: (i) inspect for lead-based paint and other lead-based paint hazards; (ii) inspect for wood destroying pests and organisms; (iii) confirm the insurability of Buyer and the Property; and (iv) satisfy Buyer as to any matter of concern to Buyer. Without Seller's prior written consent, Buyer shall neither make nor cause to be made: (i) invasive or destructive Buyer investigations; or (ii) inspections by any governmental building or zoning inspector, or government employee, unless required by Law.

B. Buyer shall complete Buyer Investigations and, as specified in paragraph 17, remove the contingency or cancel this Agreement. Buyer shall give Seller, at no cost, complete Copies of all Buyer Investigation reports obtained by Buyer. Seller shall make Properly available for all Buyer Investigations. Seller shall have water, gas, electricity, and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.

14. **REPAIRS:** Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: (i) obtain receipts for Repairs performed by others; (ii) prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and (iii) provide Copies of receipts and statements to Buyer prior to final verification of condition.

15. **BUYER INDEMNITY AND SELLER PROTECTION FOR ENTRY UPON PROPERTY:** Buyer shall: (i) keep the Property free and clear of liens; (ii) Repair all damages arising from Buyer Investigations; and (iii) indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.

16. **TITLE AND VESTING:**

A. Within the time specified in paragraph 17, Buyer shall be provided a current preliminary (title) report, which is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the preliminary report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 17.

B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except: (i) monetary liens of record unless Buyer is assuming those obligations or taking the property subject to those obligations; and (ii) those matters which Seller has agreed to remove in writing.

C. Within the time specified in paragraph 17, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.

Buyer's Initials [Signature]
Seller's Initials _____

Reviewed by _____ Date _____



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- D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.
- E. Buyer shall receive a standard coverage owner's CLTA policy of title insurance. An ALTA policy or the addition of endorsements may provide greater coverage for Buyer. A title company, at Buyer's request, can provide information about the availability, desirability, coverage, and cost of various title insurance coverages and endorsements. If Buyer desires title coverage other than that required by this paragraph, Buyer shall instruct Escrow Holder in writing and pay any increase in cost.

17. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph must be in writing (C.A.R. Form RRCR).

A. **SELLER HAS: 7 (or _____) Days** After Acceptance to deliver to Buyer all reports, disclosures and information for which Seller is responsible under paragraphs 5, 6A and B, 8A, 11B, 12B (3) and (4) and 16.

- B. **BUYER HAS: 17 (or _____) Days** After Acceptance, unless otherwise agreed in writing, to:
- (1) complete all Buyer Investigations; approve all disclosures, reports and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property (including lead-based paint and lead-based paint hazards as well as other information specified in paragraph 6 and insurability of Buyer and the Property).
 - (2) Within the time specified in 17B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to Buyer's requests.
 - (3) By the end of the time specified in 17B(1) (or 2J for loan contingency or 2K for appraisal contingency), Buyer shall remove, in writing, the applicable contingency (C.A.R. Form RRCR) or cancel this Agreement. However, if the following inspections, reports or disclosures are not made within the time specified in 17A, then Buyer has 5 (or _____) Days after receipt of any such items, or the time specified in 17B(1), whichever is later, to remove the applicable contingency or cancel this Agreement in writing: (i) government-mandated inspections or reports required as a condition of closing; (ii) Common Interest Disclosures pursuant to paragraph 8B; (iii) a subsequent or amended disclosure pursuant to paragraph 9; (iv) Proposed Changes pursuant to paragraph 10B; and (v) environmental survey pursuant to paragraph 7.

C. **CONTINUATION OF CONTINGENCY OR CONTRACTUAL OBLIGATION; SELLER RIGHT TO CANCEL:**

- (1) **Seller right to Cancel: Buyer Contingencies:** Seller, after first giving Buyer a Notice to Buyer to Perform (as specified below), may cancel this Agreement in writing and authorize return of Buyer's deposit if, by the time specified in the Agreement, Buyer does not remove in writing the applicable contingency or cancel this Agreement. Once all contingencies have been removed, failure of either Buyer or Seller to close escrow in time may be a breach of this Agreement.
- (2) **Continuation of Contingency:** Even after the expiration of the time specified in 17B(1), Buyer retains the right to make requests to Seller, remove in writing the applicable contingency or cancel this Agreement until Seller cancels pursuant to 17C(1). Once Seller receives Buyer's written removal of all contingencies, Seller may not cancel this Agreement pursuant to 17C(1).
- (3) **Seller right to Cancel: Buyer Contract Obligations:** Seller, after first giving Buyer a Notice to Buyer to Perform (as specified below), may cancel this Agreement in writing and authorize return of Buyer's deposit for any of the following reasons: (i) if Buyer fails to deposit funds as required by 2A or 2B; (ii) if the funds deposited pursuant to 2A or 2B are not good when deposited; (iii) if Buyer fails to provide a letter as required by 2H; (iv) if Buyer fails to provide verification as required by 2I or 2M; or (v) if Seller reasonably disapproves of the verification provided by 2I or 2M. **Seller is not required to give Buyer a Notice to Perform regarding Close Of Escrow.**
- (4) **Notice To Buyer To Perform:** The Notice to Buyer to Perform (C.A.R. Form NBP) shall (i) be in writing; (ii) be signed by Seller and (iii) give Buyer at least 24 (or _____) hours (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A Notice to Buyer to Perform may not be given any earlier than 2 Days Prior to the expiration of the applicable time for Buyer to remove a contingency or cancel the Agreement or meet an 17C(3) obligation.

D. **EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in a separate written agreement between Buyer and Seller, Buyer shall conclusively be deemed to have: (i) completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility, and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for inability to obtain financing.

E. **EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, Buyer and Seller agree to Sign mutual instructions to cancel the sale and escrow and release deposits, less fees and costs, to the party entitled to the funds. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. **Release of funds will require mutual Signed release instructions from Buyer and Seller, judicial decision or arbitration award.**

Buyer's Initials [Signature] _____)
 Seller's Initials _____)

Reviewed by _____ Date _____



Property Address: 311 FIRST ST WINTER Date: 4/10/07

- 18. **FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final inspection of the Property within 5 (or _____) Days Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (I) the Property is maintained pursuant to paragraph 11A; (II) Repairs have been completed as agreed; and (III) Seller has complied with Seller's other obligations under this Agreement.
- 19. **ENVIRONMENTAL HAZARD CONSULTATION:** Buyer and Seller acknowledge: (I) Federal, state, and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances; (II) Broker(s) has/have made no representation concerning the applicability of any such Law to this transaction or to Buyer or to Seller, except as otherwise indicated in this Agreement; (III) Broker(s) has/have made no representation concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property; and (IV) Buyer and Seller are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property.
- 20. **AMERICANS WITH DISABILITIES ACT:** The Americans With Disabilities Act ("ADA") prohibits discrimination against individuals with disabilities. The ADA affects almost all commercial facilities and public accommodations. The ADA can require, among other things, that buildings be made readily accessible to the disabled. Different requirements apply to new construction, alterations to existing buildings, and removal of barriers in existing buildings. Compliance with the ADA may require significant costs. Monetary and injunctive remedies may be incurred if the Property is not in compliance. A real estate broker does not have the technical expertise to determine whether a building is in compliance with ADA requirements, or to advise a principal on those requirements. Buyer and Seller are advised to contact an attorney, contractor, architect, engineer or other qualified professional of Buyer's or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.
- 21. **LIQUIDATED DAMAGES:** If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. Buyer and Seller agree that this amount is a reasonable sum given that it is impractical or extremely difficult to establish the amount of damages that would actually be suffered by Seller in the event Buyer were to breach this Agreement. Release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award.

Buyer's Initials _____ / _____ Seller's Initials _____ / _____

22. **DISPUTE RESOLUTION:**

- A. **MEDIATION:** Buyer and Seller agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action. Paragraphs 22B(2) and (3) below apply whether or not the Arbitration provision is initiated. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.
- B. **ARBITRATION OF DISPUTES:** (1) Buyer and Seller agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration, including and subject to paragraphs 22B(2) and (3) below. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of real estate transactional Law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. The parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part III of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Interpretation of this agreement to arbitrate shall be governed by the Federal Arbitration Act. (2) **EXCLUSIONS FROM MEDIATION AND ARBITRATION:** The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; and (iv) any matter that is within the jurisdiction of a probate, small claims, or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the mediation and arbitration provisions. (3) **BROKERS:** Buyer and Seller agree to mediate and arbitrate disputes or claims involving either or both Brokers, consistent with 22A and B, provided either or both Brokers shall have agreed to such mediation or arbitration prior to, or within a reasonable time after, the dispute or claim is presented to Brokers. Any election by either or both Brokers to participate in mediation or arbitration shall not result in Brokers being deemed parties to the Agreement.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials [Signature] Seller's Initials _____ / _____

Buyer's Initials [Signature]
Seller's Initials _____ / _____

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Date: 4/10/09

- 23. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interests in this Agreement without first having obtained the written consent of Seller. Such consent shall not be unreasonably withheld, unless otherwise agreed in writing. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement.
- 24. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon, and inure to the benefit of, Buyer and Seller and their respective successors and assigns, except as otherwise provided herein.
- 25. **COPIES:** Seller and Buyer each represent that Copies of all reports, documents, certificates, approvals and other documents that are furnished to the other are true, correct and unaltered Copies of the original documents, if the originals are in the possession of the furnishing party.
- 26. **NOTICES:** Whenever notice is given under this Agreement, each notice shall be in writing, and shall be delivered personally, by facsimile, or by mail, postage prepaid. Notice shall be delivered to the address set forth below the recipient's signature of acceptance. Either party may change its notice address by providing notice to the other party.
- 27. **AUTHORITY:** Any person or persons signing this Agreement represent(s) that such person has full power and authority to bind that person's principal, and that the designated Buyer and Seller has full authority to enter into and perform this Agreement. Entering into this Agreement, and the completion of the obligations pursuant to this contract, does not violate any Articles of Incorporation, Articles of Organization, ByLaws, Operating Agreement, Partnership Agreement or other document governing the activity of either Buyer or Seller.
- 28. **GOVERNING LAW:** This Agreement shall be governed by the Laws of the state of California.
- 29. **PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: (I) for periods after Close Of Escrow, by Buyer; and (II) for periods prior to Close Of Escrow, by Seller. TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
- 30. **WITHHOLDING TAXES:** Seller and Buyer agree to execute any instrument, affidavit, statement or instruction reasonably necessary to comply with federal (FIRPTA) and California withholding Law, if required (C.A.R. Form AS).
- 31. **MULTIPLE LISTING SERVICE/PROPERTY DATA SYSTEM:** If Broker is a participant of a Multiple Listing Service ("MLS") or Property Data System ("PDS"), Broker is authorized to report to the MLS or PDS a pending sale and, upon Close Of Escrow, the terms of this transaction to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS or PDS.
- 32. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
- 33. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 22A.
- 34. **SELECTION OF SERVICE PROVIDERS:** If Brokers refer Buyer or Seller to persons, vendors, or service or product providers ("Providers"), Brokers do not guarantee the performance of any Providers. Buyer and Seller may select ANY Providers of their own choosing.
- 35. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the parties are incorporated in this Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. **Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.**

36. **OTHER TERMS AND CONDITIONS,** including attached supplements:

- A. Buyer Inspection Advisory (C.A.R. Form BIA)
- B. Seller Financing Addendum and Disclosure (C.A.R. Form SFA)
- C. Purchase Agreement Addendum (C.A.R. Form PAA paragraph numbers: _____)
- D. Buyer Intent To Exchange Supplement (C.A.R. Form BES)
- E. Seller Intent to Exchange Supplement (C.A.R. Form SES)
- F. SALE IS SUBJECT TO THE CDA'S APPROVAL, AND ADOPTION OF A RESOLUTION OF NECESSITY - SCHEDULED FOR 4/21/09, AND CITY INSPECTION OF PROPERTY.

Buyer's Initials: [Signature]
 Seller's Initials: _____

Reviewed by _____ Date _____



Property Address: 311 FIRST STREET, WINNERS Date: 4/10/08

37. DEFINITIONS: As used in this Agreement:

- A. "Acceptance" means the time the offer or final counter offer is accepted in writing by a party and is delivered to and personally received by the other party or that party's authorized agent in accordance with this offer or a final counter offer.
- B. "Agreement" means the terms and conditions of this accepted Commercial Property Purchase Agreement and any accepted counter offers and addenda.
- C. "C.A.R. Form" means the specific form referenced, or another comparable form agreed to by the parties.
- D. "Close Of Escrow" means the date the grant deed, or other evidence of transfer of title, is recorded. If the scheduled close of escrow falls on a Saturday, Sunday or legal holiday, then close of escrow shall be the next business day after the scheduled close of escrow date.
- E. "Copy" means copy by any means including photocopy, NCR, facsimile and electronic.
- F. "Days" means calendar days, unless otherwise required by Law.
- G. "Days After" means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59PM on the final day.
- H. "Days Prior" means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
- I. "Electronic Copy" or "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either one to modify or alter the content or integrity of the Agreement without the knowledge and consent of the other.
- J. "Law" means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
- K. "Notice to Buyer to Perform" means a document (C.A.R. Form NBP), which shall be in writing and Signed by Seller and shall give Buyer at least 24 hours (or as otherwise specified in paragraph 17C(4)) to remove a contingency or perform as applicable.
- L. "Repairs" means any repairs (including pest control), alterations, replacements, modifications and retrofitting of the Property provided for under this Agreement.
- M. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.
- N. Singular and Plural terms each include the other, when appropriate.

38. BROKERAGE: Neither Buyer nor Seller has utilized the services of, or for any other reason owes compensation to, a licensed real estate broker (individual or corporate), agent, finder, or other entity, other than as specified in this Agreement, in connection with any act relating to the Property, including, but not limited to, inquiries, introductions, consultations and negotiations leading to this Agreement. Buyer and Seller each agree to indemnify, defend, and hold the other, the Brokers specified herein and their agents, harmless from and against any costs, expenses or liability for compensation claimed inconsistent with the warranty and representations in this paragraph.

39. AGENCY:

A. POTENTIALLY COMPETING BUYERS AND SELLERS: Buyer and Seller each acknowledge receipt of a disclosure of the possibility of multiple representation by the Broker representing that principal. This disclosure may be part of a listing agreement, buyer-broker agreement or separate document (C.A.R. Form DA). Buyer understands that Broker representing Buyer may also represent other potential buyers, who may consider, make offers on or ultimately acquire the Property. Seller understands that Broker representing Seller may also represent other sellers with competing properties of interest to this Buyer.

*No Broker
NA*

B. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction:
Listing Agent _____ (Print Firm Name) is the agent of (check one): the Seller exclusively; or both the Buyer and Seller.
Selling Agent _____ (Print Firm Name) (if not same as Listing Agent) is the agent of (check one): the Buyer exclusively; or the Seller exclusively; or both the Buyer and Seller.
Real Estate Brokers are not parties to the Agreement between Buyer and Seller.

40. JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:

A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: 1, 2, 4, 5, 16, 17E, 29, 30, 35 36B-F, 37, 40, 42, 45A, 46 and paragraph D of the section titled Real Estate Broker on page 10. If a Copy of the separate compensation agreement(s) provided for in paragraph 42 or 45A, or paragraph D of the section titled Real Estate Broker on page 10 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions directly from Escrow Holder and will execute such provisions upon Escrow Holder's request. To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow.

Buyer's Initials (_____) (_____)
Seller's Initials (_____) (_____)

Reviewed by _____ Date _____



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- B. A Copy of this Agreement shall be delivered to Escrow Holder within 3 business days after Acceptance (or _____). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement.
- C. Brokers are a party to the Escrow for the sole purpose of compensation pursuant to paragraphs 42, 45A and paragraph D of the section titled Real Estate Broker on page 10. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraphs 42 and 45A, respectively, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow, or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Escrow Holder shall immediately notify Brokers: (i) if Buyer's initial or any additional deposit is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if Buyer and Seller instruct Escrow Holder to cancel escrow.
- D. A Copy of any amendment that affects any paragraph for which Escrow Holder is responsible shall be delivered to Escrow Holder within 2 business days after mutual execution of the amendment.

N/A

41. **SCOPE OF BROKER DUTY:** Buyer and Seller acknowledge and agree that: Brokers: (i) do not decide what price Buyer should pay or Seller should accept; (ii) do not guarantee the condition of the Property (iii) do not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) shall not be responsible for identifying defects that are not known to Broker(s); (v) shall not be responsible for inspecting public records or permits concerning the title or use of the Property; (vi) shall not be responsible for identifying location of boundary lines or other items affecting title; (vii) shall not be responsible for verifying square footage, representations of others or information contained in inspection reports, MLS or PDS, advertisements, flyers or other promotional material, unless otherwise agreed in writing; (viii) shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller in the course of this representation; and (ix) shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.

N/A

42. **BROKER COMPENSATION FROM BUYER:** If applicable, upon Close Of Escrow, Buyer agrees to pay compensation to Broker as specified in a separate written agreement between Buyer and Broker.

N/A

43. **TERMS AND CONDITIONS OF OFFER:**
 This is an offer to purchase the Property on the above terms and conditions. All paragraphs with spaces for initials by Buyer and Seller are incorporated in this Agreement only if Initiated by all parties. If at least one but not all parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. Buyer has read and acknowledges receipt of a Copy of the offer and agrees to the above confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.

44. **EXPIRATION OF OFFER:** This offer shall be deemed revoked and the deposit shall be returned, unless the offer is Signed by Seller, and a Copy of the Signed offer is personally received by Buyer, or by _____, who is authorized to receive it by 5:00 PM on the third calendar day after this offer is signed by Buyer (OR, if checked by 4/11/09 (date), at 6 AM/PM).

Buyer: WINTER COMMUNITY DEVELOPMENT AGENCY
 By: [Signature] Date: 4/10/09
 Name Printed: JOHN W. DONLEVY, JR. - EXECUTIVE OFFICER
 Address: 311 FIRST ST City: WINTER State: CA Zip: 95684
 Telephone: 791-4910 Fax: _____ E-mail: _____

Buyer _____
 By _____ Date _____
 Name Printed _____
 Address _____ City _____ State _____ Zip _____
 Telephone _____ Fax _____ E-mail _____
 Notice Address, if Different _____

Buyer's Initials [Signature]
 Seller's Initials _____

Reviewed by _____ Date _____



Property Address: 311 First St WINTER Date: 4/10/09

45. BROKER COMPENSATION FROM SELLER:

A. Upon Close Of Escrow, Seller agrees to pay compensation to Broker as specified in a separate written agreement between Seller and Broker.
B. If escrow does not close, compensation is payable as specified in that separate written agreement.

46. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer, agrees to sell the Property on the above terms and conditions, and agrees to the above confirmation of agency relationships. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to deliver a Signed Copy to Buyer.

(If checked) **SUBJECT TO ATTACHED COUNTER OFFER, DATED** _____

Seller _____

By _____ Date _____

Name Printed _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

Seller _____

By _____ Date _____

Name Printed _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

Notice Address, if Different _____

(____/____/____) **Confirmation of Acceptance:** A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) _____ at _____ AM/PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.

REAL ESTATE BROKERS:

- A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.
- B. Agency relationships are confirmed as stated in paragraph 39 above.
- C. If specified in paragraph 2A, Agent who submitted offer for Buyer acknowledges receipt of deposit.
- D. **COOPERATING BROKER COMPENSATION:** Listing Broker agrees to pay Cooperating Broker (Selling Firm) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow: (I) the amount specified in the MLS or PDS, provided Cooperating Broker is a Participant of the MLS or PDS in which the property is offered for sale or a reciprocal MLS or PDS; or (II) (If checked) the amount specified in a separate written agreement (C.A.R. Form CBC) between Listing Broker and Cooperating Broker.

Real Estate Broker (Selling Firm) _____

By _____ Date _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

Real Estate Broker (Listing Firm) _____

By _____ Date _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (If checked, a deposit in the amount of \$ _____), counter offer numbers _____ and _____

_____, and agrees to act as Escrow Holder subject to paragraph 40 of this Agreement, any supplemental escrow Instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is _____

Escrow Holder _____ Escrow # _____

By _____ Date _____

Address _____

Phone/Fax/E-mail _____

Escrow Holder is licensed by the California Department of Corporations, Insurance, Real Estate. License # _____

THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.

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April 3, 2008

William L. Portello, Jr. and Mary Alison Portello
Trustees of the Portello Family Trust Est. 12/21/00
C/O Mr. Les Portello
2721 Anza Avenue
Davis, Ca 95616

RE: OFFER TO PURCHASE PROPERTY AT 311 FIRST STREET WINTERS, CALIFORNIA

Dear Mr. Portello:

The purpose of this letter is to determine your interest in selling the property located at 311 First Street in Winters, California, Assessor's Parcel No. 003-204-02-1 (the "Property") subject to the terms set forth below. I understand that this property is owned by the Portello Family Trust, of which you are Trustee. The Community Development Agency of the City of Winters ("CDA") desires to acquire this property.

As you know, we have been communicating with you regarding the purchase of this property since 2005 and have contracted two separate appraisals of the Property. The first appraisal, dated June 14, 2005, was prepared by Ferguson & Associates, Inc, Certified Real Estate Appraisers. This Appraisal Report valued the Property, including the building located on the Property, at Four Hundred and Twenty-Eight-Thousand dollars (\$428,000). A copy of this Appraisal Report has previously been provided to you. The second appraisal was prepared by Bartholomew Associates. This Appraisal Report, dated October 30, 2006, valued the Property at Three-Hundred-Forty-Thousand dollars (\$340,000). A copy of this Appraisal Report was also provided to you.

On June 10, July 11, July 21, and October 19, 2005, the CDA sent letters to you offering to purchase the Property for up to \$450,000. This letter supersedes all prior offers (written or verbal), including the letters reference above.

CDA Proposed Terms of Sale

1. The CDA will pay Four-Hundred-Fifty-Five Thousand dollars (\$455,000) for the Property ("Purchase Price");
2. The building located on the Property is to remain on the Property;
3. The CDA will pay up to \$10,000 of escrow closing costs;
4. The CDA will consider either an installation sale or an exchange sale;
5. The CDA will, as part of its plan to develop the property, will use its best efforts to preserve the two orange trees on the Property.

Enclosed are two originals of this letter. If you agree with these terms, please have the owner trustees sign and return both originals to me no later than 5:00 p.m. on Monday April 14, 2008. Upon full execution of the offer letter we will have a purchase and sale agreement and an option agreement drafted in accordance with these terms for your final approval.

A lack of response to this Purchase Offer, in writing, by the date and time identified, will be considered a rejection of this offer. Should this occur, the offer will be withdrawn and the CDA will pursue the acquisition of other property sites identified.

Please call me at (530) 795-4910 x 105 if you should have any questions.

Sincerely,

John W. Donlevy Jr., City Manager

AGREED:

I agree to see the Property for \$455,000 and accept the terms outlined in the City of Winters Community Development Agency's written offer to purchase dated April 7, 2008.

William L. Portello, Jr. and Mary Alison Portello
Trustees of the Portello Family Trust Established December 21, 2000

Trustee Date

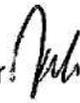
Trustee Date

City of Winters Community Development Department

Mike Martin, Chairman Date
City of Winters



**COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT**

TO: Chairman and Members of the Board of Directors
DATE: April 21, 2009
FROM: John W. Donlevy, Jr., Executive Director 
SUBJECT: Property Acquisition- East Grant Avenue Assessor Parcels 003-370-028, 003-370-029 and 003-370-030

RECOMMENDATION:

That the Community Development Agency Board of Directors:

1. Receive a Staff Report on the recommended purchase of the properties located on Grant Ave.
2. Conduct a Public Hearing regarding the acquisition of Assessor Parcels 003-370-028, 003-370-029 and 003-370-030
3. Approve the Summary Report and findings regarding the property acquisition pursuant to Section 33433 of the Health and Safety Code.
4. Approve the Purchase and Sale Agreement.
5. Authorized the Executive Director to execute said agreements and purchase the properties.

BACKGROUND:

Since 2006, the Community Development Agency, in conjunction with Granite Bay Holdings have pursued the development of the Grant Ave. Commercial Site commonly referred to as the Retail Center at East and Grant. The project was approved by the Planning Commission in 2007 and consisted of approximately 4.522 acres, a subdivision of 5 parcels and 9 separate buildings in the project. This was a mixed use project including food, office and retail.

With the current state of the economy, the property went into default and the beneficiary of the deed, Exchange Bank, foreclosed on the property.

At the March 23, 2009 special Executive Session of the CDA, Staff was given negotiation authority and direction on the purchase of the land. Agency staff began a preliminary negotiation with Exchange Bank, prior to a scheduled auction sale which had been scheduled for March 25, 2009 and reached a tentative price of \$650,000 for

the property. As is required, the property then proceeded to a scheduled foreclosure auction on April 1, 2009, where the property was returned to Exchange Bank.

DISCUSSION:

Following the auction, Agency staff has negotiated a purchase and sale agreement which is attached. Generally it provides as follows:

- \$650,000 sales price for all three parcels.
- \$32,000 to cover past taxes. The Agency will receive a majority of these funds back in the form of tax increment. A total of approximately \$64,000 in past taxes are due, which will be returned to the Agency.
- \$10,000 toward closing costs.

The total costs for the land purchase is approximately \$692,000 with a net cost of approximately \$628,000.

The site was originally purchased in 2005 for \$1.5 million. Prior to entering the negotiation regarding the purchase, Staff consulted with two local appraisers who estimated the current value at \$1 million. A recent appraisal of a 4 acre parcel at E. Main St. and Grant Ave appraised at \$1.5 million in 2008.

In order to proceed with the purchase, the Agency will need to:

- Conduct a Public Hearing regarding the purchase summary report which has been prepared in conformance with Health and Safety Code Section 33433.
- Approve the purchase and sale agreement between the Agency and Exchange Bank; and
- Authorize Staff to execute the necessary agreements and close the purchase.

This purchase aids the Agency in many ways. The City of Winters controls the property to the west of this site, provides a developable property to market to potential businesses looking to expand or re-locate to Winters and will allow for a solid return on investment once the property is sold. The Agency currently has interest from potential companies in the financial, health care and lodging industries.

FISCAL IMPACT:

The total costs for the land purchase is approximately \$692,000 with a net cost of approximately \$628,000.

ATTACHMENTS:

Summary Report on Property Purchase- H&S Code 33433
Purchase and Sale Agreement

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Winters Community Development Agency, 318 First Street (Council Chambers), Winters, California, on April 21, 2009, at 7:30 p.m. Purpose of the public hearing is to consider acquisition of the real property located at East Grant Avenue, APNs 003-370-028, 003-370-029, and 003-370-030, Winters, California.

The Summary Report of the acquisition, pursuant to California Redevelopment law Section 33433, is as follows:

SUMMARY REPORT FOR PROPOSED PURCHASE OF REAL PROPERTY Premises: East Grant Avenue, Winters, California

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 of Winters Community Development Agency ("Agency") has set on or after 7:30 p.m. on Tuesday, April 21, 2009 in the Council Chambers in the City Hall of the City of Winters, 318 First Street, Winters, California, as the time, date and place for a public hearing to hear testimony with reference to a proposed purchase of real property ("Purchase") between the Agency (as Buyer) and Exchange Bank ("Seller"). The real property is specifically described as the South Side of the 100 block of East Grant Avenue, Parcels 2, 3 and 4 AS SHOWN UPON THAT CERTAIN MAP NO. 4164 FOR RICHARD A. AND SUZANNE M. CORDES, FILED FEBRUARY 28, 1994 IN BOOK 11 OF PARCEL MAPS, PAGE 30, YOLO COUNTY RECORDS, Yolo County Assessor's Parcel Numbers 003-370-028, 003-370-029, and 003-370-030. At the close of said public hearing, the Agency may take action to approve, disapprove, or approve a modified version of the Purchase.

I. COPY OF THE PROPOSED PURCHASE AGREEMENT

Copies of the proposed Purchase Agreement are on file with the Winters City Clerk, 318 First Street (City Hall), Winters, California and are incorporated herein by reference.

II. COST OF THE AGREEMENT TO AGENCY

1. PURCHASE PRICE

The Premises consist of vacant land zoned for commercial use, within the Redevelopment area. The Agency will incur the following costs under the Purchase Agreement:

- a. Purchase Price of \$650,000.00.

- b. Escrow Fees: The agreement provides for the Agency to share the usual title and escrow fees, estimated at \$2,000.
- c. Condition.: The Property is to be purchased in its current condition, subject only to the Agency's approval as to title. The property is vacant land.
- d. Administrative Costs: The Agency has incurred administrative costs associated with the Purchase, including staff time and legal costs for the negotiation and preparation of the Agreement and other related documents. The Agency will incur ongoing and administrative and staff costs related to the Agency's finalizing the purchase.

III. ESTIMATED VALUE OF INTEREST TO BE PURCHASED, DETERMINED AT THE HIGHEST AND BEST USES PERMITTED UNDER THE DEVELOPMENT PLAN

The real property was purchased several years ago for approximately \$1.5 million dollars. The property recently went into foreclosure, with approximately \$1 million owed on a first deed of trust. In addition about \$60,000 is owed in back taxes. Agency staff obtained an informal estimate of value through discussions with its past two appraisers. The lack of a formal appraisal was due to the shortness of time of the foreclosure sale. The highest bid received at the foreclosure was \$501,000 from an interested purchaser. The Sale went to the beneficiary, Exchange Bank. An oral agreement with the Agency was made at a purchase price of \$650,000, and a draft Purchase Agreement has been submitted by Exchange Bank at that figure. The Agreement is subject to formal Agency approval. Both informal discussions with the appraisers indicate the figure a fair one for acquisition by the Agency. Agency staff, therefore, considers this acquisition to be appropriate at the price negotiated, and not excessive.

IV. COVENANTS AND COSTS REQUIRED BY THE AGREEMENT;

Other than purchase price and title and escrow fees, there are no costs or covenants involved.

V. REASONS FOR THE PURCHASE PRICE

The Agency has determined that the overall consideration to be paid by The Seller is a fair price for the property in light of the above, and the following benefits to the Redevelopment Project area and the City of Winters:

- (a) furthers the Agency's goals to aid economic development in the Redevelopment area, and to increase the City's commercial 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 development of a currently vacant commercial space located in a prime area on east Grant Avenue;
- (f) provides for the ability to promote a larger commercial development in the community;
- (g) Insures that commercial development on Grant Avenue will not harm the viability of 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) helps the Agency accomplish these goals with no displacement or relocation of existing commercial businesses within the Project Area.

The Purchase and the total consideration to be paid by the Agency is justified given these benefits that will inure to the Project Area and the City of Winters.

VI. EXPLANATION OF WHY THE PURCHASE 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, on file with the Winters City Clerk. The Premises consists of vacant Land near the historic downtown 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 completion of the Purchase will allow the expansion of existing businesses to a larger area, and ensure that the downtown commercial spaces and uses will not be harmed by the development of this property.

VII. CONSISTENCY OF THE PURCHASE WITH THE IMPLEMENTATION PLAN

The PURCHASE will help implement and is 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 (Coupling the property with a larger parcel) 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 and iii) provide the necessary assistance to retain local employment opportunities, primarily through the renovation of vacant or underutilized land. 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 Purchase will result in the possible expansion of an existing retail business, and start of new commercial development, 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 Purchase will assist in the construction and occupancy of undeveloped commercial space near the community's historic 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.

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.

All citizens are invited to attend the hearing or, in lieu of attendance, may present written input to the Winters City Clerk, 318 First Street, Winters, California by 5 p.m. on April 21, 2009.

Dated: April 14, 2009

John C. Wallace, Counsel,
Winters Community Development Agency

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

This Agreement for Purchase and Sale of Real Property (the "Agreement") is made and entered into as of _____, 2009, by and between Winters Community Development Agency, a public body, corporate and politic ("Buyer"), and Exchange Bank, a California banking corporation ("Seller"). The Buyer and Seller shall hereinafter be referred to collectively as the "Parties."

RECITALS

- A. Seller is the owner of certain parcels of unimproved real property, located in the city of Winters, Yolo County, California, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (and together with all rights, amenities, fixtures, chattels, any mineral rights, easements, improvements thereon and appurtenances belonging thereto, hereinafter collectively referred to as the "Property").
- B. Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Property for the consideration and on the terms set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, Seller and Buyer do hereby covenant and agree as follows:

AGREEMENT

1. Agreement to Sell and Purchase. Seller hereby agrees to sell to Buyer and Buyer hereby agrees to purchase from Seller, upon the terms and conditions hereinafter set forth, the Property.
2. Purchase Price. The purchase price for the Property shall be Six Hundred Fifty Thousand Dollars (\$650,000.00) (the "Purchase Price") and shall payable on or before May 1, 2009, or such other date as the parties may mutually agree in writing (the "Closing Date") as follows:
 - (a) Buyer shall deliver to Escrow Holder (as that term is defined in Paragraph 4 below), in cash or other immediately available funds, the amount of One Thousand Dollars (\$ 1,000.00) to be applied towards the Purchase Price, by the end of the second (2nd) business day following the date of mutual execution of this Agreement (the aforesaid amount together with all interest earned thereon as hereinafter provided for, collectively referred to herein as the "Deposit"). The aforesaid funds shall be promptly deposited by Escrow Holder into an interest bearing account and shall be disbursed by Escrow Holder in accordance with the terms and provisions of this Agreement; and
 - (b) The balance of the Purchase Price shall be payable on the Closing Date in cash or other immediately available funds.

3. "As is" Sale. Buyer acknowledges and agrees the sale and purchase of the Property hereunder is made on as "AS IS" and "WITH ALL FAULTS" basis, with all patent and latent defects, as further described in Paragraphs 6.1 and 6.3 below, without any recourse of any kind to Seller, without representation or warranty, whether express or implied, by Seller except with regard to Seller's representations and warranties set forth below, and acknowledges that no representations are made by, or responsibilities assumed by, Seller as to the condition of the Property.

4. Escrow. An escrow shall be opened to consummate the transaction contemplated by this Agreement at the offices of _____, Placer Title Company, located at Davis, California, or such other company mutually acceptable to Buyer and Seller (the "Escrow Holder"). Said Escrow Holder shall also provide title insurance.

5. Title.

5.1 General. Title to the Property shall be conveyed by a grant deed (the "Grant Deed") from Seller to Buyer in the form of **Exhibit B** attached hereto, transferring title to the Property to Buyer, and shall be evidenced by a standard form Owner's Policy of Title Insurance (the "Title Policy") issued by the Escrow Holder with liability in the full amount of the Purchase Price, insuring that fee title to the Property is vested in Buyer, free and clear of all encumbrances and other matters affecting title, including, but not limited to, the lien related to the loan(s) made by Seller with respect to the Property, except for the following exceptions (the "Permitted Exceptions"):

(a) Property, general and special taxes and other assessments not yet delinquent;

(b) The lien of supplemental taxes assessed pursuant to the California Revenue and Taxation Code that relate to periods after the close of escrow;

(c) Those non-monetary matters of record affecting title to the Property that are disclosed in the PTR (as defined below);

(d) All matters that would be disclosed by Buyer's Review of the Property pursuant to the provisions of Paragraph 6.1 below;

(e) The printed exceptions contained in the Title Policy, excluding delinquent real property taxes, other unpaid taxes; and

(f) Matters arising as a result of Buyer's acts.

5.2 Procedure for Approval of Title. Upon the opening of escrow, Escrow Holder shall order from Title Company, for immediate delivery to Buyer and at Buyer's expense, a preliminary title report (the "PTR") on the Property, and legible copies of all underlying documents referred to therein. All matters affecting title to, or use of, the Property as disclosed in the PTR shall be subject to Buyer's approval or disapproval, in its sole discretion, on or before the Review Date (as defined in Paragraph 6.3 below). If Buyer fails to disapprove any of said

matters by written notice given to Seller on or before the Review Date, the condition of title to the Property shall be deemed approved by Buyer. If Buyer disapproves any particular matter affecting title to the Property, Seller may, at Seller's discretion, agree to eliminate such disapproved matter prior to closing. If Seller agrees to eliminate such disapproved matter prior to closing, Seller shall give written notice thereof to Buyer ("Seller's Removal Notice") within five (5) days following receipt of Buyer's notice of disapproval. If, after providing Seller's Removal Notice, Seller eliminates such disapproved title matter prior to closing, the condition of title to the Property shall be deemed approved by Buyer. If, after providing Seller's Removal Notice, Seller fails to eliminate such disapproved title matter prior to closing, then (i) this Agreement and the escrow shall thereupon be terminated, (ii) Escrow Holder shall immediately return the Deposit and any interest earned thereon to Buyer, and (iii) except as otherwise specifically provided in this Agreement, the parties shall be relieved of any further obligation to each other with respect to the subject matter of this Agreement. If Seller is unable or unwilling to eliminate such disapproved matter prior to closing, Seller shall give written notice thereof to Buyer ("Seller's Non-Removal Notice") within five (5) days following receipt of Buyer's notice of disapproval, and Buyer shall have the right, within two (2) days after receipt of Seller's Non-Removal Notice, or within two (2) days after the lapse of the initial five (5) day period if no notice is given by Seller, to waive its prior disapproval, in which event such previously disapproved matter shall be deemed approved. If Buyer fails to waive its prior disapproval, then (i) such disapproval shall remain in effect, (ii) this Agreement and the escrow shall thereupon be terminated, (iii) Escrow Holder shall immediately return the Deposit and any interest earned thereon to Buyer, and (iv) except as otherwise specifically provided in this Agreement, the parties shall be relieved of any further obligation to each other with respect to the subject matter of this Agreement. Both parties agree to execute promptly those documents requested by Escrow Holder to evidence termination of this Agreement. If Seller does not provide Seller's Removal Notice or Seller's Non-Removal Notice within five (5) days following receipt of Buyer's notice of disapproval, Seller shall be deemed to be unable or unwilling to eliminate such disapproved matter prior to closing, and, unless such disapproval is waived by Buyer as described above, (i) this Agreement and the escrow shall thereupon be terminated, (ii) Escrow Holder shall immediately return the Deposit and any interest earned thereon to Buyer, and (iii) except as otherwise specifically provided in this Agreement, the parties shall be relieved of any further obligation to each other with respect to the subject matter of this Agreement.

6. Inspection and Review.

6.1 Review. Buyer has commenced, and upon execution of this Agreement shall continue, at its cost and expense, its own investigation of the Property and its suitability for Buyer's purposes. Such investigation may include, without limitation, studies of the economic feasibility of Buyer's use of the Property, zoning and other use restrictions, and other matters affecting Buyer's intended use of the Property, including without limitation pest, soil, seismic and geological conditions, the presence of hazardous materials, the nature, size and condition of all improvements on the Property, access, sewer and utility connections, anticipated building, improvement, remodeling and repair costs, governmental requirements for dedications, documentation and fees, potential condemnation, current and future assessment districts for provision of services, and any other investigations Buyer may deem necessary or appropriate

under the circumstances, to determine whether the Property can be improved, repaired, remodeled, financed, and maintained in a manner acceptable to Buyer, in Buyer's sole discretion.

To assist in such investigation and review by Buyer, Seller shall deliver to Buyer photocopies of all documents and materials in Seller's possession or control regarding the Property, other than loan documents related to the loan(s) made by Seller with respect to the Property, documents relating to Seller's enforcement of such loan(s), and documents protected by attorney-client privilege. Furthermore, Seller hereby agrees and consents to cooperate with Buyer regarding contacts with government officials with respect to the Property.

Buyer acknowledges that various components of the improvements on the Property may need major maintenance, repair or replacement, that Buyer has had and will have the opportunity to study and investigate all aspects of the Property as fully as Buyer desires. Buyer agrees that if all of the contingencies precedent have been satisfied, the Property is to be purchased and accepted by Buyer in its present condition, "as is", "where is", "with all faults", and with all patent or latent defects. Buyer acknowledges that neither Seller nor any of Seller's employees, agents or representatives have made any representations, warranties, or agreements by or on behalf of Seller not contained in this Agreement as to the present use or condition of the Property, the suitability of the Property for Buyer's intended use, or any other matter concerning the Property and that Buyer is not relying on Seller except as set forth in this Agreement. This disclaimer applies without limitation to topography, earthquake potential, climate, air, water, water rights, utilities, undesirable neighborhood elements, present and future zoning, rent control, building and housing codes, unreinforced masonry, building ordinances, soil, subsoil, wetlands, archaeological, biotic, the physical characteristics and condition of the Property, the existence or condition of any fill, excavation, or presence of asbestos, PCBs, radon gas, lead-based paint or plumbing, hydrocarbon substances, or urea-formaldehyde-based insulation, and environmental land use laws and regulations to which the Property may be subject. All such studies, investigations and reviews by Buyer and the results thereof, are hereinafter collectively referred to as the "Review."

6.2 License to Enter. Seller hereby grants to Buyer and its representatives a non-exclusive license to enter onto the Property during the term of this Agreement to conduct, at Buyer's expense, the Review. Buyer shall give Seller prior reasonable notice of Buyer's intended entry upon the Property. Buyer agrees to indemnify, save and hold harmless Seller from any loss, cost, damage, action or expense arising out of the entry by Buyer, or any agent, subcontractor or employee of Buyer, onto the Property. In the event escrow does not close and this Agreement is terminated, Buyer shall restore the Property, at Buyer's sole cost and expense, to its original condition if damaged or changed due to the tests and inspections performed by or on behalf of Buyer. All results of the Review shall be held as confidential by Buyer and its representatives, and not disclosed to any other person except as may be required by law.

6.3 Approval of Review. The Review shall be subject to Buyer's approval or disapproval, in Buyer's sole and absolute discretion, on or before April 24, 2009 (the "Review Date"). Unless Buyer shall give written notice of its disapproval of the Review to Seller and Escrow Holder on or before the Review Date, the Deposit shall become subject to the liquidated damages provisions of Paragraph 13. In the event Buyer gives written notice of disapproval to

Seller and Escrow Holder on or before the Review Date, then (a) the Deposit, and any interest earned thereon, shall be immediately returned to Buyer, (b) this Agreement shall be deemed terminated and the escrow canceled, and (c) except as otherwise specifically provided in this Agreement, the parties shall be relieved of any further obligations to each other with respect to the purchase and sale of the Property. Both parties shall execute promptly those documents requested by Escrow Holder to evidence termination of this Agreement in the event of the termination because of Buyer's disapproval of the Review.

Subject only to the approval or waiver of the contingencies of Buyer's Review, as provided for in this Paragraph 6.3, and as a material inducement to Seller's execution and delivery of this Agreement and the performance of its duties under this Agreement:

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, BUYER HAS AGREED TO ACCEPT POSSESSION OF THE PROPERTY ON THE CLOSING DATE ON AN "AS IS" BASIS. SELLER AND BUYER AGREE THAT THE PROPERTY SHALL BE SOLD "AS IS, WHERE IS, WITH ALL FAULTS" WITH NO RIGHT OF SETOFF OR REDUCTION IN THE PURCHASE PRICE, AND, EXCEPT AS SET FORTH IN PARAGRAPH 9 OF THIS AGREEMENT, SUCH SALE SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, WARRANTY OF INCOME POTENTIAL, OPERATING EXPENSES, USES, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE), AND SELLER DISCLAIMS AND RENOUNCES ANY SUCH REPRESENTATIONS OR WARRANTY. BUYER'S DECISION TO PURCHASE THE PROPERTY IS BASED ENTIRELY UPON BUYER'S OWN EXAMINATION OF THE PROPERTY AND THE INFORMATION AND MATERIAL SUPPLIED TO BUYER BY BUYER'S INDEPENDENTLY RETAINED EXPERTS ASSISTING BUYER DURING THE DUE DILIGENCE EXAMINATION.

Effective from and after the closing hereunder, Buyer hereby waives, releases, acquits, and forever discharges Seller, and Seller's agents, directors, officers and employees, to the maximum extent permitted by law, of and from any and all claims, actions, causes of action, demands, rights, liabilities, damages, losses, costs, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, that it now has or that may arise in the future because of or in any way growing out of or connected with this Agreement and the Property, including, without limitation, the condition of the Property, except matters arising from Seller's fraud or intentional misrepresentation.

BUYER EXPRESSLY WAIVES ITS RIGHTS GRANTED UNDER CALIFORNIA CIVIL CODE SECTION 1542 AND ANY OTHER PROVISION OF LAW THAT PROVIDES A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT BUYER DOES NOT KNOW OR SUSPECT TO EXIST IN ITS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY IT MUST HAVE MATERIALLY AFFECTED ITS AGREEMENT TO RELEASE SELLER.

The Buyer and Seller have each initialed this Paragraph 6.3 to further indicate their awareness and acceptance of each and every provision of this Agreement. The provisions of this Paragraph 6.3 shall survive the closing.

BUYER'S initials _____ SELLER'S initials _____

7. Conditions to Performance of Agreement.

7.1 Conditions to Buyer's Obligations. Buyer's obligation to purchase the Property is conditioned upon:

- (a) Buyer's receipt of a counterpart executed copy of the Agreement, duly executed by Seller;
- (b) Buyer's approval of the condition of title to the Property as provided in Paragraph 5;
- (c) Buyer's approval of the Review as provided in Paragraph 6;
- (d) Seller's delivery of the Grant Deed to the Property (duly executed and in recordable form), in accordance with the provisions of Paragraphs 5 and 10, subject only to the Permitted Exceptions;
- (e) The issuance of the Title Policy to Buyer;
- (f) Seller's delivery of the Assignment substantially in the form attached hereto as **Exhibit C**;
- (g) the performance by Seller of each obligation to be performed by Seller under this Agreement within the applicable time period, or waiver by Buyer of such obligation; and
- (h) the truth and accuracy of Seller's representations and warranties under Paragraph 9.

7.2 Conditions to Seller's Obligations. Seller's obligation to sell the Property to Buyer is conditioned upon:

- (a) Seller's receipt of a counterpart executed copy of the Agreement, duly executed by Buyer;
- (b) Buyer's timely delivery of the Deposit to Escrow Holder;
- (c) the performance by Buyer of each obligation to be performed by Buyer under this Agreement within the applicable time period, or waiver by Seller of such obligation; and

(d) the truth and accuracy of Buyer's representations and warranties under Paragraph 9.

8. Close of Escrow. The close of escrow shall take place on the Closing Date in the offices of the Escrow Holder; provided, however, that Seller may, acting in its sole discretion, extend the Closing Date by an additional thirty (30) day period (the "Extended Closing Date") by serving written notice on Buyer of such extension no later than two (2) days prior to the Closing Date.

9. Representations and Warranties. Seller hereby represents and warrants as follows, which representations and warranties shall be true and correct as of the close escrow, shall survive the close of escrow and the truth of which, as of the close of escrow, shall be a condition precedent to Buyer's obligation to complete the transaction contemplated by this Agreement:

(a) Seller is the owner in fee simple of the Property and has full right, power, and authority to enter into this Agreement and to execute all documents required hereby to be executed by Seller herein.

(b) Except as otherwise disclosed in the due diligence materials provided to Buyer or otherwise disclosed to Buyer in writing, to Seller's actual knowledge, Seller has not received any written notice from any governmental authority claiming that the condition or operation of the Property, or any part thereof, is in violation of any laws.

(c) Except as otherwise disclosed in the due diligence materials provided to Buyer or otherwise disclosed to Buyer in writing, to Seller's actual knowledge, Seller has not received any written notice of any actual or threatened claims of condemnation related to the Property.

For the purposes of subparagraphs (b) and (c) above, "Seller's actual knowledge" is that of Anthony Ghisla, and without any duty of inquiry or investigation.

Buyer hereby represents and warrants as follows, which representations and warranties shall be true and correct as of the close escrow, shall survive the close of escrow and the truth of which, as of the close of escrow, shall be a condition precedent to Seller's obligation to complete the transaction contemplated by this Agreement:

(a) Buyer has full right, power, and authority to enter into this Agreement and to execute all documents contemplated or required hereby to be executed by Buyer, and to perform its obligations hereunder and thereunder.

(b) Neither the execution and delivery of this Agreement by Buyer nor the performance or consummation of the transactions contemplated by this Agreement by Buyer will result in any breach of or constitute a default under or conflict with any agreement, covenant or obligation binding upon Buyer. This Agreement constitutes the legal, valid and binding obligation of Buyer and is enforceable in accordance with its terms against Buyer subject only to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

10. Documents. At least two (2) business days prior to the Closing Date, Seller shall execute and deliver to Escrow Holder the following:

- (a) a counterpart executed copy of the Agreement, duly executed by Seller;
- (b) the Grant Deed in form for recording, conveying marketable, fee simple title to the Property;
- (c) an assignment conveying, assigning and otherwise transferring to Buyer third party warranties and guaranties in respect of equipment and/or work performed by contractors pursuant to the maintenance and repair of the Property, if any; and
- (d) all other documents as the Escrow Holder may require to complete the transaction contemplated by this Agreement.

At least two (2) business days prior to the Closing Date, Buyer shall execute and deliver to Escrow Holder a counterpart executed copy of the Agreement, duly executed by Buyer.

11. Costs and Prorations.

(a) Attorneys' Fees. Buyer and Seller shall be responsible for fees and charges of their respective attorneys in connection with the closing of the transaction contemplated by this Agreement.

(b) Title Insurance. The cost of the premium for any policy of title insurance shall be paid by ~~Buyer~~shared equally.

(c) Transfer Tax. ~~Seller~~Buyer shall pay the cost of all transfer taxes on conveyance of title to the Property to Buyer.

(d) Escrow Fees. Escrow fees shall be paid by ~~Buyer~~shared equally.

(e) Other Closing Costs. All other closing costs, including but not limited to, recording fees, notary fees and document preparation shall be paid by ~~Buyer~~Seller.

(f) Prorations. Real property and ad valorem taxes and other state or local taxes, charges and assessments (all of which appear on the County of Yolo Tax Statement) affecting the Property, rent, interest, utilities and insurance, if any, shall be prorated as of the date of the close of escrow.

(g) Assessment. Seller shall pay all assessments against the Property unpaid as of the close of escrow.

12. Risk of Loss. Prior to the close of escrow all risk of loss to the Property, from any casualty or otherwise, shall remain upon Seller. In the event of any damage or destruction of any

portion of the Property prior to the close of escrow, Buyer shall decide, at its sole discretion, and so advise Seller in writing, either (i) to accept an assignment of all insurance proceeds and make the repairs to the Property at its sole cost and expense (and receive a credit against the Purchase Price in the amount of Seller's deductible if such deductible is paid by Buyer), or (ii) to require that Seller make the repairs to the Property at its sole cost and expense. Such damage or destruction shall not be interpreted as a breach of any covenant by Seller to maintain the Property and all equipment appurtenant thereto in substantially the same condition that existed as of the date of Buyer's execution of this Agreement. Notwithstanding the foregoing, in the event the estimated cost of repairs to the Property, as determined from quotations obtained by Seller from reputable contractors experienced in making such repairs, shall exceed five percent (5%) of the Purchase Price, then Buyer and Seller shall each have the right to terminate this Agreement by serving written notice on the other within ten (10) days of receipt by each party of the above described estimated cost of repairs. In the event of such termination, the Deposit shall be returned to the Buyer, and neither party shall have any further obligation or liability to the other.

13. Default and Remedies.

(a) By Seller. In the event Seller fails to perform or comply with any of the obligations, covenants or agreements to be performed or any of the conditions to be complied with by Seller under the terms and provisions of this Agreement or if any of the representations or warranties of Seller contained herein are untrue at the close of escrow and not waived by Buyer, Buyer shall be entitled to terminate this Agreement by giving written notice of such termination to Seller and Escrow Holder, whereupon Escrow Holder shall promptly refund to Buyer the Deposit paid hereunder.

(b) By Buyer. In the event (i) Seller has complied with each and every obligation of Seller hereunder, (ii) each and every condition precedent to Buyer's obligations hereunder is satisfied, and (iii) Buyer shall fail to perform Buyer's obligation to purchase the Property at the close of escrow in accordance with the terms, provisions and conditions of this Agreement, Seller shall be entitled to terminate this Agreement by giving written notice of such termination to Buyer and Escrow Holder, whereupon the Deposit will be paid to Seller as full and complete liquidated damages for the default of Buyer pursuant to California Civil Code Sections 1671, 1676 and 1677. The parties expressly acknowledge and agree, as indicated by the initialing of this paragraph, that the liquidated damages are intended to compensate Seller for any and all damages suffered by reason of any default by Buyer, such damages being impossible of calculation, and further, that the payment of the Deposit to Seller is not intended as a penalty, but as liquidated damages.

BUYER'S initials _____ SELLER'S initials _____

14. Brokerage Commission. Buyer and Seller represent and warrant to each other that no broker, agent, salesperson, or finder has been engaged with respect to, or is in any way entitled to, a commission or other fee in connection with the transaction contemplated hereunder. In the event of a claim for any commission or fee by any broker, agent, salesperson or finder, Buyer and Seller hereby agree to indemnify and hold one another harmless from any and all such claims and any and all demands, costs, expenses, and causes of action therewith.

15. Time of the Essence. The parties hereto agree that time is of the essence in the execution and performance of this Agreement and each of its provisions.

16. Governing Law. This Agreement shall be interpreted, construed and governed by the laws of the State of California.

17. Severability. In the event any term, covenant, condition, agreement, section or provision shall be deemed invalid or unenforceable by a court of competent and final jurisdiction, this Agreement shall not terminate or be deemed void or voidable, but shall continue in full force and effect and there shall be substituted for such stricken provision a like, but legal and enforceable, provision which most nearly accomplishes the intention of the parties hereto, and if no such provision is available, the remainder of this Agreement shall be enforced.

18. Possession. Seller shall deliver possession of the Property to Buyer at the close of escrow.

19. Notices. All notices required, necessary or desired to be given pursuant to this Agreement, including a change of address for purposes of notice, shall be in writing and shall be deemed effective and given (i) upon personal delivery, (ii) upon delivery if sent by Federal Express or similar private courier company that maintains records of its deliveries, (iii) upon transmission by facsimile machine during normal business hours to the facsimile number listed herein, or (iv) upon deposit in the United States Mail, certified, return receipt requested, postage prepaid and addressed as follows:

SELLER:

Exchange Bank
Attn.: Mr. Tony Ghisla
Senior V.P. and Chief Credit Officer
545 Fourth Street
Santa Rosa, CA 95401
Fax: (707) 545-6827

BUYER:

Winters Community Development Agency
Attn: John W. Donlevy, Jr., Executive Officer
318 First Street-
Winters, CA 95694
Fax: (530) 795 - 4935

20. Assignment. At any and all times prior to the close of escrow Buyer shall have the right to assign its rights, interest, duties and obligations under this Agreement to any one or more persons, firms, partnerships, corporations or entities in which Buyer shall have a material interest, without first obtaining the approval of Seller. No assignment shall release Buyer from

liability hereunder. An assignment of Buyer's rights, interest, duties and obligations under this Agreement to any entity other than those described immediately above in this Paragraph 20 shall require the prior written consent of Seller, such consent not to be unreasonably withheld.

21. Binding Effects. The terms, covenants and conditions of this Agreement shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective successors, assigns, heirs and legal representatives.

22. Agreements Affecting the Property. Seller hereby covenants and agrees with Buyer that so long as this Agreement remains in full force and effect, Seller shall not sell, assign, convey (absolutely or as security), grant a security interest in, or otherwise encumber or dispose of, any portion of the Property or any interest or rights therein.

23. Entire Agreement. This Agreement, including all attached Exhibits, constitutes the entire and complete agreement of Buyer and Seller with respect to the transaction contemplated hereby, and conversations, undertakings, representations, promises, inducements, warranties or statements not reduced to writing and expressly set forth herein shall be of no force or effect whatsoever.

24. Modification and Amendment. This Agreement may not be modified, altered or amended except by a written instrument executed by Buyer, Seller and any other party originally executing this Agreement.

25. Survival of Agreement. All of the terms and provisions of this Agreement shall survive the close of escrow and not merge with the execution and delivery of the grant deed contemplated herein.

26. Headings. The paragraph and subparagraph headings throughout this Agreement are for convenience and reference only, and the words contained therein shall not be held to expand, modify, amplify or aid in the interpretation, construction or meaning of this Agreement.

27. Mediation of Disputes. Buyer and Seller agree that in the event a dispute arises as to the meaning, interpretation or performance of any provision of this Agreement, that Buyer and Seller shall submit such dispute to mediation before resorting to binding arbitration. Either party may initiate the mediation process by serving written notice on the other party, and unless both parties agree otherwise, the dispute shall be submitted to Judicial Arbitration and Mediation Services, Inc. with offices in Sonoma County, California. Prior to commencement of the mediation, Buyer and Seller agree to execute a document limiting the admissibility in arbitration or any civil action of anything said, any admission made, and any documents prepared, in the course of the mediation. The mediator, whose fee shall be shared equally between Buyer and Seller, shall not be empowered to impose a settlement on either party.

28. Binding Arbitration. Any dispute between Buyer and Seller arising out of this Agreement which is not resolved by mediation, as provided for elsewhere herein, shall be settled exclusively by neutral binding arbitration and not by court action, except as provided by California law for judicial review of arbitration proceedings. Unless both parties agree

otherwise, the arbitration shall be conducted through the offices of, and in accordance with the rules of, Judicial Arbitration and Mediation Services, Inc., in Sonoma County, California. In all other respects, the arbitration shall be conducted in accordance with Part 3, Title 9 of the California Code of Civil Procedure. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

29. Attorneys' Fees. All fees and expenses of attorneys or other advisors' retained by Seller or Buyer pursuant to this Agreement and the completion of the transaction contemplated thereby shall be the sole responsibility of the party engaging the services of such attorney or advisor; except, however, if following a decision pursuant to binding arbitration either party hereto shall institute any action or proceeding to enforce the award rendered said party shall be entitled to recover, from the other, reasonable attorneys' fees and costs for services provided in such proceeding.

30. Extension to Next Business Day. In the event a date for the end of a period, delivery of notice or the close of escrow shall fall on a Saturday, Sunday or legal holiday, then such date shall be postponed to the next business day immediately following such date.

31. Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

BUYER:

WINTERS COMMUNITY
DEVELOPMENT AGENCY

By: _____

Its: _____

SELLER:

EXCHANGE BANK,
a California banking corporation

By: _____

Tony Ghisla,
Senior Vice President and
Chief Credit Officer

An original fully executed copy of this Agreement, has been received by Escrow Holder on _____, 2009 and by the execution hereof Escrow Holder hereby covenants and agrees to be bound by the terms of this Agreement, insofar as closing escrow is concerned, and its capacity as Escrow Holder in the performance of its duties, to the extent that Escrow Holders are generally expected to act or perform.

ESCROW HOLDER:

By: _____

Name: _____

Title: _____

EXHIBIT A

All of that certain real property situate in the City of Winters, County of Yolo, State of California, described as follows:

EXHIBIT B
GRANT DEED

EXHIBIT C

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned, Exchange Bank, a California banking corporation ("Assignor"), hereby absolutely and unconditionally transfers, conveys and assigns to _____ ("Assignee") all of Assignor's right, title and interest in and to: the Property, including, without limitation, Assignor's right, title and interest in and to all rights, amenities, fixtures, chattels, any mineral rights, improvements thereon and appurtenances belonging thereto, any and all water rights, soils studies, tests, easements, rights of way, permits, licenses, certificates, consents and approvals issued by any governmental or quasi-governmental agency, all development agreements, zoning agreements, subdivision improvement agreements, entitlements, subdivision improvement security, all present and future rights to fee credits, reimbursements and other payments and benefits relating to infrastructure and other work benefiting the Property, directly or indirectly, all maps, improvement plans and other engineering work, all agreements and other materials relating to any community facilities and other districts (including the right to payment), all third party warranties and indemnities, all house plans for any homes under construction and all other documents, instruments and other benefits relating or appurtenant thereto (if any). All capitalized terms not defined herein shall have the meaning ascribed to them in the Agreement (as defined below).

This Assignment is made pursuant to the terms and conditions of that certain Agreement for Purchase and Sale of Real Property, dated as of _____, 2009, between Assignor and Assignee (the "Agreement"), which, among other things, provides for an assignment and transfer to Assignee on an "AS IS" and "WITH ALL FAULTS" basis and without recourse or representation or warranty of any kind, express or implied, except for the representations and warranties of Assignor set forth in Paragraph 9 thereof.

Assignor hereby covenants and agrees to execute and deliver to Assignee any and all further documents and instruments reasonably required by Assignee to effectuate and perfect the transfer, conveyance and assignment contained in this Assignment.

This Assignment shall be governed by and construed and enforced in accordance with the laws of the state of California without regard to any state's choice of laws to the contrary, and any applicable federal laws of the United States of America.

This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and each of their respective heirs, administrators, personal and legal representatives, successors and assigns.

This Assignment may be signed by the parties in different counterparts and the signature pages combined shall create a document binding on all parties.

[SIGNATURE PAGE FOLLOWS]

Dated: _____

ASSIGNEE:

WINTERS COMMUNITY
DEVELOPMENT AGENCY

ASSIGNOR:

EXCHANGE BANK,
a California banking corporation

By: _____

Its: _____

By: _____

Tony Ghisla,
Senior Vice President and
Chief Credit Officer



**COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT**

TO: Honorable Chairman and Board of Directors
DATE: April 21, 2009
THROUGH: John W. Donlevy, Jr., Executive Director 
FROM: Nelia Dyer, Community Development Director
Dan Maguire, Housing Programs Manager
SUBJECT: Resolution 2009-21, a Resolution of the Winters Community Development Agency Authorizing the Executive Director to Execute a Housing and Loan Agreement with Winters Almondwood, LP, A California Limited Partnership for the Acquisition and Rehabilitation of the Almondwood Apartments

RECOMMENDATION:

Staff recommends the City Council and the Community Development Agency conduct a joint public hearing to consider a resolution authorizing the Executive Director to execute a Housing and Loan Agreement with Winters Almondwood, LP, a California limited partnership for the acquisition and rehabilitation of the Almondwood Apartments.

BACKGROUND:

The Almondwood apartment complex located on Dutton Street was constructed in 1983 under the Section 515 U.S. Department of Agriculture (USDA) loan program. Of the 39 units, 22 are subsidized by USDA rental assistance, 12 units are subsidized by RHCP (State) program, and the remaining 5 units are not covered by rental assistance. The complex's affordability is jeopardized by expiring affordability restrictions and is considered to be at risk of going to market rate. The previous owners, Bill Brown and Betty Brickey decided to sell the facility and wanted the new owner to continue to operate the facility for affordable housing. Mike Condry, a private real estate investor from Sanger, is under contract to purchase the Almondwood Apartments. He has purchased eight Section 515 projects in the last four years leading into this acquisition.

In conjunction with the acquisition, the developer understands that City participation (through the CDA) would require a 55-year affordability restriction. Condry has prepared a rehabilitation budget report that details the rehabilitation work and costs. Funding for Condry's acquisition and rehabilitation in order of lien position is (1) new bond debt, (2) assumption of existing USDA Rural Development loan, (3) Winters CDA

loan, and (4) tax credit equity.

The City has conditionally committed to providing \$600,000 to the project, most recently (March 17, 2009) adopting Resolution 2009-08 committing \$300,000 in CDBG Program Income to the Almondwood Apartment Acquisition and Rehabilitation Project.

FISCAL IMPACT:

None at this time, however, the funds will be loaned and granted to the project when needed.

RESOLUTION NO. 2009-21

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF WINTERS AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A HOUSING AND LOAN AGREEMENT WITH WINTERS ALMONDWOOD, LP, A CALIFORNIA LIMITED PARTNERSHIP FOR THE ACQUISITION AND REHABILITATION OF THE ALMONDWOOD APARTMENTS

WHEREAS, the Community Development Agency has determined that there is a need for affordable housing within the jurisdiction of the City; and

WHEREAS, Winters Almondwood, LP, a California limited partnership, will acquire and rehabilitate Almondwood Apartments;

WHEREAS, the City Council adopted Resolution 2009-08 committing a \$300,000 loan from CDBG Program Income to the Almondwood Apartment Acquisition and Rehabilitation Project;

WHEREAS, the Agency will agree to provide financial assistance for the acquisition and rehabilitation of Almondwood Apartments in loans and grants in a total amount not to exceed \$600,000;

WHEREAS, Winters Almondwood, LP, will agree to a 55-year affordability restriction on the Almondwood Apartments;

NOW, THEREFORE, BE IT RESOLVED by the Winters Community Development Agency that the Executive Director execute a Housing and Loan Agreement with Winters Almondwood, LP, for the Acquisition and Rehabilitation of the Almondwood Apartments.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted to the City Council of the City of Winters, County of Yolo, State of California, on the 21st day of April, 2009 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Michael Martin, Agency Chairman

ATTEST:

Nanci G. Mills, Agency Clerk