



Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, May 5, 2009,
7:30 p.m.
AGENDA

Members of the City Council

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

*John W. Donievy, 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 Winters City Council Held on Tuesday, April 21, 2009 (pp 1-12)
- B. Approval of Additional Work to Add or Replace Seven Water Valves as part of City Water Rehabilitation Project (Project No. 08-01) by TerraCon Pipelines, Inc.; Cost of Work is Estimated at \$44,000 (pp 13-14)
- C. Reject All Bids for the East Street Motor Control Center, Project No. 09-03, and Authorize Staff to Solicit New Construction Bids (pp 15)
- D. Resolution No. 2009-24, a Resolution of the City Council of the City of Winters Adopting an Identity Theft Prevention Program (pp 16-25)
- E. Approve California Department of Transportation Disadvantaged Business Enterprise (DBE) Program Implementation Agreement (pp 26-36)
- F. Solano County Water Agency – Amendment #1 – Landowner Agreement (pp 37-49)

PRESENTATIONS

Proclamations honoring members of the City of Winters Hispanic Advisory Committee for their service (pp 50-56)

DISCUSSION ITEMS

- 1. Second Reading and Possible Adoption of 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 (pp 57-93)
- 2. Acceptance of Report from the City of Winters Hispanic Advisory Committee and Reauthorization of the Committee (pp 94-97)
- 3. Review and Consider Taking a Position of Support of Assembly Constitutional Amendments - ACA 9 and ACA 15 (pp 98-111)
- 4. Review Councilmember Liaison Assignments (pp 112-114)
- 5. Utility User's Tax – Information Only (pp 115)
- 6. Authorization for City Manager to Negotiate Waste Disposal Services Agreement at the Yolo County Central Landfill (pp 116-129)

7. Approval of new City of Winters official logo designed by DaRe, LLC (pp 130-135)
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COMMUNITY DEVELOPMENT AGENCY

1. Downtown Visitor Center (pp136-145)
 - a. Approve the Winters Visitor Center Concept Plan; and
 - b. Approve a Consultant Services Agreement with DaRe, LLC for interior design and multi-media center development.
 - c. Approve a Development Budget of \$15,000 for furniture, fixtures and equipment.
 - d. Conceptually authorize an agreement between the Winters Community Development Agency and the Winters Chamber of Commerce for staffing and management.
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CITY MANAGER REPORT

INFORMATION ONLY

EXECUTIVE SESSION

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the May 5, 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 29, 2009, and made available to the public during normal business hours.

Jacq Jensen, Admin. Asst. to Nanci G. Mills
Nanci G. Mills, City Clerk

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Wednesday at 10:00 a.m.

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Minutes of the Regular Meeting of the Winters City Council
Held on Tuesday, April 21, 2009,

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

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

Absent: None

Staff: City Manager John Donlevy, City Attorney John Wallace, Chief of Police Bruce Muramoto, Community Development Director Nellie Dyer, Environmental Services Manager Carol Scianna, Housing Programs Manager Dan Maguire, Contract Planner Kate Kelly, and City Clerk Nanci Mills.

The Pledge of Allegiance was led by Monte Molina.

Approval of Agenda: City Manager Donlevy requested that Discussion Items 2 and 3 be heard in reverse order. He also requested all three CDA items be jointly heard by City Council & CDA. He requested that CDA Chairman Fridae call to order the CDA and hear items concurrently.

COUNCIL/STAFF COMMENTS: Council Member Anderson would like to add to the May 5th agenda a discussion item regarding Transportation funding. He also asked staff to look into retrofitting attic insulation on re-sales.

Council Member Fridae reminded everyone about the Youth Day Talent Show on Friday night, and the breakfast and parade on Saturday morning.

In regards to the upcoming community TANC informational meeting scheduled for April 23rd @ The Palms, City Attorney Wallace said there was to be no private discussion regarding the TANC project amongst the City Council members if all members plan to attend, but that they would be able to discuss or make comments regarding the project at the public meeting. He indicated he will place a future TANC meeting on the May 5th City Council agenda.

Council Member Aguiar-Curry said there is a TANC public scoping meeting at the Marriot in Sacramento and the public is invited to attend. The Legislative Action Days are taking place on 4/15 - 4/16. She has met with Assemblywoman Yamada and representatives from Lois Wolk's office and requested that they don't take the City's funds, which would hamper the redevelopment in Winters. She suggested there be economic incentives for those responsible for putting the

new budget together. She also mentioned the upcoming Hispanic Advisory Committee's Community Meeting to be held on May 4th and invited everyone to attend to find out what's new and exciting at the City of Winters.

Council Member Stone said there is also a fun run (or walk) on Youth Day and the inaugural Farmers Market will take place on Sunday, May 3rd.

Council Member Fridae confirmed the Hispanic Advisory Committee's Community Meeting will be held in Council Chambers on May 4th.

Mayor Martin invited residents to volunteer their old restored vehicles to drive the parade dignitaries in the Youth Day Parade. If interested, please see Mike Sebastian.

City Manager Donlevy indicated City staff is working on the city budget, which will be a tough year, as overall, revenues are down 10% in the General Fund, which makes it a challenge. He indicated the City is a small organization and that we will be able to work through each budget item. He suggested there will be cuts to big items that don't bring in revenue. He will schedule a meeting with Council to present the budget in the near future. He also reminded Council of the closed session scheduled for tonight following the regular meeting.

PUBLIC COMMENTS

Monty Molina, 320 Niemann, expressed his disappointment in the City Manager and the Youth Day Committee regarding the usage of the Little League field during Youth Day. He stated Little League has spent \$75,000 plus an additional \$50,000 in materials and services to renovate the field. Little League asked for a compromise between the City and Little League in order to avoid placing the bounce houses on the new sod on the field, which is not yet established. Monte quoted several portions of the Lease Agreement between the City of Winters and Winters Little League where the Lessee and City shall agree and claimed he and Shannon Martinez made efforts to agree. Monte added it would be OK to place the bounce houses on the pavement and any security could be provided by Little League volunteers. The Little League would like to re-organize the placement of the bounce houses.

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the City of Winters City Council Held on Tuesday, April 7, 2009
- 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
- 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
- D. Downtown Street Naming Report and Recommendation
- E. Winters Farmers Market Use and License Agreement

City Manager John Donlevy gave a brief overview. Council Member Fridae asked if a Proclamation should accompany Consent Item D. City Manager Donlevy said the item, including a Proclamation will be brought back to the May 19th meeting. Council Member Anderson requested a correction to the minutes of the 4/7/09 City Council meeting regarding the approval of Resolution 2009-18, where both Council Members Fridae and Anderson were absent.

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

PRESENTATIONS

Jan Bawart of the Cloth Carousel, along with several local quilters, donated kid-sized, homemade quilts to the Police Department. These will be given to children who may arrive at the Police Department as victims of child abuse or domestic violence.

Council Member Stone inquired that as Youth Day Chairman, would it be necessary to recuse himself as a City Council member when discussing Youth Day activities? City Attorney Wallace replied that as long as there is no biased opinion or no money is involved, Council Member Stone would be able to discuss Youth Day activities. Council Member Fridae asked if this was the place to entertain discussion between two people with opposing views. City Manager Donlevy replied no, the item can be placed on a later agenda.

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)**

Contract Planner Kate Kelly gave an overview, asking the Council to receive the staff report, conduct the public hearing, hold the second reading of ordinance 2009-03, and adopt said ordinance. Once the ordinance is adopted, the resolution may be approved. Mayor Martin opened the public hearing at 8:01 p.m. Bill McCandless of McCandless Architects was present to answer any questions. Council Member Fridae said the project was a very visual, striking plan and said it was a good project. 90% of the required on-site parking is a huge improvement. He would like to see residents perform "green practices" and walk as opposed to driving. He said the plan didn't show any trees in the parking lot. Bill McCandless said the site plan does not include landscaping, but there is in fact landscaping included, as well as tree plantings @ the south property line. Mayor Martin closed the public hearing at 8:05 p.m.

Motion by Council Member Fridae, Second by Council Member Stone to approve staff recommendation and adopt Ordinance 2009-03, rezoning the property for the St. Anthony's Church and Rectory Project to Single-Family Planned Development Zone (R-2-PD). Motion carried with the following roll call vote:

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

Motion by Council Member Fridae, Second by Council Member Aguiar-Curry to adopt Resolution 2009-14 as per staff recommendation, adopting a planned development permit modifying the height restrictions and parking requirements for the St. Anthony's Church and Rectory Project. Motion carried with the following roll call vote:

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

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 (This item was moved to #3)**

Community Development Director Nellie Dyer gave an overview, proposing a one-time sidewalk application fee of \$150 and to replace the annual permit fee 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. Applicants would be required to delineate the space they plan to use and to utilize the honor system when submitting their applications. Council Member Stone asked about non-fixed seating per person and whether the rate be based on the entire section or just the table area? If multiplying by non-fixed seating, the Building Code states 15 sq ft per seat. This would make it easy to apply fees equally and would prevent overcrowding. City Manager Donlevy said charges are typically done by square fee. Applicants must provide accessibility and agree with uniformity and the site would be monitored by the Community Development Department.

Mayor Martin opened the public hearing at 8:25 p.m. John Pickerel, who was representing Baldo's, asked about installing 6-8 seats in front of their place of business. City Manager Donlevy said there would be no fee as the tables and chairs would be placed on private property located underneath the overhang, and there would be no seating beyond the storefront. John Pickerel said in 4 or 5 of the cities where the Buckhorn has outdoor seating, there is no fee involved, and at their Sacramento location, they had to file a deed. He said people love the bulb-outs and while seats remain empty inside, the seats outside are full. It's not about the tables and chairs, it's about the space, the color, the umbrellas, and making it a space people want to be in. He then thanked the City Manager and City Staff for making it a better downtown. Mayor Martin closed the public hearing at 8:32 p.m.

Motion by Council Member Anderson, Second by Council Member Fridae to approve Resolution 2009-20, amending Schedule C (Public Works and Engineering Fees) of City Council Resolution 2008-07, Establishing Fees for Sidewalk Cafes. Motion carried with the following roll call vote:

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

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 (This item was moved to #2)**

Community Development Director Nellie Dyer gave an overview. The first reading of ordinance 2009-02 was conducted at the February 17th City Council meeting, where it was requested the item pertaining to the daily removal of the

furniture be removed, and condition #12 added, where the outside portion of the restaurant cannot be open without the inside being open except when holding a private party.

Mayor Martin opened the public hearing at 8:11 p.m. and closed the public hearing at 8:11 with no public comment.

Motion by Council Member Aguiar-Curry, Second by Council Member Stone, to adopt Ordinance 2009-02 adding Chapter 17.116 to the Winters Municipal Code Pertaining to Sidewalk Cafes. Motion carried with the following roll call vote:

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

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**

Joanna Smith, Attorney at Meyers, Nave, Riback, Silver & Wilson who works with Assistant City Attorney Steve Rudolph, gave a brief overview and indicated the Subdivision Map Act requires framework. Local public agencies need to adopt local ordinances to set out the details.

Mayor Martin opened the public hearing at 8:44 p.m. and closed the public hearing at 8:44 p.m. with no public comments.

Motion by Council Member Stone, Second by Council Member Aguiar-Curry to approve staff recommendation to 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. Motion carried with the following roll call vote:

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

5. **Public Hearing to Consider Objections from Property Owners Regarding Weed Abatement**

Mayor Martin opened the public hearing at 8:47 p.m. and closed the public hearing at 8:47 p.m. with no public comments. There were no corrections or recommendations.

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**

Housing Programs Manager Dan Maguire gave a brief overview. The public hearing, introduction and first reading of Ordinance 2009-04 was done at the April 7th City Council meeting. Mayor Martin asked about the use of the Community Center restrooms during Farmers Market hours and whether staff would be utilized. Dan replied there is \$1,000 to cover staff time, and that he and Ana would alternately share this duty to minimize the expense.

Motion by Council Member Aguiar-Curry, Second by Council Member Fridae to approve staff recommendation, adopting 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, Fridae, Stone and Mayor Martin
NOES: None
ABSENT: None
ABSTAIN: None

COMMUNITY DEVELOPMENT AGENCY

Agency Chairman Fridae opened the meeting of the Community Development Agency at 8:52 p.m. while the City Council remained in session. Agency Chairman Fridae and Agency Member Anderson recused themselves due to a possible conflict of interest.

1. **Real Estate Purchase - 311 First Street**

City Manager Donlevy gave a brief overview, stating the staff report contained a summary and findings report regarding the recommended purchase of 311 First Street pursuant to Section 33433 of the Health and Safety Code, a purchase and sale agreement, as well as Resolution 2009-22. a resolution authorizing the expenditure of tax increment funds for the acquisition of real property located at 311 First Street. Recommended action is to authorize the Executive Director to

execute said agreements. Since 2005, the CDA staff has been in negotiation for the acquisition of the property at 311 First Street. The property is strategically located within the area for our downtown master plan. It's a flagged lot, which provides some challenges for a number of things that we want to do. One of the key issues regarding this acquisition regards the purchase price of which both the resolution and the summary report outline a number of findings to pay above the appraised value of the property. In 2006, the CDA received a second appraisal of the property, which brought the price in at approximately \$382,000, staff is recommending a purchase price of \$455,000 for the property. The CDA will also pay for closing costs up to \$10,000 for the overall property. While the CDA realizes the purchase price exceeds the appraisal by \$90,000, prolonging going after the property the attorney costs and acquisition costs, potentially if there was a tenant in the location, the CDA would have to pay relocation costs. There really becomes quite a slew of costs that easily could add up to the additional cost that is being recommended. The premium that the CDA is paying for the property is meant to substitute the time and additional costs needed to secure the property. So when you look at the summary report and the purchase contract, staff is very comfortable in recommending the acquisition of this property.

City Attorney Wallace confirmed that City staff has tried over a number of years to satisfy the owner as to the City's need for this property and to wait for his timing to complete this transaction. City Attorney Wallace confirmed that normally when a Public Agency acquires property there are relocation costs as well as a number of other requirements that cities or CDA's must fulfill. In this case, the CDA anticipates acquiring the Fire District property upon relocation to the new Public Safety Facility. The problem with this is the Fire Station facility has only an exit on Abbey Street. This creates two exits and means that to the owner of that property, this has a higher use value and a higher development potential. Between this and the lack of relocation benefits, staff thinks the price is appropriate. In terms of the recommendations, #4, Approve the Purchase and Sale Agreement, the City Council needs to formally consent to this property's acquisition. And #5, Authorize the Execution of the Agreements, is done by the adoption of the enclosed resolution, which makes the findings that this property is needed for our development and there is no other way to promote that development aside from buying it and it authorizes the CDA to execute all the documents necessary. City Attorney Wallace stated it would be an appropriate asset for the City.

Agency Member Martin asked for clarification regarding the one exit for the property. He asked if the alley was considered an exit. City Attorney Wallace confirmed he was talking about a street exit.

Agency Member Martin opened the public hearing at 9:00 p.m. and closed the public hearing at 9:00 p.m. with no public comment.

Motion by Agency/Council Member Stone, Second by Agency/Council Member Aguiar-Curry to approve staff recommendations for both the City Council and the CDA by approving 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, approve Resolution 2009-22, and authorize the Executive Director to execute said agreements and purchase the properties. Motion carried with the following roll call vote:

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

Agency Member Anderson and Agency Director Fridae returned to the dais at this time.

2. Real Estate Purchase - Grant Ave. Parcels 003-370-28, 003-370-003-370-29 and 009-370-30

City Manager Donlevy requested the City Council/CDA members receive the staff report regarding the purchase of the properties located on Grant Avenue, conduct a public hearing regarding the acquisition of the parcels, approve the summary report and findings regarding the property acquisition pursuant to Section 33433 of the Health and Safety Code, and approve the purchase and sale agreement. He requested the City Council adopt Resolution 2009-23, Authorizing the Expenditure of Tax Increment Funds for the Acquisition of Real Property, and authorize the CDA to execute said agreements and purchase the properties.

City Attorney Wallace stated this property arose from the foreclosure notice received, indicating the original purchaser, Granite Bay Holdings, could not make the payments on the property. Approximately \$1 million was due, which included back taxes. A foreclosure sale was attended with an arrangement with Exchange Bank, the holder of the note, where it was tentatively discussed a \$650,000 purchase price. The maximum bid at the foreclosure sale was \$500,000, so Exchange Bank retained the property. There was an extensive discussion regarding \$60,000 in back taxes, and the CDA and Exchange Bank agreed to share them. Staff recommends this purchase price, which is when the property was purchased for \$1.5 million. Banks are not lending money on vacant land now, and if we're going to provide a flooring for economic development, this is the only way we know to do it. As part of economic development, we are recommending approval.

Agency Chairman Fridae opened the public hearing at 9:05 p.m. and closed the public hearing at 9:05 with no public comment.

Motion by Agency Member Aguiar-Curry , Second by Agency Member Stone to approve staff recommendation by approving 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, adopt Ordinance 2009-23, and authorize the Executive Director to execute said agreements and purchase the properties. City Manager corrected motion by clarifying Resolution 2009-23, and not Ordinance 2009-23. Motion carried with the following roll call:

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

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

Housing Programs Manager Dan Maguire indicated the acquisition and rehabilitation of the Almondwood Apartments first came before City Staff at a meeting with the developer in July, 2007. Subsequently, the developer met with and presented the project to the Affordable Housing Steering Committee (AHSC) on 9/6/07. The AHSC was very favorable to supporting the developer's efforts to acquire, rehabilitate and affordably restrict the property as a result of the City's financial support of the project. Staff presented \$600,000 funding request to Council as part of an overall housing funding request presentation at the 12/18/07 City Council meeting. At the direction of Council, the funding priority for the Almondwood rehabilitation was taken before the AHSC, who re-confirmed the priority of supporting the Almondwood project. Council has adopted Resolution 2009-08 committing \$300,000 in CDBG program income to be loaned to the project as part of the \$600,000 funding at the 3/17/09 City Council meeting. Almondwood is very much an asset of this community. Currently, 34 of the 39 units are rented as affordable units, 22 of which are subsidized by USDA rental assistance and 12 units are subsidized by RHCP, a state program. The developer has submitted the rehabilitation scope of work to staff, but due to the current economic environment, this is a fluid situation. Regardless, the scope of work for the rehabilitation component is mandated by funding sources to meet USDA standards. The preliminary rehabilitation schedule requires an investment of approximately \$31,000 per unit and as the affordability restrictions are

expiring, staff recommends that this is a good investment of our affordable housing funds to affordably restrict this property for 55 years going forward.

Agency Member Martin asked in regards to the rehabilitation, what are some of the problems and what will they be fixing? Dan responded the scope of work includes \$70,000 for siding and lumber replacement, budget for repair and replace interior doors, paint, new cabinets & countertops in kitchens and bathrooms, allowance for repairs to tubs & showers, and new carpet & vinyl in all 39 units. A significant amount of the budget is for special construction, which include ADA improvements per an ADA barrier report for two handicap units. The rehabilitation budget also calls for new central heat & air for all units, new plumbing fixtures in kitchens and bathrooms, new lightning, smoke detectors and new appliances in all 39 units.

Al Enoe, representing the developer regarding the scope & renovation, rural development requires the developer to contract with a third party vendor to prepare an immediate needs assessment and also a 20-year budget so the project will be adequately capitalized over the next 20+ years. The rehabilitation will meet current ADA requirements.

Agency Member Aguiar-Curry asked about the time frame until the renovations are started and whether the residents will be displaced or remain during the renovations. Al Enoe said the idea is to get the project closed this year. Acquiring the funding sources is subject to the buyer and has been difficult. The developer will try to minimize impact to tenants as much as possible. There is a budget to cover the cost of re-location to a vacant unit or at a motel for a day or two. Agency Member Aguiar-Curry asked about the installation of double-paned windows. Al Enoe was not certain, but the state architect will review the applicant's scope of work and determine if it's adequate or not. She also asked about Mrs. Vasquez, the current property manager, who has done a wonderful job keeping the complex neat and keeping everyone in line. Al Enoe stated that as part of the deal, the new buyer was required contractually to retain MBS Property as the management firm, so the on-site staff will not change. Agency Member Anderson asked how long before this project could move forward, so how long will this money be tied up. Dan Maguire replied that staff feels flexibility is needed in the current environment. This is a pretty aggressive developer who is looking for solutions for the other funding sources, but we're trying to come up with general framework that will allow him to move forward with the next tax credit application in June, 2009. This would allow them to have everything in place that they need to pursue that funding round. Staff has earmarked an additional \$300,000 from the housing proceeds from the 2000 bond issuance for this project. The other that is somewhat earmarked is the Orchard Village project that we hope to bring before Council on May 5th.

Agency Director Fridae opened the public hearing at 9:19 p.m. and closed the public hearing at 9:19 p.m. with no public comment.

Agency Member Martin asked if this would come off of our stock of affordable housing if we don't proceed with this project? Dan replied yes, there's a chance they can go market rate. This brings resources to bear that will allow a property owner to upgrade the property but there's a good possibility this property would deteriorate. But by keeping it affordable and bringing in some resources, we're assisting the developer in upgrading the property in return for which we're getting 55 years of affordable restrictions. Staff feels like it's a very cost effective application of our housing dollars.

Motion by Agency/Council Member Anderson, Second by Agency/Council Member Aguiar-Curry to approve Resolution 2009-21, authorizing the Executive Director to Execute a Housing and Loan Agreement with Winters Almondwood, LP, for the acquisition and rehabilitation of the Almondwood Apartments. Motion carried with the following roll call vote:

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

Agency Chairman Fridae concluded the meeting of the Community Development Agency at 9:20 p.m.

INFORMATION ONLY: Council Member Stone reminded everyone of the Youth Day Luncheon tomorrow, April 22 @ The Palms at 1:30 p.m.

EXECUTIVE SESSION: Mayor Martin moved the meeting into Executive Session at 9:21 p.m.

Personnel Matters as per Government Code Section 54957
There was no action to report.

ADJOURNMENT

Mayor Martin adjourned the meeting of the City Council following the closed session at 10:02 p.m.

Michael Martin, **MAYOR**

ATTEST:

Nanci G. Mills, City Clerk



**CITY COUNCIL
STAFF REPORT**

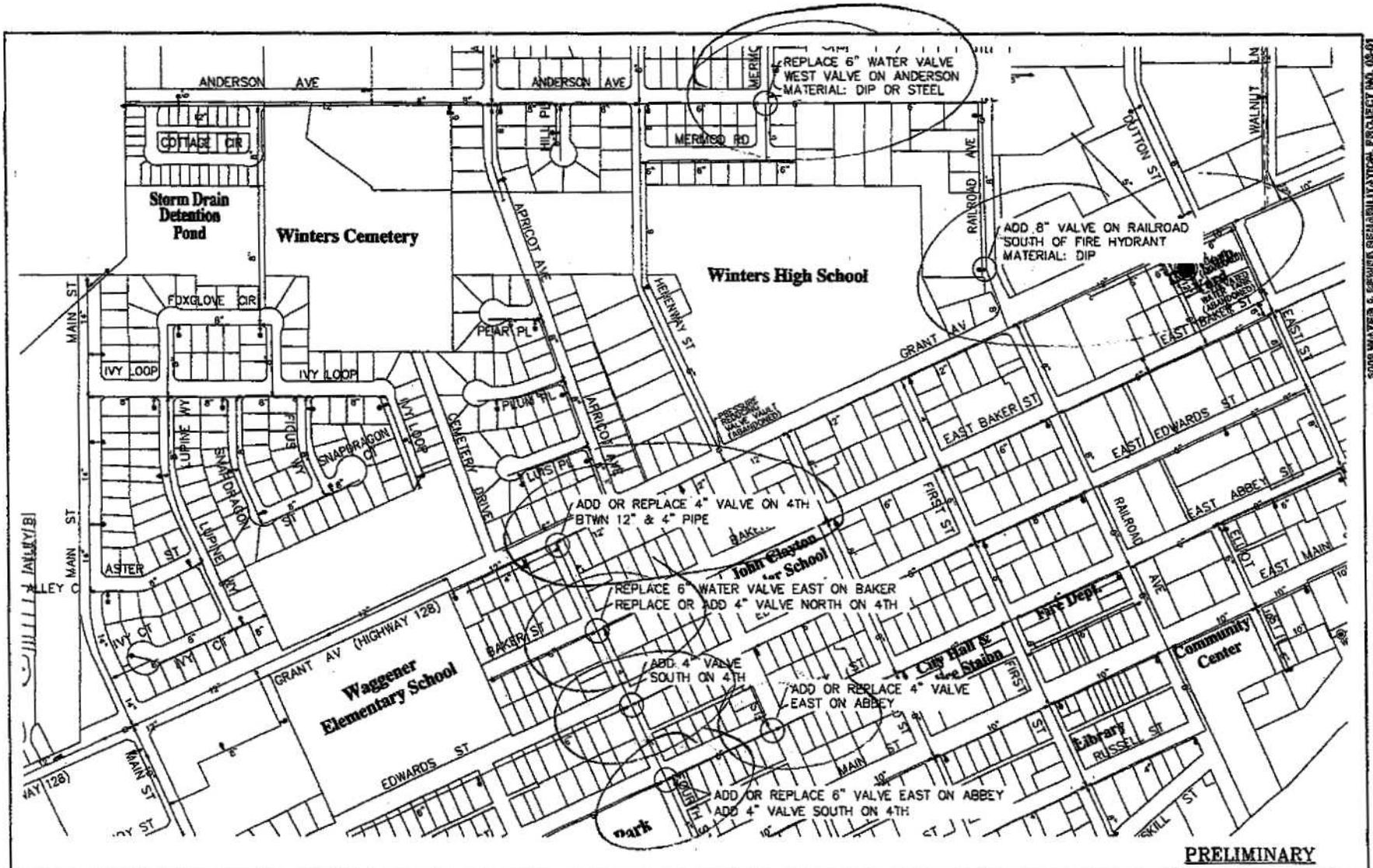
TO: Honorable Mayor and Council Members
DATE: May 5, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Carol Scianna, Environmental Services Manager
SUBJECT: Approval of Additional Work to Add or Replace Seven Water Valves as Part of the City Water Rehabilitation Project (Project 08-01) by Terracon Pipelines, Inc. for an Estimate of \$44,000.

RECOMMENDATION: Staff recommends that City Council approve additional work to add or replace seven water valves as part of the City Water Rehabilitation Project by Terracon Pipelines, Inc for an estimated cost of \$44,000.

BACKGROUND:

The City is nearing completion of the Water and Sewer Main Rehabilitation Project No. 08-01. Staff would like Terracon Pipelines, the contractor, to replace old water main valves that no longer function or add valves into the system in order to better control shutoff of water services during system maintenance or repair. Terracon can complete the work cost effectively because they are currently performing similar work with the Water and Sewer Main Rehabilitation project. The work is estimated to cost \$44,000 (\$6,200 per valve) but it will be performed on a time and materials basis. This work represents 25% of the \$178,079 contingency that Council approved with the contract award and, including this additional work, the project should finish well below that contingency.

FISCAL IMPACT: Estimated cost is \$44,000 to be paid from Water Bond Funds



2008 WATER & SEWER REHABILITATION, PROJECT NO. 08-01

PRELIMINARY

| | | | | |
|-------------|------|-------------|----|-------|
| DESIGNED BY | | | | |
| DRAWN BY | | | | |
| CHECKED BY | | | | |
| REV. | DATE | DESCRIPTION | BY | APP'D |
| | | | | |

PONTECILLO ENGINEERS
 BY *[Signature]*
 ADAP. UTTERHOFF
 DATE JANUARY 2008 PIP 08-01-020
 REGISTERED ENGINEER, DEC. 2, 2008

PONTECILLO ENGINEERS
 1214 River Street
 Stockton, CA 95214
 Phone: (209) 944-1000
 Fax: (209) 944-1075

CITY OF WINTERS
2008 WATER & SEWER REHABILITATION
 PROJECT NO. 08-01
 CITY OF WINTERS YOLO COUNTY
FD#4: WATER VALVE ADD/REPLACE

SCALE: 1" = 150'
 SHEET 1
 FILE: 080808/080801
 DATE: APR 15, 2008
 JOB NO.: 08-01



STAFF REPORT

TO: Honorable Mayor and Councilmembers
THROUGH: John W. Donlevy, City Manager *[Signature]*
FROM: Nicholas J. Ponticello, City Engineer
DATE: May 5, 2009
SUBJECT: Reject all bids for the East Street Motor Control Center, Project No. 09-03, and Authorize staff to solicit new construction bids.

RECOMMENDATION: Staff recommends that the City Council reject all bid received on April 23, 2009 for the East Street Motor Control Center, Project 09-03. Staff further recommends that City Council authorize staff to rebid the project.

BACKGROUND: On April 15, 2008, City Council authorized the City Manager to prepare designs and specification for replacement of the motor control centers (MCC) at the East Street Pump Station (ESPS) and the El Rio Villa Pump Station through ZSI, Inc. Council further authorized staff to solicit bids for the construction of the East Street Pump Station MCC on January 20, 2009. The project was advertised to the public on March 27, 2009 and one bid was received on April 23, 2009.

The Engineer's construction estimate was \$126,000 and the single bid received was for \$147,600. It is believed by staff that by rejecting all bids and rebidding the project with some modification to the bid process, the City will receive more submittals and bid prices that are around or below the Engineer's estimate. The original bidding process required a mandatory project walk-through and pre-bid meeting. The pre-bid meeting was held eleven days following advertisement of the project. By eliminating the mandatory walk-through and directly notifying more qualified bidders, we believe that more bidders will submit qualified bids.

ALTERNATIVES: One alternative is that Council could accept the single bidder and enter into a contract for \$147,000 with the single bidder. Another alternative is that staff could enter into negotiations with the single bidder and other qualified contractors in an attempt to find a contract that can do the work at and below the Engineer's estimate.

FISCAL IMPACT: The estimated cost for rebidding the project is \$700.



**CITY COUNCIL
STAFF REPORT**

TO: Winters City Council
DATE: May 5, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: John C. Wallace, City Attorney
SUBJECT: Resolution 2009-24, A Resolution of the City Council of the City of Winters Adopting an Identity Theft Prevention Program

RECOMMENDATION:

Adopt Resolution 2009-24 Adopting an Identity Theft Prevention Program

BACKGROUND:

The Federal government, concerned about identity theft, authorized the Federal Trade Commission (FTC) to promulgate regulations that require "creditors" holding consumer accounts to put in place a program to identify and deal with identity theft. Because we provide utilities to customers in Winters, water and sewer, we are covered by the regulations. The regulations require us to identify patterns, practices and specific activities that signal possible identity theft (that raise "Red Flags" – the generic name for the regulations).

Enclosed for your review is an Identity Theft Prevention Program, and adopting Resolution. Adoption of the program in some form is required by law.

FISCAL IMPACT:

None

City of Winters
Finance Department
Utility Billing Services

Identity Theft Prevention Program

This program is in response to and in compliance with the
Fair and Accurate Credit Transaction (FACT) Act of 2003

and

The final rules and guidelines for the FACT Act issued by the
Federal Trade Commission and federal bank regulatory agencies
in November 2007

Adopted _____

Identity Theft Prevention Program

Purpose

This document was created in order to comply with regulations issued by the Federal Trade Commission (FTC) as part of the implementation of the Fair and Accurate Credit Transaction (FACT) Act of 2003. The FACT Act requires that financial institutions and creditors implement written programs which provide for detection of and response to specific activities ("red flags") that could be related to identity theft. These programs must be in place by November 1, 2008.

The FTC regulations require that the program must:

1. Identify relevant red flags and incorporate them into the program
2. Identify ways to detect red flags
3. Include appropriate responses to red flags
4. Address new and changing risks through periodic program updates
5. Include a process for administration and oversight of the program

Program Details

Relevant Red Flags

Red flags are warning signs or activities that alert a creditor to potential identity theft. The guidelines published by the FTC include 26 examples of red flags which fall into the five categories below:

- Alerts, notifications, or other warnings received from consumer reporting agencies or service providers
- Presentation of suspicious documents
- Presentation of suspicious personal identifying information
- Unusual use of, or other suspicious activity related to, a covered account
- Notice from customers, victims of identity theft, or law enforcement authorities

After reviewing the FTC guidelines and examples, the City of Winters Finance Department determined that the following red flags are applicable to utility accounts. These red flags, and the appropriate responses, are the focus of this program.

- A consumer credit reporting agency reports the following in response to a credit check request:
 - Fraud or active duty alert
 - Credit freeze
 - The Social Security Number (SSN) is invalid or belongs to a deceased person
 - The age or gender on the credit report is clearly inconsistent with information provided by the customer
- Suspicious Documents and Activities
 - Documents provided for identification appear to have been altered or forged.
 - The photograph on the identification is not consistent with the physical appearance of the customer.
 - Other information on the identification is not consistent with information provided by the customer.
 - The SSN provided by the customer belongs to another customer in the Customer Information System (CIS).
 - The customer does not provide required identification documents when attempting to establish a utility account or make a payment.
 - A customer refuses to provide proof of identity when discussing an established utility account.
 - A person other than the account holder or co-applicant requests information or asks to make changes to an established utility account.

- An employee requests access to the CIS system or information about a utility account, and the request is inconsistent with the rules governing the Privacy of Utility Account Information.
- A customer notifies the Finance Department of any of the following activities:
 - Utility statements are not being received
 - Unauthorized changes to a utility account
 - Unauthorized charges on a utility account
 - Fraudulent activity on the customer's bank account or credit card that is used to pay utility charges
- The Finance Department is notified by a customer, a victim of identity theft, or a member of law enforcement that a utilities account has been opened for a person engaged in identity theft.

Detecting and Responding to Red Flags

Red flags will be detected as City of Winters employees interact with customers or, if the City of Winters future policy requires the use of credit reports, the City's credit reporting agency. An employee will be alerted to these red flags during the present or future following processes:

- Establishing a new utility account: When establishing a new account, a customer is asked to provide a SSN so that the Customer Service Representative (CSR) can run a credit check. Reports from the credit reporting agency may contain red flags.

Response: Do not establish the utility account. Ask the customer to appear in person and provide a government-issued photo identification. A deposit may also be required in order to establish service.

- Reviewing customer identification in order to establish an account, process a payment, or enroll the customer in the automatic bank draft (ABD) program: The CSRs may be presented with documents that appear altered or inconsistent with the information provided by the customer.

Response: Do not establish the utility account or accept payment until the customer's identity has been confirmed.

- Answering customer inquiries on the phone, via email, and at the counter: Someone other than the account holder or co-applicant may ask for information about a utility account (including Online BillPay accounts) or may ask to make changes to the information on an account. A customer may also refuse to verify their identity when asking about an account.

Response: Inform the customer that the account holder or the co-applicant must give permission for them to receive information about the utility account. Do not make changes to or provide any information about the account, with one exception: if the

service on the account has been interrupted for non-payment, the CSR may provide the payment amount needed for reconnection of service.

- Processing requests from City of Winters employees: Employees may submit requests for information in the CIS system that are inconsistent with the rules governing Privacy of Utility Account Information.

Response: All requests for direct access to the CIS system are approved by the Finance Director, so Finance Department should reject requests that have not received appropriate approval. All other requests for information from the CIS system should be reviewed to ensure that they do not violate any part of the Privacy Policy. Requests that are inconsistent with the policy will be denied.

- Receiving notification that there is unauthorized activity associated with a utility account: Customers may call to alert the City about fraudulent activity related to their utility account and/or the bank account or credit card used to make payments on the account.

Response: Verify the customer's identity, and notify the Finance Director immediately. Take the appropriate actions to correct the errors on the account, which may include:

- Issuing a service order to connect or disconnect services
 - Assisting the customer with deactivation of their payment method (ABD and Online BillPay)
 - Updating personal information on the utility account
 - Updating the mailing address on the utility account
 - Updating account notes to document the fraudulent activity
 - Adding a password to the account
 - Notifying and working with law enforcement officials
- Receiving notification that a utilities account has been established for a person engaged in identity theft.

Response: These issues should be escalated to the City Manager and Winters Police Department immediately. The claim will be investigated, and appropriate action will be taken to resolve the issue as quickly as possible.

Additional procedures that help to protect against identity theft include:

- CIS system access is based on the role of the user. Only certain job classifications have access to the entire system.
- The Finance Department will investigate ways to reduce the number of paper receipts generated during payment processing.
- The Finance Department will ensure that service providers that receive and process utility billing information have programs in place to detect and prevent identity theft.

Administration and Oversight of the Program

Finance Department staff is required to prepare an annual report which addresses the effectiveness of the program, documents significant incidents involving identity theft and related responses, provides updates related to external service providers, and includes recommendations for material changes to the program.

The program will be reviewed at least annually and updated as needed based on the following events:

- Experience with identity theft
- Changes to the types of accounts and/or programs offered
- Implementation of new systems and/or new vendor contracts

Specific roles are as follows:

The Finance Director will submit an annual report to the City Manager. The Finance Director will also oversee the daily activities related to identity theft detection and prevention, and ensure that all members of the applicable City staff are trained to detect and respond to red flags.

The Finance Director will provide ongoing oversight to ensure that the program is effective.

The City Manager will review the annual report and approve recommended changes to the program, both annually and on an as-needed basis.

The City Council must approve the initial program, and any major changes, by Resolution.

RESOLUTION NO. 2009-24

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
ADOPTING IDENTITY THEFT PREVENTION PROGRAM**

WHEREAS, the Federal Trade Commission (“FTC”) has adopted regulations that require “creditors” holding consumer or other “covered accounts” (which are defined to mean any account where customer payment information is collected in order to bill for services rendered) to develop and implement by May 1, 2009 an identity theft prevention program that complies with those regulations; and

WHEREAS, because the City of Winters provides retail water and sewer services to its customers, it is a “creditor” under the applicable FTC regulations and must therefore comply with those regulations by adopting and implementing an identity theft prevention program, and

WHEREAS, the Winters City Council desires to take action to comply with the applicable FTC regulations by adopting an identity theft prevention program,

NOW, THEREFORE, IT IS RESOLVED that the City Council of the City of Winters hereby adopts, and directs City staff to implement, the following identity theft prevention program.

1. Program Goals. The City’s Identity Theft Prevention Program (the “Program”) shall endeavor to achieve the following goals:

- a. To identify relevant patterns, practices and specific activities (referred to in this Program as “Red Flags”) that signal possible identity theft relating to information maintained in the City’s customers’ accounts, both those currently existing and those accounts to be established in the future;
- b. To detect Red Flags after the Program has been implemented;
- c. To respond promptly and appropriately to detected Red Flags to prevent or mitigate identity theft relating to City customer account information; and
- d. To ensure the Program is updated periodically to reflect any necessary changes.

2. The Program.

- a. The City shall assess the security of its current customer account system, with an emphasis on assessing the methods by which it opens and maintains customer accounts and customers’ personal information, and on assessing the manner in which it provides access to customer accounts. That assessment shall include an analysis of any prior incidents of identity theft which the City has experienced.

b. The City shall maintain identifying information (address, Social Security Number to the extent not in conflict with the Privacy Act, etc.) for each customer so it can authenticate customers, monitor transactions, and verify the validity of customer requests, such as a change of address or service-related requests, including requests to terminate service.

c. The City shall establish a reporting system which allows City staff to discover potential Red Flags as they arise and to thereafter report them to the proper authorities, including law enforcement. This reporting system should specifically focus on the following Red Flags: alerts, notifications, or other warnings received from consumer reporting agencies or service providers; presentation of suspicious documents by a purported customer; presentation of suspicious personal identifying information by a purported customer, such as a specific address change; the unusual use of, or other suspicious activity related to, a customer's account; and notice from customers, victims of identity theft, law enforcement authorities, or other persons regarding possible identity theft in connection with the City's customer accounts.

d. The City shall adopt procedures which provide for appropriate responses to any detected Red Flags which are commensurate with the degree of risk posed. In determining an appropriate response, the City shall consider aggravating factors that may heighten the risk of identity theft, such as a data security incident that results in unauthorized access to a customer's account records, or notice that a customer has provided information related to a customer's account to someone fraudulently claiming to represent the City. Appropriate responses include the following: i) monitoring customer accounts for evidence of identity theft, ii) contacting the customer, iii) changing from time to time any passwords, security codes, or other security devices that permit access to customer accounts, iv) reopening a customer account with a new account number, v) not opening a new customer account, vi) closing an existing customer account, vii) notifying law enforcement, and viii) determining that no response is warranted under the particular circumstances. Any Red Flags should be brought to the attention of the Finance Director to determine the appropriate response(s) to be implemented promptly after detection.

e. The City of Winters Director of Finance, or his or her designee, shall implement and administer the Program. The Director of Finance shall provide periodic reports to the City Manager on the effectiveness of the Program and shall ensure that all necessary City employees are properly trained to implement the Program.

f. The Director of Finance shall annually review the Program with appropriate City staff to determine if any revisions are needed. That review may include changes in identity theft methods and changes in methods to detect, prevent, and mitigate identity theft. The Director of Finance is hereby authorized and directed to make any necessary changes in the Program that are found to be necessary; provided that such changes must be reported to the Winters City Council at the first regular City Council meeting after the change is made, a provided further that such changes are adopted by Winters City Council Resolution thereafter.

PASSED AND ADOPTED at a regular meeting of the Winters City Council on May 5, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

MICHAEL MARTIN, MAYOR

ATTEST:

NANCI G. MILLS, CITY CLERK



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE : May 5, 2009
THROUGH: John W. Donlevy, Jr., City Manager. *[Signature]*
FROM: Nick Ponticello, City Engineer
SUBJECT: Approve California Department of Transportation Disadvantaged Business Enterprise (DBE) Program Implementation Agreement

RECOMMENDATION: Staff recommends the City Council 1) approve the California Department of Transportation Disadvantaged Business Enterprise (DBE) Program Implementation Agreement; 2) authorize the City Manager to execute the Agreement on behalf of the City; and 3) authorize the City Manager to execute Annual DBE Submittal updates to Caltrans.

BACKGROUND: In order to be eligible for Federal-aid highway funds for transportation projects, all local agencies must be in compliance with Title 49 of the Code of Federal Regulations, Part 26. By doing so, the City agrees to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. This includes:

1. Nondiscrimination in the award and administration of DOT-assisted contracts
2. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts
3. The annual overall DBE Program is narrowly tailored in accordance with applicable law
4. Only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs
5. Help remove barriers to the participation of DBEs in DOT-assisted contracts
6. Assist the development of firms that can compete successfully in the market place outside the DBE Program.

The City of Winters has utilized federal-aid funds on a few projects, including the Pavement Rehabilitation project in 1999, the Taylor and East Main Street Overlay project in 2001, the Grant and Railroad Signal Improvements project in 2004, and the current ARRA Grant Avenue Widening and Safety Improvements project. The funds have helped the City pay for design, environmental analysis, right-of-way acquisition, construction and construction engineering.

DISCUSSION: As a condition of receiving federal financial assistance from the U.S. Department of Transportation through the California Department of Transportation (Caltrans), the City is required to implement a Disadvantaged Business Enterprise (DBE) Implementation Program. By approving the California Department of Transportation Disadvantaged Business Enterprise (DBE) Program Implementation Agreement, the City agrees to be party to the Caltrans DBE program. The City is currently a party to the existing Caltrans Program and has been for several years. The City must adopt an Agreement before June 2, 2009 in order to be eligible for federal funding for transportation projects, including the ARRA funding.

The City includes these DBE requirements in the bid documents for Capital Improvement Projects with federal aid funding. Prior to 2006, the bidders were required to meet the contract goal (expressed as a percentage of work required to be let to DBE subcontractors) or demonstrate a good faith effort to meet it if they could not achieve the desired goal. If the bidder failed to meet the goal and also failed to demonstrate a good faith effort to meet the goal, the City could declare their bid non-responsive and award to a bidder that met the goal and/or demonstrated a good faith effort if they didn't meet the requirement.

In 2006, the State changed the DBE program requirements to be entirely a race neutral approach as a result of a federal circuit court decision. The race neutral approach required the City to state a desired DBE contract goal but did not impose a good faith effort requirement if the bidder failed to meet the goal. As a result the 2006 court decision, Caltrans has been performing a disparity study. As a result of the disparity study, two classes of DBE's were found to be adequately utilized in DOT-assisted contracts and four classes were found to be underutilized. Therefore, Caltrans is bringing back the Race Conscious approach to implement DBE requirements for the underutilized classes. Staff is attending available training opportunities offered by Caltrans and the Federal Highway Administration, to make sure we continue to be in compliance with the requirements.

In accordance with the Caltrans Local Assistance Procedures Manual, "Each Local agency must designate a DBE Liaison Officer (DBELO) who shall have direct independent access to the local agency's Chief Executive Officer [City Manager] concerning DBE program matters." The DBELO for the City will continue to be Nancy Mills, Director of Administrative Services/City Clerk. The work associated with implementing the terms of this DBE Agreement for Capital Improvement Projects is managed by Alan Mitchell, Assistant City Engineer.

In the past, the majority of staff efforts to enforce the terms of this agreement have typically consisted of incorporating required clauses in construction contracts and reviewing bid documents for compliance with the terms of the agreement. As a result of this new agreement, staff will need to spend additional time, such as, determining appropriate DBE & UDBE goals by project, reviewing bidder Good Faith Effort submittals (if DBE goals are not met), monitoring DBE sub-contracting by the contractor (including follow-up corrective actions if needed), and creating and maintaining a DBE database based on bid results. The DBE database results are shared with Caltrans as requested.

Staff will also continue to prepare an annual submittal to Caltrans, which will be signed by the City Manager and will indicate the City's Annual Anticipated DBE Participation Level (AADPL) for the following fiscal year. The annual submittal is due by June 1st of each year.

ALTERNATIVES: No alternatives are recommended.

FISCAL IMPACT: There is no fiscal impact with this request. If Council does not approve the DBE Program, then the City will not be eligible for Federal Funds in 2009/10 (\$400,000 alone is programmed for the Grant Avenue project).

Attachments: California Department of Transportation Disadvantaged Business Enterprise (DBE) Program Implementation Agreement



CALIFORNIA
DEPARTMENT OF TRANSPORTATION
DISADVANTAGED BUSINESS ENTERPRISE
PROGRAM
IMPLEMENTATION AGREEMENT
FOR
CITY OF WINTERS
May 5, 2009

**California Department of Transportation
Disadvantaged Business Enterprise Implementation Agreement**

For the **City of Winters**, hereinafter referred to as "RECIPIENT."

I Definition of Terms

The terms used in this agreement have the meanings defined in 49 CFR § 26.5.

II OBJECTIVE/POLICY STATEMENT (§26/1. 26/23)

The RECIPIENT intends to receive federal financial assistance from the U. S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, the RECIPIENT will sign the California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement (hereinafter referred to as Agreement). The RECIPIENT agrees to implement the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan (hereinafter referred to as the DBE Program Plan) as it pertains to local agencies. The DBE Program Plan is based on U.S. Department of Transportation (DOT), 49 CFR, Part 26 requirements.

It is the policy of the RECIPIENT to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also their policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
- To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts.
- To ensure that their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in DOT-assisted contracts.
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

III Nondiscrimination (§26.7)

RECIPIENT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR, Part 26 on the basis of race, color, sex, or national origin. In administering the local agency components of the DBE Program Plan, the RECIPIENT will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

IV Annual DBE Submittal Form (§26.21)

The RECIPIENT will provide to the Caltrans District Local Assistance Engineer (DLAE) a completed *Local Agency DBE Annual Submittal Form* (Exhibit 9-B) by June 1 of each year for the following Federal Fiscal Year (FFY). This form includes an Annual Anticipated DBE Participation Level (AADPL), methodology for establishing the AADPL, the name, phone number, and electronic mailing address of the designated DBELO, and the choice of Prompt Pay Provision to be used by the RECIPIENT for the following FFY.

California Department of Transportation
Disadvantaged Business Enterprise Implementation Agreement

V Race-Neutral Means of Meeting the Overall Statewide Annual DBE Goal (§26.51)

RECIPIENT must meet the maximum feasible portion of its AADPL by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).

Race-neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

VI Race Conscious Means of Meeting the Overall Statewide Annual DBE Goal (§26.51(d))

RECIPIENT must establish contract goals for Underutilized Disadvantaged Business Enterprises (UDBEs) to meet any portion of your AADPL you do not project being able to meet using race-neutral means. UDBEs are limited to these certified DBEs that are owned and controlled by African Americans, Native Americans, Women, and Asian Pacific Americans.

**California Department of Transportation
Disadvantaged Business Enterprise Implementation Agreement**

VII Quotas (§26.43)

RECIPIENT will not use quotas or set-asides in any way in the administration of the local agency component of the DBE Program Plan.

VIII DBE Liaison Officer (DBELO) (§26.25)

RECIPIENT has designated a DBE Liaison Officer. The DBELO is responsible for implementing the DBE Program Plan, as it pertains to the RECIPIENT, and ensures that the RECIPIENT is fully and properly advised concerning DBE Program Plan matters. Nanci Mills has direct, independent access to the City Manager concerning DBE program matters. Nanci Mills has available to assist her, 1 full-time Public Works Department position and a professional engineering firm acting as City Engineer, who administer construction projects and in that capacity devote a portion of their time to implement the program. The name, address, telephone number, electronic mail address, and an organization chart displaying the DBELO's position in the organization are found in Attachment 1 to this Agreement. This information will be updated annually and included on the DBE Annual Submittal Form.

The DBELO is responsible for developing, implementing, and monitoring the RECIPIENT's requirements of the DBE Program Plan in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to determine projected Annual Anticipated DBE Participation Level.
4. Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
5. Analyzes DBE participation and identifies ways to encourage participation through race-neutral means.
6. Participates in pre-bid meetings.
7. Advises the CEO/governing body on DBE matters and DBE race-neutral issues.
8. Provides DBEs with information and recommends sources to assist in preparing bids, obtaining bonding and insurance.
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organizations to fully advise them of contracting opportunities.

IX Federal Financial Assistance Agreement Assurance (§26.13)

RECIPIENT will sign the following assurance, applicable to and to be included in all DOT-assisted contracts and their administration, as part of the program supplement agreement for each project.

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract, or in the administration of its DBE Program, or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR, Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR, Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the

**California Department of Transportation
Disadvantaged Business Enterprise Implementation Agreement**

Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.). [Note – this language is to be used verbatim, as it is stated in §26.13(a).]

X DBE Financial Institutions (§26.27)

It is the policy of the RECIPIENT to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBELO. The Caltrans' Disadvantaged Business Enterprise Program may offer assistance to the DBELO.

XI Directory (§26.31)

RECIPIENT will refer interested persons to the Unified Certification Program DBE directory available from the Caltrans Disadvantaged Business Enterprise Program's website at www.dot.ca.gov/hq/bep.

XII Required Contract Clauses (§§26.13, 26.29)

RECIPIENT ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

A. Contract Assurance

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate.

[Note – This language is to be used verbatim, as is stated in §26.13(b). See Caltrans Sample Boiler Plate Contract Documents on the Internet at www.dot.ca.gov/hq/LocalPrograms under "Publications."]

B. Prompt Payment

Prompt Progress Payment to Subcontractors

The local agency shall require contractors and subcontractors to be timely paid as set forth in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10-days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

**California Department of Transportation
Disadvantaged Business Enterprise Implementation Agreement**

Prompt Payment of Withheld Funds to Subcontractors

The local agency shall ensure prompt and full payment of retainage from the prime contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed and accepted. This shall be accompanied by including either (1), (2), or (3) of the following provisions [local agency equivalent will need Caltrans approval] in their federal-aid contracts to ensure prompt and full payment of retainage [withheld funds] to subcontractors in compliance with 49 CFR 26.29.

1. No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

2. No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

The City of Winters shall use the following:

3. The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

California Department of Transportation
Disadvantaged Business Enterprise Implementation Agreement

XIII Local Assistance Procedures Manual

The RECIPIENT will advertise, award and administer DOT-assisted contracts in accordance with the most current published Local Assistance Procedures Manual (LAPM).

XIV Transit Vehicle Manufacturers (§ 26.49)

If FTA-assisted contracts will include transit vehicle procurements, RECIPIENT will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26, Section 49.

XV Bidders List (§26.11(c))

The RECIPIENT will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its DOT-assisted contracts. The bidders list will include the name, address, DBE/nonDBE status, age, and annual gross receipts of the firm.

XVI Reporting to the DLAE

RECIPIENT will promptly submit a copy of the Local Agency Bidder/Proposer-UDBE Commitment (Consultant Contract), (Exhibit 10-O(1) "Local Agency Bidder/Proposer-DBE Commitment (Consultant Contract)") or Exhibit 15-G(1) "Local Agency Bidder-UDBE Commitment (Construction Contract) to the DLAE at the time of award of the consultant or construction contracts.

RECIPIENT will promptly submit a copy of the Local Agency Bidder-DBE Information (Exhibit 15-G(2) "Local Agency Bidder-DBE (Construction Contracts) - Information" or Exhibit 10-O(2) "Local Agency Proposer/Bidder-DBE (Consultant Contracts)-Information" of the LAPM) to the DLAE at the time of execution of consultant or construction contract.

RECIPIENT will promptly submit a copy of the Final Utilization of DBE participation to the DLAE using Exhibit 17-F "Final Report - Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" of the LAPM immediately upon completion of the contract for each consultant or construction contract.

XVII Certification (§26.83(a))

RECIPIENT ensures that only DBE firms currently certified by the California Unified Certification Program will participate as DBEs on DOT-assisted contracts.

XVIII Confidentiality

RECIPIENT will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information consistent with federal, state, and local laws.

By _____
John W. Donlevy, Jr., City Manager
ADMINISTERING AGENCY

(530) 795-4910 (ext 110)
Phone Number

**California Department of Transportation
Disadvantaged Business Enterprise Implementation Agreement**

This California Department of Transportation's Disadvantaged Business Enterprise Program Implementation Agreement is accepted by:

[Signature of DLAE]

Date: _____

[Print Name of DLAE]

Distribution: (1) Original – DLAE
(2) Signed copy by the DLAE – Local Agency

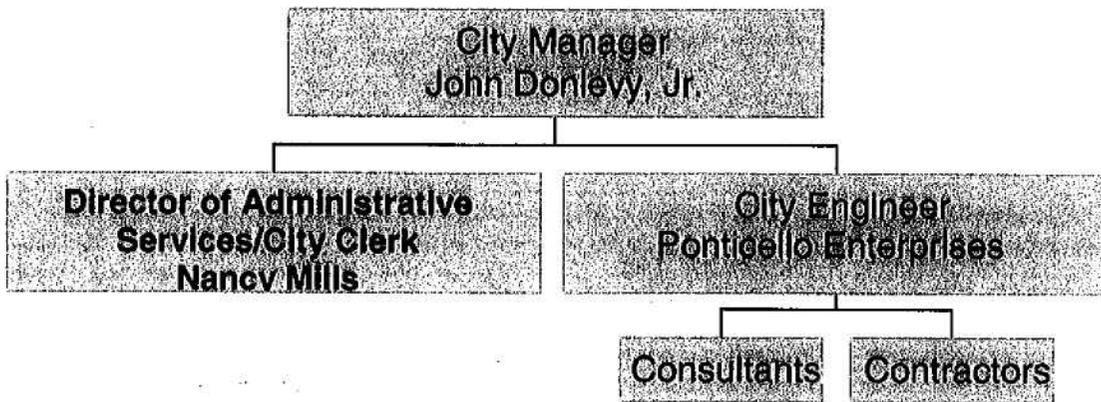
(Updated: March 4, 2009)

**California Department of Transportation
Disadvantaged Business Enterprise Implementation Agreement**

ATTACHMENT 1

DBELO INFORMATION:

Nanci Mills, Director of Administrative Services/City Clerk
318 First Street
Winters, CA 95694
530-795-4910 x101 phone
530-795-4935 fax
nanci.mills@cityofwinters.org





**CITY COUNCIL
STAFF MEMO**

TO: Mayor and City Council
DATE: May 5, 2009
FROM: John W. Donlevy, Jr., City Manager *JWD*
SUBJECT: Solano County Water Agency Contract Amendment

RECOMMENDATION:

That the City Council approve Amendment Number 1 to the Landowner Agreement with the Solano County Water Agency for the removal of the Winters Percolation Dam.

BACKGROUND:

The City of Winters, in conjunction with the Lower Putah Creek Coordinating Council and the Solano County Water Agency have submitted grants and coordinated numerous restoration projects in the Winters Putah Creek Park. Through a combination of grants and funded projects, the City and these agencies have worked cooperatively to restore the ecology of Putah Creek.

The City and Water Agency have operated since 2006 under a Landowner Agreement which allows them to conduct a variety of restoration activities within the Creek.

In 2006, the City was funded a River Parkways Grant for the removal of the percolation dam and has designated the Solano County Water Agency as the lead agency to implement the project.

DISCUSSION:

In preparation for the project, agencies are requiring that the Landowner Agreement between the City and Water Agency specifically include reference to the removal of the Winters Percolation Dam as a named project.

The attached amendment includes such and authorizes this project to proceed.

FISCAL IMPACT:

None by this action.

ATTACHMENTS: Landowner Agreement and Amendment

SOLANO COUNTY WATER AGENCY

AMENDMENT TO LANDOWNER AGREEMENT

AMENDMENT NUMBER: 1

LANDOWNER: City of Winters

EFFECTIVE DATE: April 20, 2009

PROJECT: LPCCC Riparian Restoration

DESCRIPTION OF AMENDMENT:

1. Exhibit B is amended to include removal of Winters Percolation Dam from the active channel of Putah Creek and use of broken concrete with rebar removed as fill to create a creek edge trail along the south bank for 210 feet below the current location of the Dam. Concrete will be capped with a minimum 3 feet of fill from adjacent borrow site at Putah Creek Flats. Disturbed areas will be planted to native vegetation. Project will be completed according to plans approved by Solano County Water Agency Board.

SIGNATURES:

Solano County Water Agency,
a Public Agency

City of Winters

By: _____
David B. Okita,
General Manager

By: _____
John Donlevy
City Manager

Name of Project: LPCCC CALFED 96 Putah Creek Discovery Corridor

Amendment 4 to UCD Contract #C04-00449V

Exhibit A

Partners: Lower Putah Creek Coordinating Committee
UC Davis Public Service Research Program

Dates: January 1, 2008 - Dec 31, 2008

Amount: \$25,390

Work Plan

During the remaining year of funding, the coordinator will continue to facilitate the collaborative process of the PCDC Cooperative and oversee the development and implementation of educational opportunities that bring the public to the Corridor. Projects that will be continued include a) a docent-led project for public exploration of the Putah Creek Discovery Corridor, b) a school project for youth to learn about and participate in corridor-wide activities, and c) a training project for outreach providers and volunteers. Activities that the PCDC Cooperative aims to develop or expand include summer programs for families and the general public at PCDC sites, strategies for coordination among educators, and a search for funding for public outreach programs.

Name of Project: LPCCC CALFED 96 Putah Creek Discovery Corridor

Amendment 4 to UCD Contract #C04-00449V

EXHIBIT B

Budget

Remaining funds of \$25,390 will be spent on public outreach coordination (via coordinator subcontract) and on implementation of school and public programs in the Putah Creek Discovery Corridor.

When recorded mail to:

Rich Marovich
Solano County Water Agency
P.O. Box 349
Elmira, California 95625-0349

Space above this line for Recorder's Use

Project: **RIPARIAN HABITAT RESTORATION, LOWER PUTAH CREEK**

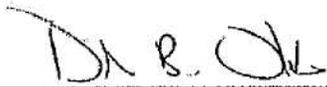
County: **YOLO COUNTY**

NOTICE OF UNRECORDED GRANT AGREEMENT

A Grant Agreement titled for reference purposes as **RIPARIAN HABITAT RESTORATION, LOWER PUTAH CREEK** (Agreement No. **WC-4009SC**), was entered into by and between the State of California, by and through the Wildlife Conservation Board (Board), Solano County Water Agency (Agency) and the City of Winters (City).

The Board, Grantee and City entered into said Grant Agreement (No. WC-4009SC), pursuant to which the Board granted funds to Grantee to perform certain activities on the certain real property in Solano County owned by the Landowner, to perform weed removal and riparian habitat enhancement. The Grant Agreement term runs from **August 12, 2004**, through **August 12, 2007**, for capital improvements and restoration activities and from **August 12, 2007**, through **August 12, 2014**, for management practices. The terms, conditions and restrictions of the Grant Agreement are binding upon and inure to the benefit of the Landowner, and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running for the project life span of the project on the subject lands as described in Exhibit "A" hereto and incorporated herein by this reference. For additional terms and conditions of the Grant, reference should be made to the Grant Agreement which is on file with the Wildlife Conservation Board, 1807 13th Street, Suite 103, Sacramento, California 95814.

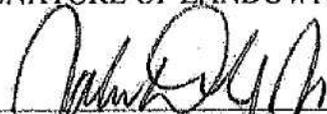
SIGNATURE OF GRANTEE (Solano County Water Agency)



David B. Okita, General Manager

DATE: 8/15/02

SIGNATURE OF LANDOWNER



John Donlevy, City Manager

DATE: 6-28-06

**AGREEMENT BETWEEN PROPERTY OWNER
AND THE
SOLANO COUNTY WATER AGENCY
ON BEHALF OF THE
LOWER PUTAH CREEK COORDINATING COMMITTEE
FOR
WEED REMOVAL AND RIPARIAN HABITAT ENHANCEMENT
IMPLEMENTING WILDLIFE CONSERVATION BOARD
GRANT AGREEMENT NO. WC-4009SC**

This AGREEMENT BETWEEN PROPERTY OWNER AND THE SOLANO COUNTY WATER AGENCY ON BEHALF OF THE LOWER PUTAH CREEK COORDINATING COMMITTEE FOR RESTORATION PROJECT ("Agreement") is entered into as of the ____ day of June, 2006 by and between John Donlevy ("Manager") and the Lower Putah Creek Coordinating Committee represented by the Solano County Water Agency ("Agency").

1. Recitals.

A. Owner is the Owner of certain real property described in Exhibit "A" attached hereto and by reference made a part of this Agreement ("Property").

B. The Agency on behalf of the Lower Putah Creek Coordinating Committee administers a grant that provides public funding for restoration projects on public and private lands adjacent to Putah Creek with willing Owners who decide to participate.

C. The project, described in Exhibit "B", the Project Description, attached hereto and by reference made a part of this Agreement, hereinafter referred to as the "Project", has been specifically approved by the Owner, Agency and the Lower Putah Creek Coordinating Committee.

D. It will be necessary for Agency personnel, or persons performing under contract to the Agency, to enter upon the Property for the purpose of conducting the Project.

E. This Agreement provides for right of entry for the work to be done.

2. Grant of Permission. Subject to the terms and conditions of this Agreement, Owner hereby grants to Agency, its contractors, subcontractors and their employees, representatives and agents; and the employees of the Wildlife Conservation Board and the California Department of Fish and Game permission to enter the Property for the limited purpose of removing solid waste, controlling invasive weeds and habitat enhancement and verifying work performed on the Property as specifically set forth in the Project Description.

3. Scope of Work. By their signature on this Agreement, the parties have agreed to the Project Description, and that the work to be undertaken by the Agency is limited to the work set forth in the Project Description, described in Exhibit 'B'.

4. Limitations on Use.

A. Prior to each entry onto the Property, Agency shall provide at least seventy-two (72) hours notice to Owner, arrange for access and, if requested by Owner, allow oversight of all on-site activities.

B. Agency shall make reasonable effort to ensure that none of its activities on the Property unreasonably interferes with Owner's operations or use of the Property.

5. Term. The term of this Agreement shall commence on the date of execution and shall continue until August 12, 2014. If the Project is not completed by August 12, 2014 this Agreement shall terminate.

6. Payment. There shall be no payment made to Owner for this right of entry. All work in the Project Description will be done at Agency cost.

7. Conditions at Completion of Project. Upon completion of the Project, Agency shall remove all equipment and leave the Property in its condition existing immediately prior to the effective date of this Agreement to the extent reasonably possible, except for the work undertaken pursuant to the Project Description.

8. Permits and Compliance with Law. Agency shall obtain and maintain all governmental permits and approvals required for the activities conducted under this Agreement and shall comply with all statutes, ordinances, rules, regulations, orders and requirements now in effect or that become effective during the term of this Agreement applicable to its work to be undertaken pursuant to the Project Description.

9. Rights Limited. This Agreement is intended and shall be construed only as temporary permission to enter and conduct the activities of the Project on the Property and not as a grant of any real property or other rights to Agency in the Property.

10. Indemnification for Project Construction

During the term of this Agreement, and to the fullest extent permitted by law, Agency shall indemnify, defend, protect and hold harmless Owner and Owner's personal representatives, successors, and assigned (collectively, the "Indemnitees"), from and against any and all claims, demands, losses, proceedings, damages, causes of action, liabilities, costs or expenses (including, but not limited to, attorney's fees) caused by access to and activities on the Property conducted by Agency or its agents, representatives, employees, servants, contractors, subcontractors, sub-subcontractors, suppliers, licensees, invitees or anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable, unless caused by the negligent or willful misconduct of Indemnitees. The provisions of this paragraph shall survive termination of the Agreement as to any actions covered by this indemnification occurring during the term of the Agreement.

Except as expressly provided above, upon termination of this Agreement Agency's obligation to indemnify Owner shall cease, and from that point forward, and to the fullest extent permitted by law, Owner shall indemnify and hold harmless and defend Agency, its directors, officers, employees; or authorized volunteers, and each of them from and against any and all claims, demands, causes of action, damages, costs, expenses, losses or liabilities, in law or in equity, of every kind or nature whatsoever for, but not limited to, injury to or death of any person and damages to or destruction of property of any person, arising out of or in any manner directly or indirectly connected with this Agreement, or Agency's action under this Agreement, however caused. Owner's obligation to indemnify Agency shall survive the termination or expiration of this Agreement.

11. Maintenance.

A. This Agreement shall not bind Owner to any future maintenance.

B. Agency's consent to undertake the work agreed to in the Project Description is a one-time obligation of the Agency, and imposes no continuing obligation on the Agency to maintain the work, or to repeat the work if the need arises in the future except as specified in the Project Description.

C. IN WITNESS HEREOF, Agency and Owner have executed two (2) original copies of the Agreement as of the date first referenced above.

"Agency"

SOLANO COUNTY WATER AGENCY

By: David B. Okita
David B. Okita, General Manager
Solano County Water Agency
508 Elmira Road
Vacaville

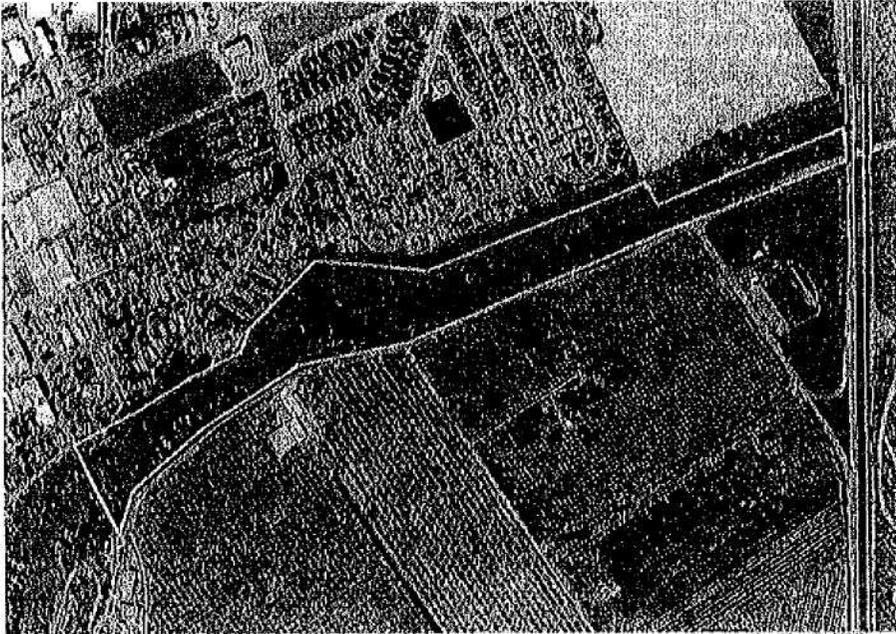
"Owner"

Yolo: 003-222-024
Yolo: 003-222-001
Yolo: 003-048-021
Yolo: 038-018-046
Yolo: 038-007-033

By: _____
John Donlevy

Parcel Numbers

EXHIBIT A – Property Description



Yolo County:

003-222-024: (Winters Community Center) North bank of Putah Creek from the centerline of the channel to the top of the bank from the Winters Car Bridge to the western edge of 003-222-001.

003-222-001: North bank of Putah Creek from the centerline of the channel to the top of the bank from the eastern edge of 003-222-024 (Community Center) to the western edge of 003-048-021.

003-048-021: North bank of Putah Creek from the centerline of the channel to the top of the bank from the eastern edge of 003-222-001 to the western edge of properties on Caselli Lane.

038-018-046 North bank of Putah Creek from the centerline of the channel to the southern boundary of properties on Creekside Way from the eastern edge of properties on Caselli Court to the western boundary of parcel 038-007-033.

038-007-033: North bank of Putah Creek from the centerline of the channel to the southern boundary of properties on Creekside Way from the eastern edge of parcel 038-018-046 to the western boundary of 038-007-012.

EXHIBIT B Project Description

This purpose of this project is to allow Agency to remove solid waste, remove and control invasive vegetation including Arundo, Himalayan blackberry, eucalyptus, tamarisk, domestic almond, tree-of-heaven and other non-native invasive weeds and to improve channel form and function where practical by restoring floodplains to functional elevation (two feet above low flow channel elevation) and sloping at a gentle grade from the toe of the bank to the low flow channel.

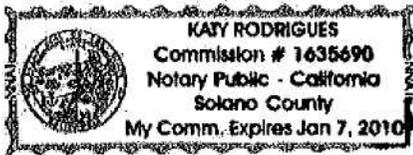
All herbicide applications will be made under the supervision of a licensed pest control operator using aquatic-safe herbicides and application methods. Disturbed sites will be treated to prevent erosion and planted to native vegetation.

The project also includes fish habitat enhancement consisting of two rock weirs, a w-weir at the riffle 210 feet below the percolation dam and a cross vane beneath highway 505. Rock weir construction will be supervised by a fluvial geomorphologist. The area upstream of the rock weirs will be filled with coarse gravel to enhance salmon spawning habitat.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
 County of Solano } ss.
 On August 15, 2006 before me, Katy Rodrigues
Date Name and Title of Officer (e.g., Jane Doe, Notary Public)
 personally appeared David B. Okita
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence



to be the person whose name (is/are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity , and that by his/her/their signature on the instrument the person , or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.
Katy Rodrigues
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

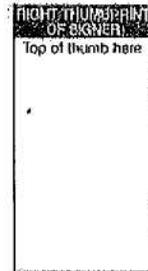
Description of Attached Document

Title or Type of Document: _____
 Document Date: _____ Number of Pages: _____
 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney-in-Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer Is Representing: _____



CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Solano

On _____ before me, A Hanrahan, Notary Public
(DATE) (NOTARY)

personally appeared John Donlevy,

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

The following information is not required by law, however it may be helpful in preventing fraudulent use of this acknowledgment.

DOCUMENT TITLE OR DESCRIPTION _____

DOCUMENT DATE: _____

COMMENTS:

RIGHT THUMBPRINT OF SIGNER

RIGHT THUMBPRINT OF SIGNER

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Solano

On _____ before me, A Hanrahan, Notary Public
(DATE) (NOTARY)

personally appeared David Okita,

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

The following information is not required by law, however it may be helpful in preventing fraudulent use of this acknowledgment.

DOCUMENT TITLE OR DESCRIPTION _____

DOCUMENT DATE: _____

COMMENTS:

RIGHT THUMBPRINT OF SIGNER

RIGHT THUMBPRINT OF SIGNER



**A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS
HONORING KARLA KNABKE FOR HER SERVICE ON THE
CITY OF WINTERS HISPANIC ADVISORY COMMITTEE**

WHEREAS, The City of Winters Hispanic Advisory Committee was established in June 2006 by resolution of the City Council of the City of Winters and reauthorized on February 19, 2008; and

WHEREAS, The City of Winters Hispanic Advisory Committee was tasked with the development and improvement of three key areas for the Latino community in Winters: Involvement, Access and Outreach; and

WHEREAS, At the February 19, 2008 meeting of the Winters City Council, the Council unanimously approved the following recommended actions for the committee: monitor existing programs, host a town hall community forum, host an information workshop, host an annual community festival and help to introduce and continue health care and social services accessibility; and

WHEREAS, on April 15, 2009, Karla Knabke was appointed by the Winters City Council to serve a second term as a member of the Hispanic Advisory Committee; and

WHEREAS, Karla's commitment to the citizens of Winters through her participation on the City of Winters Hispanic Advisory Committee this year played an important role in offering an estate planning information night, a city services night and input regarding several City programs; and

WHEREAS, as a member of the committee Karla was instrumental in the success of the Festival de la Comunidad/Community Festival held on September 28, 2008 including the first annual Carnitas Cook-off, uniting the community for a common event bringing together several hundred community members enjoying entertainment, information and food booths;

NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Winters that Karla Knabke greatly contributed to the success of the City of Winters Hispanic Advisory Committee and that she should be thanked for her support of the Winters community.

PASSED AND ADOPTED, this 5th day of May, 2009.

Council Member Harold Anderson

Council Member Cecilia Aguiar Curry

Mayor Michael Martin

Council Member Tom Stone

Council Member Woody Fridae

City Manager John W. Donlevy, Jr.

ATTEST: City Clerk Nanci G. Mills



**A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS
HONORING LETICIA QUIARTE FOR HER SERVICE ON THE
CITY OF WINTERS HISPANIC ADVISORY COMMITTEE**

WHEREAS, The City of Winters Hispanic Advisory Committee was established in June 2006 by resolution of the City Council of the City of Winters and reauthorized on February 19, 2008; and

WHEREAS, The City of Winters Hispanic Advisory Committee was tasked with the development and improvement of three key areas for the Latino community in Winters: Involvement, Access and Outreach; and

WHEREAS, At the February 19, 2008 meeting of the Winters City Council, the Council unanimously approved the following recommended actions for the committee: monitor existing programs, host a town hall community forum, host an information workshop, host an annual community festival and help to introduce and continue health care and social services accessibility; and

WHEREAS, on April 15, 2008, Leticia Quirarte was appointed by the Winters City Council to serve a second term as a member of the Hispanic Advisory Committee; and

WHEREAS, Leticia's commitment to the citizens of Winters through her participation on the City of Winters Hispanic Advisory Committee this year played an important role in offering an estate planning information night, a city services night and input regarding several City programs; and

WHEREAS, as a member of the committee Leticia was instrumental in the success of the Festival de la Comunidad/Community Festival held on September 28, 2008 including the first annual Carnitas Cook-off, uniting the community for a common event bringing together several hundred community members enjoying entertainment, information and food booths;

NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Winters that Leticia Quirarte greatly contributed to the success of the City of Winters Hispanic Advisory Committee and that she should be thanked for her support of the Winters community.

PASSED AND ADOPTED, this 5th day of May, 2009.

Council Member Harold Anderson

Council Member Cecilia Aguiar Curry

Mayor Michael Martin

Council Member Tom Stone

Council Member Woody Fridae

City Manager John W. Donlevy, Jr.

ATTEST: City Clerk Nanci G. Mills



**A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS
HONORING LAURA SALAS FOR HER SERVICE ON THE
CITY OF WINTERS HISPANIC ADVISORY COMMITTEE**

WHEREAS, The City of Winters Hispanic Advisory Committee was established in June 2006 by resolution of the City Council of the City of Winters and reauthorized on February 19, 2008; and

WHEREAS, The City of Winters Hispanic Advisory Committee was tasked with the development and improvement of three key areas for the Latino community in Winters: Involvement, Access and Outreach; and

WHEREAS, At the February 19, 2008 meeting of the Winters City Council, the Council unanimously approved the following recommended actions for the committee: monitor existing programs, host a town hall community forum, host an information workshop, host an annual community festival and help to introduce and continue health care and social services accessibility; and

WHEREAS, on April 15, 2008, Laura Salas was appointed by the Winters City Council to serve as a member of the Hispanic Advisory Committee; and

WHEREAS, Laura's commitment to the citizens of Winters through her participation on the City of Winters Hispanic Advisory Committee this year played an important role in offering an estate planning information night, a city services night and input regarding several City programs; and

WHEREAS, as a member of the committee Laura was instrumental in the success of the Festival de la Comunidad/Community Festival held on September 28, 2008 including the first annual Carnitas Cook-off, uniting the community for a common event bringing together several hundred community members enjoying entertainment, information and food booths;

NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Winters that Laura Salas greatly contributed to the success of the City of Winters Hispanic Advisory Committee and that she should be thanked for her support of the Winters community.

PASSED AND ADOPTED, this 5th day of May, 2009.

Council Member Harold Anderson

Council Member Cecilia Aguiar Curry

Mayor Michael Martin

Council Member Tom Stone

Council Member Woody Fridae

City Manager John W. Donlevy, Jr.

ATTEST: City Clerk Nanci G. Mills



**A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS
HONORING HECTOR CARILLO FOR HIS SERVICE ON THE
CITY OF WINTERS HISPANIC ADVISORY COMMITTEE**

WHEREAS, The City of Winters Hispanic Advisory Committee was established in June 2006 by resolution of the City Council of the City of Winters and reauthorized on February 19, 2008; and

WHEREAS, The City of Winters Hispanic Advisory Committee was tasked with the development and improvement of three key areas for the Latino community in Winters: Involvement, Access and Outreach; and

WHEREAS, At the February 19, 2008 meeting of the Winters City Council, the Council unanimously approved the following recommended actions for the committee: monitor existing programs, host a town hall community forum, host an information workshop, host an annual community festival and help to introduce and continue health care and social services accessibility; and

WHEREAS, on April 15, 2008, Hector Carrillo was appointed by the Winters City Council to serve as a member of the Hispanic Advisory Committee; and

WHEREAS, Hector's commitment to the citizens of Winters through his participation on the City of Winters Hispanic Advisory Committee this year played an important role in offering an estate planning information night, a city services night and input regarding several City programs; and

WHEREAS, as a member of the committee Hector was instrumental in the success of the Festival de la Comunidad/Community Festival held on September 28, 2008 including the first annual Carnitas Cook-off, uniting the community for a common event bringing together several hundred community members enjoying entertainment, information and food booths;

NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Winters that Hector Carrillo greatly contributed to the success of the City of Winters Hispanic Advisory Committee and that he should be thanked for his support of the Winters community.

PASSED AND ADOPTED, this 5th day of May, 2009.

Council Member Harold Anderson

Council Member Cecilia Aguiar Curry

Mayor Michael Martin

Council Member Tom Stone

Council Member Woody Fridae

City Manager John W. Donlevy, Jr.

ATTEST: City Clerk Nanci G. Mills



**A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS
HONORING ALFONSO SALAS FOR HIS SERVICE ON THE
CITY OF WINTERS HISPANIC ADVISORY COMMITTEE**

WHEREAS, The City of Winters Hispanic Advisory Committee was established in June 2006 by resolution of the City Council of the City of Winters and reauthorized on February 19, 2008; and

WHEREAS, The City of Winters Hispanic Advisory Committee was tasked with the development and improvement of three key areas for the Latino community in Winters: Involvement, Access and Outreach; and

WHEREAS, At the February 19, 2008 meeting of the Winters City Council, the Council unanimously approved the following recommended actions for the committee: monitor existing programs, host a town hall community forum, host an information workshop, host an annual community festival and help to introduce and continue health care and social services accessibility; and

WHEREAS, on April 15, 2008, Alfonso Salas was appointed by the Winters City Council to serve as a member of the Hispanic Advisory Committee; and

WHEREAS, Alfonso's commitment to the citizens of Winters through his participation on the City of Winters Hispanic Advisory Committee this year played an important role in offering an estate planning information night, a city services night and input regarding several City programs; and

WHEREAS, as a member of the committee Alfonso was instrumental in the success of the Festival de la Comunidad/Community Festival held on September 28, 2008 including the first annual Carnitas Cook-off, uniting the community for a common event bringing together several hundred community members enjoying entertainment, information and food booths;

NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Winters that Alfonso Salas greatly contributed to the success of the City of Winters Hispanic Advisory Committee and that he should be thanked for his support of the Winters community.

PASSED AND ADOPTED, this 5th day of May, 2009.

Council Member Harold Anderson

Council Member Cecilia Aguiar Curry

Mayor Michael Martin

Council Member Tom Stone

Council Member Woody Fridae

City Manager John W. Donlevy, Jr.

ATTEST: City Clerk Nanci G. Mills



**A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS
HONORING MIGUEL VAZQUEZ FOR HIS SERVICE ON THE
CITY OF WINTERS HISPANIC ADVISORY COMMITTEE**

WHEREAS, The City of Winters Hispanic Advisory Committee was established in June 2006 by resolution of the City Council of the City of Winters and reauthorized on February 19, 2008; and

WHEREAS, The City of Winters Hispanic Advisory Committee was tasked with the development and improvement of three key areas for the Latino community in Winters: Involvement, Access and Outreach; and

WHEREAS, At the February 19, 2008 meeting of the Winters City Council, the Council unanimously approved the following recommended actions for the committee: monitor existing programs, host a town hall community forum, host an information workshop, host an annual community festival and help to introduce and continue health care and social services accessibility; and

WHEREAS, on April 15, 2008, Miguel Vazquez was appointed by the Winters City Council to serve as a member of the Hispanic Advisory Committee; and

WHEREAS, Miguel's commitment to the citizens of Winters through his participation on the City of Winters Hispanic Advisory Committee this year played an important role in offering an estate planning information night, a city services night and input regarding several City programs; and

WHEREAS, as a member of the committee Miguel was instrumental in the success of the Festival de la Comunidad/Community Festival held on September 28, 2008 including the first annual Carnitas Cook-off, uniting the community for a common event bringing together several hundred community members enjoying entertainment, information and food booths;

NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Winters that Miguel Vazquez greatly contributed to the success of the City of Winters Hispanic Advisory Committee and that he should be thanked for his support of the Winters community.

PASSED AND ADOPTED, this 5th day of May, 2009.

Council Member Harold Anderson

Council Member Cecilia Aguiar Curry

Mayor Michael Martin

Council Member Tom Stone

Council Member Woody Fridae

City Manager John W. Donlevy, Jr.

ATTEST: City Clerk Nanci G. Mills



**A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS
HONORING CRESCENCIO MEJIA FOR HIS SERVICE ON THE
CITY OF WINTERS HISPANIC ADVISORY COMMITTEE**

WHEREAS, The City of Winters Hispanic Advisory Committee was established in June 2006 by resolution of the City Council of the City of Winters and reauthorized on February 19, 2008; and

WHEREAS, The City of Winters Hispanic Advisory Committee was tasked with the development and improvement of three key areas for the Latino community in Winters: Involvement, Access and Outreach; and

WHEREAS, At the February 19, 2008 meeting of the Winters City Council, the Council unanimously approved the following recommended actions for the committee: monitor existing programs, host a town hall community forum, host an information workshop, host an annual community festival and help to introduce and continue health care and social services accessibility; and

WHEREAS, on April 15, 2008, Crescencio Mejia was appointed by the Winters City Council to serve as a member of the Hispanic Advisory Committee; and

WHEREAS, Crescencio's commitment to the citizens of Winters through his participation on the City of Winters Hispanic Advisory Committee this year played an important role in offering an estate planning information night, a city services night and input regarding several City programs; and

WHEREAS, as a member of the committee Crescencio was instrumental in the success of the Festival de la Comunidad/Community Festival held on September 28, 2008 including the first annual Carnitas Cook-off, uniting the community for a common event bringing together several hundred community members enjoying entertainment, information and food booths;

NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Winters that Crescencio Mejia greatly contributed to the success of the City of Winters Hispanic Advisory Committee and that he should be thanked for his support of the Winters community.

PASSED AND ADOPTED, this 5th day of May, 2009.

Council Member Harold Anderson

Council Member Cecilia Aguiar Curry

Mayor Michael Martin

Council Member Tom Stone

Council Member Woody Fridae

City Manager John W. Donlevy, Jr.

ATTEST: City Clerk Nanci G. Mills



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers

THROUGH: John W. Donlevy, Jr., City Manager *[Signature]*

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

DATE: May 5, 2009

SUBJECT: **Second Reading and Possible Adoption of 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; and
- 2) Waive second reading, read by title only and adopt:
 - 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.

The proposed Ordinances were introduced to the City Council on April 21, 2009. A public hearing was also held. The City Council waived the first reading, read by title only, and introduced the proposed Ordinances.

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. At the April 21, 2009 City Council meeting, the City Council scheduled the second reading of the Ordinances for the regularly scheduled City Council meeting on May 5, 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 SECOND READING, READ BY TITLE ONLY AND ADOPT 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 SECOND READING, READ BY TITLE ONLY AND ADOPT 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 SECOND READING, READ BY TITLE ONLY AND ADOPT 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 SECOND READING, READ BY TITLE ONLY AND ADOPT 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 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 April 21, 2009, and was passed and adopted at a regular meeting of the City Council held on May 5, 2009 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 025 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 April 21, 2009, and was passed and adopted at a regular meeting of the City Council held on May 5, 2009 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 blue-line 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 April 21, 2009, and was passed and adopted at a regular meeting of the City Council held on May 5, 2009 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 April 21, 2009, and was passed and adopted at a regular meeting of the City Council held on May 5, 2009 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE : May 5, 2009
THROUGH: John W. Donlevy, Jr., City Manager *[Signature]*
FROM: Hispanic Advisory Committee
SUBJECT: Acceptance of report from the City of Winters Hispanic Advisory Committee and reauthorization of the committee.

RECOMMENDATION:

The City Council receive the annual report from City of Winters Hispanic Advisory Committee.

The City Council reauthorize the City of Winters Hispanic Advisory Committee for another period of one year.

BACKGROUND:

The City of Winters Hispanic Advisory Committee was established in June 2006 by Resolution of the City Council of the City of Winters.

The committee was tasked with the development/improvement of three key areas for the Latino community in Winters: Involvement, Access and Outreach.

One of the major activities undertaken by the committee was the Latino Community Meeting, held at St. Anthony Parish Hall on March 22, 2007. Input was obtained from community members regarding services available, programs needed, health and safety and other concerns. Annual reports were made to the City Council in May 2007 and February 2008, highlighting key discussion points amongst the Latino community in Winters and the activities of the committee. An interim report was made in September 2008 (see attached reports dated May 15, 2007, February 19, 2008 and September 2, 2008).

At the February 19, 2008 meeting of the Winters City Council, the Council unanimously approved the establishment of a new Hispanic Advisory Committee and approved the following recommended actions for the committee: monitor existing programs, host a town hall community forum, host an information workshop, host an annual community festival and help to introduce and continue health care and social services accessibility.

The Committee would like to report to the City Council the findings of the third annual report of the City of Winters Hispanic Advisory Committee and request that the committee be reauthorized to continue its work.

Report on Recommended Actions:

- Monitoring of programs:
 - After School Program – Nancy Gonnella, Director of the After School Program presented to the committee on November 4, 2008 and on February 3, 2009. The presentations included an overview of the After School Program including elements of the program focusing on homework assistance, literacy and enrichment. The committee provided useful feedback for increasing the awareness of the program among community members. The committee was also informed of the availability of financial assistance.
 - Affordable Housing – The committee received reports from Dan Maguire, Housing Manager for the City of Winters on December 2, 2008 and on March 3, 2009. The status of availability of low income housing was reviewed with the committee. Housing Manager Maguire reported on the selection of the “Neighborworks” homebuyer education program to be used by the City which includes intense training regarding qualifications, the home buying process and post home ownership. He also informed the committee and responded to questions regarding the March 19, 2009 foreclosure workshop. Two of the committee members were involved in the planning of the workshop and all committee members volunteered to help spread the word of the workshop.
 - Recreation Programs – On June 3, 2008 and on November 4, 2008 the committee met with staff members from the City’s recreation department for comprehensive reports of the programs offered and future goals. In addition to expressing an interest in the overall expansion of recreation programs, a key area of interest of the committee is the establishment of a teen recreation center. The committee was appreciative of the work the recreation program has done to expand offerings and commended the staff for the middle school survey and the hosting of “Jam Night” for teens. They would like to see the City continue its search for a location for a teen center.
 - Farmers Market/Community Garden/Nutrition Program – Ana Kormos of the Winters Promotoras presented to the committee on December 2, 2008 and April 7, 2009 the details of the grant received by the Promotoras and how they can be involved. The committee was especially interested in the Community Garden aspect of the program including the location of the garden and the administration of it. Ms. Kormos explained that the parcels will primarily be for families living in apartments and that an association of the participants would be formed along with the establishment of a governing board.
- Estate Planning Information Night:
 - The committee hosted a very successful Estate Planning Information on February 23, 2009. John C. Wallace, Attorney at Law, presented information on wills, estate planning, trusts, probate and powers of attorney for both

financial and health care decisions. The presentation was translated into Spanish by Juan Goya. Materials from the State Bar of California were available in both English and Spanish for the audience.

- City Services Community Forum:
 - The committee identified a need to educate the community regarding the various departments at City Hall and the services offered by the departments. It was commented that often members of the public do not know who to go to if they have a question or a complaint. To address the need the Committee hosted a City Services Information Night on May 4, 2009. The following departments made presentations (in English and translated into Spanish) and responded to questions from the audience:
 - Administrative Services/Recreation/After School Program
 - Building and Planning
 - Finance
 - Fire
 - Housing and Redevelopment
 - Police
 - Public Works

- Festival de la Comunidad/Community Festival:
 - The committee hosted its second annual community festival on Sunday, September 28, 2008. Building on the success of the prior year's event, the second festival attracted several hundred people. To better reflect the spirit of the event, and to avoid confusion with other local events, the festival was renamed Festival de la Comunidad/Community Festival.
 - The 2008 event included the first annual Winters Carnitas Cook-off in which five teams competed, each cooking one-hundred pounds of pork and dishing up their own homemade salsa. The cook-off was a huge hit with each of the teams running out of carnitas.
 - The intent of the festival is to bring the community together as one, celebrating our similarities as well as our differences, and to learn about each other as well as the organizations that serve our community. The diversity of those in attendance, along with the diversity of the booths and entertainment, is evidence that the festival met its intent.
 - An extensive debriefing of the event was held by the Hispanic Advisory Committee. Successes and challenges were reviewed, and notes were prepared to assist in improved planning for the next festival.
 - Sunday, September 27, 2009 has been selected for the third annual Festival de la Comunidad/Community Festival.

- Health Care and Social Services Accessibility:
 - The committee has not made much headway in this area. Discussions were held regarding the need for affordable childcare and there was some exploration of the services currently available. The accessibility of job training for teenagers has been identified as an area of focus for the committee. Future meetings will include looking at ways in which the committee can

expand its efforts in this area.

Committee Recommendations for Future Action:

The Hispanic Advisory Committee recommends that the Winters City Council accept this closing report of the Hispanic Advisory Committee and authorize the advertisement and establish of a new Hispanic Advisory Committee. It is recommended that the newly established Hispanic Advisory Committee meet once per month and focuses on the following:

- 1. Continued monitoring of existing programs and services,**
- 2. Host a community forum meeting once per year for the purpose of gathering information and responding to the needs of the Latino community,**
- 3. Host an informational workshop once a year on a topic of importance to the Latino community and the community at large,**
- 4. Organize the annual community festival.**

FISCAL IMPACT:

To be determined.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE : May 5, 2009
FROM: John W. Donlevy, Jr., City Manager 
SUBJECT: Review and consider support of Assembly Constitutional Amendments -
ACA 9 and ACA 15

RECOMMENDATION:

That the City Council review the proposed legislation and consider a City position on either or both.

BACKGROUND:

There are two proposed Assembly Constitutional Amendments for review and consideration of support by the Council: ACA 9 (Huffman) and ACA 15 (Arambula).

These Assembly Constitutional Amendments differ some however either one, if passed by both the legislature and electorate, would lower the voting threshold from 66.67% to 55% for special taxes and in the case of ACA 9 also for certain general obligation bonds.

ACA 9 lowers the voting threshold to 55% for special tax measures and additionally includes 55% language associated with general obligation bonds for certain types of projects. (A copy of ACA 9 as introduced on February 6, 2009 is attached along with a summary from the California State Association of Counties (CSAC).)

ACA 15 lowers the voting threshold to 55% for special tax measures associated with local transportation projects. (A copy of ACA 15 as introduced on March 10, 2009 is attached.)

These amendments would require a 66.7% passage by both houses, before being placed on the ballot, which would then require a simple majority to pass. Given the current make-up of the Legislature both of these amendments may not make it through the two houses. Of the two amendments, ACA 9 may have a better chance due to a broad coalition of support from groups including the League of California Cities, CSAC, California Professional Firefighters, the California Transit Association, water districts and public safety groups.

The Council has previously taken an advocacy role in matters that affect funding opportunities that would benefit the City and it would be appropriate for the Council to consider these two amendments and taking a position of support.

FISCAL IMPACT:

None at this time.

Assembly Constitutional Amendment

No. 9

Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Portantino, Salas, and Torlakson)
(Coauthor: Senator Hancock)

February 6, 2009

Assembly Constitutional Amendment No. 9—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of Article XIII A thereof, by amending Section 2 of Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

ACA 9, as introduced, Huffman. Local government bonds: special taxes: voter approval.

(1) The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions.

This measure would create an additional exception to the 1% limit for a rate imposed by a city, county, or city and county to service bonded indebtedness, incurred to fund specified public improvements, facilities, and housing, and related costs, that is approved by 55% of the voters of the city, county, or city and county, as applicable. This additional exception would apply only if the proposition approved by the voters results in bonded indebtedness that includes specified accountability requirements.

(2) The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of $\frac{2}{3}$ of the

voters of the city, county, or special district voting on that tax, except that certain school entities may levy an ad valorem property tax for specified purposes with the approval of 55% of the voters within the jurisdiction of these entities.

This measure would change the $\frac{2}{3}$ voter-approval requirement for special taxes to, instead, authorize a city, county, or special district to impose a special tax with the approval of 55% of its voters voting on the tax. This measure would also make technical, nonsubstantive changes to these provisions.

(3) The California Constitution prohibits a county, city, town, township, board of education, or school district from incurring any indebtedness exceeding in one year the income and revenue provided in that year, without the assent of $\frac{2}{3}$ of the voters and subject to other conditions.

This measure would lower to 55% the voter approval threshold for a city, county, or city and county to incur bonded indebtedness, exceeding in one year the income and revenue provided in that year, that is in the form of general obligation bonds to fund specified public improvements.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring, That the*
2 *Legislature of the State of California at its 2009-10 Regular*
3 *Session commencing on the first day of December 2008, two-thirds*
4 *of the membership of each house concurring, hereby proposes to*
5 *the people of the State of California, that the Constitution of the*
6 *State be amended as follows:*

7 *First—That Section 1 of Article XIII A thereof is amended to*
8 *read:*

9 *SECTION 1. (a) The maximum amount of any ad valorem*
10 *tax on real property shall not exceed ~~One percent (1%)~~ 1 percent*
11 *of the full cash value of ~~such~~ that property. The ~~one percent (1%)~~*
12 *1 percent tax to be collected by the counties and apportioned*
13 *according to law to the districts within the counties.*

14 *(b) The limitation provided for in subdivision (a) shall not apply*
15 *to ad valorem taxes or special assessments to pay the interest and*
16 *redemption charges on any of the following:*

17 *(1) Indebtedness approved by the voters prior to July 1, 1978.*

1 (2) Bonded indebtedness for the acquisition or improvement of
2 real property approved on or after July 1, 1978, by two-thirds of
3 the votes cast by the voters voting on the proposition.

4 (3) Bonded indebtedness incurred by a school district,
5 community college district, or county office of education ~~for to~~
6 ~~fund~~ the construction, reconstruction, rehabilitation, or replacement
7 of school facilities, including the furnishing and equipping of
8 school facilities, or the acquisition or lease of real property for
9 school facilities, approved by 55 percent of the voters of the district
10 or county, as appropriate, voting on the proposition on or after the
11 effective date of the measure adding this paragraph. This paragraph
12 shall apply only if the proposition approved by the voters and
13 resulting in the bonded indebtedness includes all of the following
14 accountability requirements:

15 (A) A requirement that the proceeds from the sale of the bonds
16 be used only for the purposes specified in ~~Article XIII A, Section~~
17 ~~1(b)(3) this paragraph~~, and not for any other purpose, including
18 teacher and administrator salaries and other school operating
19 expenses.

20 (B) A list of the specific school facilities projects to be funded
21 and certification that the school district board, community college
22 board, or county office of education has evaluated safety, class
23 size reduction, and information technology needs in developing
24 that list.

25 (C) A requirement that the school district board, community
26 college board, or county office of education conduct an annual,
27 independent performance audit to ensure that the funds have been
28 expended only on the specific projects listed.

29 (D) A requirement that the school district board, community
30 college board, or county office of education conduct an annual,
31 independent financial audit of the proceeds from the sale of the
32 bonds until all of those proceeds have been expended for the school
33 facilities projects.

34 (4) (A) Bonded indebtedness, approved by 55 percent of the
35 voters of the city, county, or city and county, as applicable, voting
36 on the proposition on or after the effective date of the measure
37 adding this paragraph, incurred by a city, county, or city and
38 county to fund any or all of the following:

39 (i) Construction, reconstruction, rehabilitation, or replacement
40 of either:

- 1 (I) Public improvements, including, but not limited to,
2 improvements to transportation infrastructure, streets, highways,
3 sewer systems, waters systems, wastewater systems, and park and
4 recreation facilities.
- 5 (II) Public safety agency facilities.
- 6 (ii) Development of housing affordable to lower and moderate
7 income households.
- 8 (iii) Acquisition or lease of real property for the public
9 improvements, public safety agency facilities, and housing
10 described in clauses (i) and (ii) of this subparagraph.
- 11 (B) This paragraph shall apply only if the proposition approved
12 by the voters and resulting in the bonded indebtedness includes
13 all of the following accountability requirements:
- 14 (i) A requirement that the proceeds from the sale of the bonds
15 be used only for the purposes specified in this paragraph, and not
16 for any other purpose, including public employee salaries and
17 other operating expenses of a public improvement, public safety
18 agency facility, or housing development once completed.
- 19 (ii) A list of the specific projects to be funded and certification
20 that the city council or county board of supervisors has evaluated
21 the costs of operating the public improvements, public facilities,
22 or affordable housing.
- 23 (iii) A requirement that the city council or county board of
24 supervisors conduct an annual, independent performance audit to
25 ensure that the proceeds from the sale of the bonds have been
26 expended only on the specific projects listed.
- 27 (iv) A requirement that the city council or county board of
28 supervisors conduct an annual, independent financial audit of the
29 proceeds from the sale of the bonds until all of those proceeds
30 have been expended for the specific projects to be funded from the
31 bonds.
- 32 (v) A requirement for a public process that solicits a wide range
33 of public comment from the community about the types of facilities
34 that should be funded with the bond.
- 35 (c) Notwithstanding any other provisions of law or of this
36 Constitution, a school ~~districts~~ district, community college ~~districts~~
37 district, ~~and county offices~~ office of education, or a city, county,
38 or city and county may levy a 55 percent vote ad valorem tax
39 pursuant to subdivision (b).

1 Second—That Section 4 of Article XIII A thereof is amended
2 to read:

3 Section 4. ~~Cities, Counties and special districts; A city, county,~~
4 ~~or special district, by a two-thirds 55 percent vote of the qualified~~
5 ~~electors of such district its voters voting on the proposition, may~~
6 ~~impose special taxes on such district a special tax within that city,~~
7 ~~county, or special district, except an ad valorem taxes tax on real~~
8 ~~property or a transaction transactions tax or sales tax on the sale~~
9 ~~of real property within such City, County that city, county, or~~
10 ~~special district.~~

11 Third—That Section 2 of Article XIII C thereof is amended to
12 read:

13 SEC. 2. ~~Local Government Tax Limitation.~~ Notwithstanding
14 any other provision of this Constitution:

15 (a) ~~All taxes A tax~~ imposed by any local government shall be
16 ~~deemed to be is~~ either a general taxes tax or a special taxes tax.
17 ~~Special A special purpose districts district or agencies agency,~~
18 ~~including a school districts, shall have district, has no power~~
19 ~~authority to levy a general taxes tax.~~

20 (b) ~~No A~~ local government may shall not impose, extend, or
21 increase any general tax unless and until that tax is submitted to
22 the electorate and approved by a majority vote of its voters voting
23 on the proposition. A general tax shall is not be deemed to have
24 been increased if it is imposed at a rate not higher than the
25 maximum rate so approved. The election required by this
26 subdivision shall be consolidated with a regularly scheduled general
27 election for members of the governing body of the local
28 government, except in cases of emergency declared by a unanimous
29 vote of the governing body.

30 (c) Any general tax imposed, extended, or increased, without
31 voter approval, by any local government on or after January 1,
32 1995, and prior to the effective date of this article, shall may
33 continue to be imposed only if that general tax is approved by a
34 majority vote of the voters voting in an election on the issue of the
35 imposition, which election shall be is held within two years of the
36 effective date of this article no later than November 6, 1998, and
37 in compliance with subdivision (b).

38 (d) ~~No A~~ local government may shall not impose, extend, or
39 increase any special tax unless and until that tax is submitted to
40 the electorate and approved by a two-thirds 55 percent vote of its

1 voters voting on the proposition. A special tax shall is not be
2 deemed to have been increased if it is imposed at a rate not higher
3 than the maximum rate so approved.

4 Fourth—That Section 3 of Article XIII D thereof is amended
5 to read:

6 SEC. 3. ~~Property Taxes, Assessments, Fees and Charges~~
7 ~~Limited.~~ ~~(a) No (a) An agency shall not assess a tax, assessment,~~
8 ~~fee, or charge shall be assessed by any agency upon any parcel of~~
9 ~~property or upon any person as an incident of property ownership~~
10 ~~except:~~

11 (1) The ad valorem property tax imposed pursuant to Article
12 XIII and Article XIII A.

13 (2) Any special tax receiving a two-thirds vote pursuant to
14 ~~Section 4 of Article XIII A approved by the voters of the city,~~
15 ~~county, or city and county, as appropriate, voting on the~~
16 ~~proposition, as required by the California Constitution.~~

17 (3) Assessments as provided by this article.

18 (4) Fees or charges for ~~property-related~~ property-related services
19 as provided by this article.

20 (b) For purposes of this article, fees for the provision of electrical
21 or gas service ~~shall are~~ not be deemed charges or fees imposed as
22 an incident of property ownership.

23 Fifth—That Section 18 of Article XVI thereof is amended to
24 read:

25 SEC. 18. (a) No county, city, town, township, board of
26 education, or school district, shall incur any indebtedness or
27 liability in any manner or for any purpose exceeding in any year
28 the income and revenue provided for ~~such that~~ that year, without the
29 assent of two-thirds of the voters of the public entity voting at an
30 election to be held for that purpose, except that with respect to any
31 such public entity ~~which that~~ is authorized to incur indebtedness
32 for public school purposes, any proposition for the incurrence of
33 indebtedness in the form of general obligation bonds for the
34 purpose of repairing, reconstructing, or replacing public school
35 buildings determined, in the manner prescribed by law, to be
36 structurally unsafe for school use, shall be adopted upon the
37 approval of a majority of the voters of the public entity voting on
38 the proposition at ~~such that~~ that election; nor unless before or at the
39 time of incurring ~~such the~~ indebtedness, provision shall be made
40 for the collection of an annual tax sufficient to pay the interest on

1 ~~such~~ the indebtedness as it falls due, and to provide for a sinking
2 fund for the payment of the principal thereof, on or before maturity,
3 which shall not exceed forty years from the time of contracting
4 the indebtedness.

5 (b) Notwithstanding subdivision (a), on or after ~~the effective~~
6 ~~date of the measure adding this subdivision~~ *November 8, 2000*, in
7 the case of any school district, community college district, or
8 county office of education, any proposition for the incurrence of
9 indebtedness in the form of general obligation bonds for the
10 construction, reconstruction, rehabilitation, or replacement of
11 school facilities, including the furnishing and equipping of school
12 facilities, or the acquisition or lease of real property for school
13 facilities, shall be adopted upon the approval of 55 percent of the
14 voters of the district or county, as appropriate, voting on the
15 proposition at an election. This subdivision shall apply only to a
16 proposition for the incurrence of indebtedness in the form of
17 general obligation bonds for the purposes specified in this
18 subdivision if the proposition meets all of the accountability
19 requirements of paragraph (3) of subdivision (b) of Section 1 of
20 Article XIII A.

21 (c) *Notwithstanding subdivision (a), on or after the effective*
22 *date of the measure adding this subdivision, in the case of any city,*
23 *county, or city and county, any proposition to incur indebtedness*
24 *in the form of general obligation bonds shall be adopted by 55*
25 *percent of the voters of the city, county, or city and county, as*
26 *applicable, voting on the proposition at an election, where the*
27 *general obligation bonds fund any or all of the following:*

28 (1) *Construction, reconstruction, rehabilitation, or replacement*
29 *of either:*

30 (A) *Public improvements, including, but not limited to,*
31 *improvements to transportation infrastructures, streets, highways,*
32 *sewer systems, waters systems, wastewater systems, and park and*
33 *recreation facilities.*

34 (B) *Public safety agency facilities.*

35 (2) *Development of housing affordable to lower and moderate*
36 *income households.*

37 (3) *Acquisition or lease of real property for the public*
38 *improvements, public safety agency facilities, and housing*
39 *described in paragraphs (1) and (2) of this subdivision.*

40 (e)

1 (d) When two or more propositions for incurring any
2 indebtedness or liability are submitted at the same election, the
3 votes cast for and against each proposition shall be counted
4 separately, and when two-thirds or a majority or 55 percent of the
5 voters, as the case may be, voting on any one of those propositions,
6 vote in favor thereof, the proposition shall be deemed adopted.

From California State Association of Counties (CSAC) Web Site:

**ACA 9 (Huffman) – Support
As Introduced on February 6, 2009**

ACA 9, introduced by Assembly Member Jared Huffman, would ease vote thresholds for local taxes three different ways.

First, the measure would lower the voter-approval threshold for imposing, extending, or increasing local special taxes to 55% from two-thirds.

Second, ACA 9 would add a fourth exception to the Constitution's limit of a 1% ad valorem property tax rate. The exception would allow counties and cities to pass bonds to fund facility-related construction work with 55% voter approval. Agencies could use the debt proceeds to fund "construction, reconstruction, rehabilitation, or replacement" of public improvements, public safety agency facilities, affordable housing, the purchase or lease of real property for any of those, or any combination of the above. "Public improvements" is defined to include, for example, transportation infrastructure, sewer or water systems, and park and recreation facilities. ACA 9 also includes accountability provisions very similar to those that apply to school bonds, then adds one that requires a diverse public debate about the types of facilities that the bond proceeds should fund.

The final provision has to do with voter approval for general obligation bonds. Currently, a local entity may not incur debt in an amount larger than its annual income and revenue unless two-thirds of voters approve. There is an exception for repairing or replacing school buildings determined structurally unsafe, which require only majority approval. The California Constitution also requires that before an agency incurs the debt, they provide a tax sufficient to pay off the debt before forty years have passed. A debt whose proceeds will fund school facility-related construction work requires approval of only 55% of voters. **ACA 9 would lower the voter-approval threshold to 55% from two-thirds** when the debt's proceeds will fund any of the types of projects listed in the paragraph above.

Assembly Constitutional Amendment

No. 15

Introduced by Assembly Member Arambula

March 10, 2009

Assembly Constitutional Amendment No. 15—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 4 of Article XIII A thereof, and by amending Section 2 of Article XIII C thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 15, as introduced, Arambula. Local government transportation projects: special taxes: voter approval.

The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of $\frac{2}{3}$ of the voters of the city, county, or special district voting on that tax, except that certain school entities may levy an ad valorem property tax for specified purposes with the approval of 55% of the voters within the jurisdiction of these entities.

This measure would alternatively condition the imposition, extension, or increase of a special tax by a local government for the purpose of providing funding for local transportation projects upon the approval of 55% of its voters voting on the proposition. The measure would also make conforming and technical, nonsubstantive changes.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2009–10 Regular

1 Session commencing on the first day of December 2008, two-thirds
 2 of the membership of each house concurring, hereby proposes to
 3 the people of the State of California that the Constitution of the
 4 State be amended as follows:

5 First—That Section 4 of Article XIII A thereof is amended to
 6 read:

7 ~~Section 4. Cities, Counties and special districts, Except as~~
 8 ~~otherwise provided by Section 2 of Article XIII C, a city, county,~~
 9 ~~or special district, by a two-thirds vote of the qualified electors of~~
 10 ~~such district its voters voting on the proposition, may impose~~
 11 ~~special taxes on such district a special tax within that city, county,~~
 12 ~~or special district, except an ad valorem taxes tax on real property~~
 13 ~~or a transaction transactions tax or sales tax on the sale of real~~
 14 ~~property within such City, County that city, county, or special~~
 15 ~~district.~~

16 Second—That Section 2 of Article XIII C thereof is amended
 17 to read:

18 ~~SEC. 2. Local Government Tax Limitation—Notwithstanding~~
 19 ~~any other provision of this Constitution:~~

20 (a) ~~All taxes A tax imposed by any local government shall be~~
 21 ~~deemed to be is either a general taxes tax or a special taxes. Special~~
 22 ~~purpose districts tax. A special district or agencies agency,~~
 23 ~~including a school districts, shall have district, has no power~~
 24 ~~authority to levy a general taxes tax.~~

25 (b) ~~No A local government may shall not~~ impose, extend, or
 26 increase any general tax unless and until that tax is submitted to
 27 the electorate and approved by a majority vote. A general tax ~~shall~~
 28 ~~is not be~~ deemed to have been increased if it is imposed at a rate
 29 not higher than the maximum rate so approved. The election
 30 required by this subdivision shall be consolidated with a regularly
 31 scheduled general election for members of the governing body of
 32 the local government, except in cases of emergency declared by
 33 a unanimous vote of the governing body.

34 (c) Any general tax imposed, extended, or increased, without
 35 voter approval, by any local government on or after January 1,
 36 1995, and prior to the effective date of this article, ~~shall may~~
 37 continue to be imposed only if ~~that general tax is~~ approved by a
 38 majority vote of the voters voting in an election on the issue of the
 39 imposition, which election ~~shall be is~~ held ~~within two years of the~~

1 ~~effective date of this article no later than November 6, 1998, and~~
2 ~~in compliance with subdivision (b).~~

3 (d) ~~No~~-(1) *Except as otherwise provided in paragraph (2), a*
4 *local government may shall not impose, extend, or increase any*
5 *special tax unless and until that tax is submitted to the electorate*
6 *and approved by a two-thirds vote of the voters voting on the*
7 *proposition. A special tax shall is not be deemed to have been*
8 *increased if it is imposed at a rate not higher than the maximum*
9 *rate so approved.*

10 (2) *A local government may impose, extend, or increase any*
11 *special tax for the purpose of providing funding for local*
12 *transportation projects under its jurisdiction, if that tax is submitted*
13 *to the electorate and approved by 55 percent of the voters voting*
14 *on the proposition. A special tax for the purpose of providing*
15 *funding for local transportation projects is not deemed to have*
16 *been increased if it is imposed at a rate not higher than the*
17 *maximum rate approved in the manner as required by law.*

O



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: May 5, 2009
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Nanci G. Mills, Director of Administrative Services
SUBJECT: Councilmember Liaison Assignments

RECOMMENDATION: Council Member Aguiar-Curry to be named the Primary Water Resources Association Board Member, allowing Council Member Stone to step down. Kurt Balasek will remain as the Alternate Water Resources Association Board Member.

BACKGROUND:

The Water Resources Association of Yolo County (WRA) is a group of local entities working together to provide a water-planning forum. The WRA is developing Yolo County's first Integrated Regional Water Management Plan (IRWMP). The IRWMP will serve as a planning document to help guide water issues and projects within Yolo County.

FISCAL IMPACT: None



| Council Member | 2008/2009 Liaison & Committee Assignment |
|-----------------|---|
| Harold Anderson | City of Winters Budget Subcommittee City of Winters Park Planning Commission City of Winters Public Finance Authority City/County 2x2 Development Review Committee (Primary) LAFCO Sub-Committee Member Lower Putah Creek Coordinating Committee (Primary) Planning Commission Vacancy Selection Committee Sacramento Area Council of Governments (SACOG) (Primary) Winters Affordable Housing Steering Committee (Primary) Winters Economic Development Committee (Alternate) Winters Putah Creek Committee Yolo County Transportation District (Primary) Yolo-Solano Air Quality Management District (Alternate) |
| Tom Stone | Audit Committee per SAS 114 Budget Adjustment Committee - Fiscal Year 2007-08 Budget Overview Committee LAFCO - City Representative & Sub-Committee Member League of California Cities (Alternate) Lower Putah Creek Coordinating Committee (Alternate) Police/Fire/PW Facility Citing Committee Water Resources Association Board Member (Primary) Winters Affordable Housing Steering Committee (Alternate) Winters Economic Development Committee (Alternate) Winters Fire District Consolidation Committee (Primary) Winters Public Finance Authority Yolo County Criminal Justice Cabinet Yolo County Visitor Bureau Representative Yolo County Habitat/Natural Gaining Ground (Primary) |
| Woody Fridae | Budget Subcommittee (Alternate) City/WJUSD 2x3 Development Review Committee (Alternate) E.A.R.T.H. Committee (Primary) Hispanic Advisory Committee (Alternate) Parks & Community Services Commission Planning Commission Liaison Rotary Park Planning Committee Winters Public Finance Authority Yolo County Transportation District (Alternate) |

| | |
|----------------------|--|
| Cecilia Aguiar-Curry | Chamber of Commerce Development Review Committee (Alternate) Hispanic Advisory Committee (Primary) Industrial Area Assessment Committee League of California Cities (Primary) Parks & Community Services Commission Planning Commission Vacancy Selection Committee Rotary Park Planning Committee Sacramento Area Council of Governments (SACOG) (Alternate) Sacramento Metro Chamber of Commerce Winters Economic Development Committee (Primary) Winters Public Finance Authority Winters Swimming Pool Committee Yolo County Comprehensive Economic Development Strategies Yolo County Visitor Bureau Representative |
| Michael Martin | Audit Committee per SAS 114 Budget Adjustment Committee - Fiscal Year 2007-08 Budget Overview Committee Chamber of Commerce City/County 2x2 City/WJUSD 2X3 Development Review Committee (Primary) Industrial Area Assessment Committee Winters Economic Development Committee (Primary) Winters Fire District Consolidation Committee (Alternate) Winters Public Finance Authority Yolo County Children's Alliance Yolo County Habitat/Natural Gaining Ground (Alternate) Yolo County Visitor Bureau Representative (Alternate) Yolo-Solano Air Quality Management District (Primary) |

UPDATED: 4/2/2009



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: May 5, 2009
THROUGH: John W. Donlevy, Jr., City Manager
FROM: John C. Wallace, City Attorney
SUBJECT: Information Item – Utility Users Tax

RECOMMENDATION: Receive and File

BACKGROUND: Subsequent to the adoption by Winters voters of the City's Utility Users Tax Modernization Act, a number of questions have been raised. The issues post-election may be summarized as follows:

1. The end of the \$300 limitation on commercial and industrial utility users. Because of the mid tax year election, the \$300.00 limitation has been pro-rated, like other taxes are, when rates change.

2. Notification – rate change. All of the utility service providers collecting the Utility Users Tax have been notified of the rate change. Delays in collecting the lower rate will be summarized at the end of the 12 month change period, any overpayments calculated, and the .25% difference will be deducted from the following month's utility billing.

3. Discrimination in taxation between residential users and commercial/industrial utility users. Most taxes are discriminatory in nature (the homeowner's exemption is the most obvious), based on the City's cost of allocation of resources. The City made a judgment based on its current allocation of these general fund revenues. The bulk of all general fund revenues go to police and fire protection services. In terms of the allocations, the tax distinction reflects this. The voters agreed and, like other cities, Winters makes the distinction. As a practical matter, most residential users do not reach the cap.

Please contact staff directly if you have any questions.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: May 5, 2009
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Carol Scianna, Environmental Services Manager
SUBJECT: Authorization for City Manager to Negotiate Waste Disposal Services Agreement at the Yolo County Central Landfill

RECOMMENDATION: Staff recommends authorization for City Manager to negotiate Waste Disposal Services Agreement at the Yolo County Central Landfill (YCCL)

BACKGROUND:

Yolo County's Planning and Public Works Department, Division of Intergrated Waste Management is proposing that Yolo County Cities enter into agreements with YCCL to dispose of their Municipal Solid Waste at the YCCL. Landfills efficiencies are contingent upon a sufficient volume to cover the cost of operations. Currently, the YCCL has seen a 10% decline in waste generated in Yolo County. Although, the Board of Supervisors recent decision to accept imported waste has offset some of the decline in revenue, YCCL staff is recommending a new tipping fees of \$40.00 per ton for waste delivered to the YCCL without a contract.

Municipalities in Yolo County and UCD will be offered a contract rate (see attached contract) with the following terms and conditions:

- Tipping Fee of \$37.08 (the current rate of \$36.00, plus an annual CPI);
- Require minimum levels of Municipal Solid Waste (MSW) be disposed at YCCL minus any future material diverted because of recycling and diversion programs;
- County agrees to share 40% (\$2.00 of \$5.00 host fee) of its imported waste host fees for contracts with a 10-year term (distribution amount for 2008/09 is estimated at a minimum of \$60,000);
- County shall increase imported waste host fee from \$5.00 to \$6.00 in 2014, and increase imported waste host fee portion allotted to cities to \$3.00 per ton for a contract with a term of 20 years; and
- County shall reserve landfill space for agency for term of contract.

FISCAL IMPACT: Tipping fee increase of \$1.08 per ton.

Agreement No. 09-__

(Agreement for Waste Disposal Services at the Yolo County Central Landfill)

THIS AGREEMENT is made and entered into as of this __ day of _____, 2009, by and between the County of Yolo ("County"), and City of _____ ("City").

RECITALS

WHEREAS, County owns, operates and provides waste disposal services at the Yolo County Central Landfill (hereinafter "YCCL"), a licensed class III landfill, having a permit to accept municipal solid waste (hereinafter "MSW"); and

WHEREAS, City is located in Yolo County and desires to dispose of MSW generated from residential and commercial sources within the city, and as acceptable to, and authorized by the County at YCCL; and

WHEREAS, County and City are agreeing to fees and prices based upon the desire to maintain a stable and viable landfill system.

WHEREAS, County and City desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, County and City agree as follows:

AGREEMENT

1. DEFINITIONS

- 1.1 Acceptable Waste is MSW from residential and commercial sources, Yard Trimmings and C&D Debris and any other acceptable Class III waste materials as agreed by the Director in writing prior to delivery. Acceptable waste does not include any Unacceptable Waste as defined elsewhere in this Agreement.
- 1.2 C&D Debris means Construction and Demolition Debris.
- 1.3 Commercial shall mean of, from or pertaining to non-Residential Premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding businesses conducted upon Residential property which are permitted under applicable zoning regulations and are not the primary use of the property.
- 1.4 Construction and Demolition Waste includes discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, Commercial buildings, or other structures.
- 1.5 Contract Tipping Fees are as established in Section 5 of this Agreement.

- 1.6 Director is County's Director of the Planning and Public Works Department or his/her designee.
- 1.7 City means the City of ____ or the City's franchised or contracted Municipal Waste Haulers that handle the residential and commercial MSW within a city.
- 1.8 Designated Waste is as defined by California Water Code Section 13173.
- 1.9 Future Regulations are laws or governmental regulations that are enacted after the Commencement Date of this Agreement.
- 1.10 Gate Tipping Fee shall be the then current tipping fees of general application as adopted by the County Board of Supervisors for the YCCL.
- 1.11 Green Waste, Wood Waste, or Yard Trimmings means those source separated waste materials that will decompose and/or putrefy, including but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, and small pieces of unpainted and untreated wood (limbs, branches, trees and small pieces of wood material are limited to 3 inches in diameter and 36 inches in length), excluding Excluded Waste.
- 1.12 Hard to Handle Waste shall be defined as means stoves, refrigerators, water tanks, washing machines, other white goods, furniture, Styrofoam or similar low density materials, and other waste materials which require special handling and disposal methods due to their size, composition, and/or weight.
- 1.13 Hazardous Waste is as defined by State of California under Section 66261.3 of Title 22, Division 4.5, Chapter 11, Article 1 of the California Code of Regulations (22 C.C.R. 66261.3).
- 1.14 Holidays are defined as New Year's Day, Easter Sunday, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- 1.15 Host Fee is defined as a per ton fee (\$5.00 in current contracts) per ton, on waste received from imported waste contracts. Quarterly, the Host Fee funds are placed in a trust fund account. The Auditor-Controller's office transfers, on a quarterly basis, 60% of revenue from the Host Fee trust fund to the general fund, and the remaining 40% to cities within Yolo County and other in-county entities (Yolo County Division of Integrated Waste Management, Tribal Authority, University of California, Davis) that have waste agreements with the County for delivering their waste to YCCL. The 40% distribution of the Host Fees to these entities shall be distributed based on the total percentage of contracted in-county generated waste each entity delivers to YCCL. If an entity has not committed their waste to YCCL, its portion of the Host Fee shall also be transferred to the county general fund on a quantity basis.

After July 2014, the host fee will increase to \$6.00 per ton for any contract with a city or other in-county entity within Yolo County that extends to 2029. The distribution of the \$6.00 will increase to \$3.00 for cities to split in the method described in the paragraph

above and \$3.00 for the County general fund. Fifty percent (50%) to be split among the cities and other qualified entities, and fifty percent (50%) to the County general fund.

- 1.16 Maximum Daily Tonnage is defined as 30% over the daily tonnage estimates provided as calculated by the City in Section 1.17 below. Any amounts above that require the Director's prior written approval.
- 1.17 City's average daily tonnage is calculated using maximum of average daily totals for weekdays (and weekends, if required), as averaged by month for the preceding three years.
- 1.18 Municipal Solid Waste ("MSW") shall be as defined by the Federal EPA as "Solid Waste" under Section 243.101(y) of the Code of Federal Regulations, Title 40, Part 243 (40 C.F.R. Part 243).
- 1.19 Residential shall mean of, from, or pertaining to single-family homes, apartments, condominiums, townhouse complexes, mobile home parks, cooperative apartments, and yacht harbors and marinas where residents live aboard boats.
- 1.20 Packer Truck is a vehicle such as a front loader, side loader, or rear loader capable of hauling solid waste and recyclable materials.
- 1.21 Roll-Off Truck is a vehicle capable of transporting one or more bins, each with a capacity of containing 10 cubic yards or more of solid waste or recyclable materials.
- 1.22 Transfer Haul is the hauling of waste in a transfer truck.
- 1.23 Transfer Truck is a truck and trailer combination capable of hauling solid waste and recyclable materials up to a gross vehicle weight of 80,000 pounds.
- 1.24 Unacceptable Waste is hazardous waste and any waste that is designated as unacceptable under the County's Solid Waste Facility Permit for the YCCL.

2. **TERM**

A. This Agreement shall commence on _____, 2009 and shall end on December 30, 20____ unless sooner terminated as hereinafter provided.

B. Should either party fail to substantially perform its obligations in accordance with this Agreement, the other party may notify the defaulting party of such default in writing and provide not less than thirty (30) days to cure the default. Such notice shall describe the default, and shall not be deemed a forfeiture or termination of this Agreement. If such default is not cured within said thirty day period (or such longer period as is specified in the notice or agreed to by the parties), the party that gave notice of default may terminate this Agreement upon not less than fifteen (15) days advance written notice. Neither party waives the right to recover damages against the other for breach of this Agreement.

C. This Agreement may be terminated for any reason by either party at any time during its term, by giving 60 days' written notice to the other party.

3. NOTICE

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be deemed received either when personally delivered or three days after mailed by certified or registered U.S. Mail, postage prepaid, or the day after deposit with a nationally recognized overnight courier service, addressed as follows:

TO COUNTY:

Dept. of Planning and Public Works
County of Yolo
44090 County Road 28H
Woodland, CA 95776
Attn: Linda Sinderson, Deputy Director

TO CITY:

City of -----

Attn:

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

4. SCOPE OF SERVICES

4.1 Commencement of Services. Services under this Agreement shall commence upon:

- A. City's delivery to County of confirmation of set up of a Landfill Account using the forms designated by the Director; and
- B. City's delivery to County of City's evidence of insurance as required by this Agreement.

4.2 Acceptance of Waste and Landfill Practices.

- A. City shall deliver Acceptable Waste from within its incorporated limits in Yolo County, and
- B. County shall accept, transfer, place, compact and cover Acceptable Waste as authorized by the County at YCCL according to the State of California Minimum Standards for landfill and transfer station operations, the County's standard solid

waste landfill practices, and the terms and conditions of the Solid Waste Facility Permits issued by the local enforcement agency for YCCL.

4.3 Rejection of Waste.

- A. City shall not deliver any Class I or Class II waste, and County may reject any such waste;
- B. County may also reject (i) any waste delivered by City in excess of the Maximum Tonnage Delivery set forth above; the County shall use reasonable efforts to reject the excess waste at the gate; (ii) any Designated Waste; (iii) any other waste as determined to be rejected by the Director in his/her sole discretion.
- C. City shall be solely responsible for all costs associated with the cleanup and removal of any and all rejected waste associated with A and B above.

4.4 County's Right to Deny Access. County shall have the right to immediately deny access to the landfill to any employee or subcontractor of City who fails in County's reasonable judgment to meet standards of conduct customary in the solid waste landfill industry, and in the event County exercises such right, County shall provide written notification thereof to the City as soon after the denial as is reasonable.

4.5 Administrative Rules. The Director is authorized to adopt administrative rules to clarify and facilitate the administration of this Agreement so long as such rules are consistent with this Agreement.

5. **WASTE TIPPING FEES, INVOICING AND PAYMENTS**

5.1 Disposal Fees.

- A. City shall pay the County Fees for waste delivered by City to YCCL as follows:
 - (1) All residential and commercial MSW: - \$37.08
 - (2) Other Acceptable Waste: current gate rate -- See fee schedule Attachment A.
- B. If any Federal, State or Local regulatory fee or charge is imposed, increased or decreased, County shall (i) notify City of such new, increased or decreased fee or charge promptly upon learning thereof, (ii) shall calculate increases or decreases in the tipping fees set forth above in light of such new, increased or decreased fee(s) or charge(s); and (iii) notify City of the increased or decreased tipping fees applicable to this Agreement.
- C. If County determines that any Future Regulation necessitates an increase in the tipping fees applicable to this Agreement, the following shall apply:

- (1) County will notify City of such Future Regulation promptly upon learning of it and determining that it necessitates an increase in the tipping fees applicable to this Agreement;
- (2) County will calculate the increases in the tipping fees that County believes are necessitated by such Future Regulation, and notify City of such increases not less than sixty (60) days before the effective date thereof.

5.2 Host Fee Payments.

- A. At the end of each quarter, County will calculate the amount of host fee payment to City based on the total host fee payments to the County and the relative amount of MSW deliveries in tons made by City's franchised haulers to YCCL.
- B. County will pay City within 60 days of the end of each quarter for waste deliveries made by City's franchised haulers to YCCL and will mail each payment to City.

5.3 Gate Tipping Fee for Delinquent Disposal Account. If City's disposal account is past due for more than thirty (60) days after the due date, County may immediately place City on a cash basis at current gate tipping fee until City's account is current and no longer delinquent.

5.4 CPI Adjustment.

- A. *CPI; Base Year CPI.* When used herein, "CPI" shall be 100% of the "Northern California All Urban Consumers" Consumer Price Index – All Urban Consumers, San Francisco – Oakland – San Jose, CA, All items (1982- 84=100). "Base Year" shall refer to (CPI) value for April 2009.
- B. *First CPI Adjustment.* Effective July 1, 2010, the tipping fee shall be adjusted by an amount equal to 100% of the increase (or decrease if applicable) in the CPI value from the Base Year to April 2010.
- C. *Subsequent Annual CPI Adjustments.* Effective July 1, 2010 and each July 1 thereafter, the previous year's tipping fee shall be adjusted by an amount equal to 100% of the increase (or decrease if applicable) in the CPI value from the Base Year to April of the current year period.
- D. *Not to Exceed Gate Tipping Fee.* If an annual CPI adjustment would result in exceeding the current gate tipping fee, adjustment shall be made to not exceed the current gate tipping fee.

5.5 Vehicle Tare Weights.

- A. Before the effective date of this Agreement, City shall provide County with a report listing each vehicle to be used to deliver waste to the Landfill and providing vehicle tare weight information as requested by the Director, including

but not limited to the hauler name, tare weight, vehicle identification number, and date tare weight was determined.

- B. Prior to the commencement of deliveries, City shall bring to the YCCL each vehicle to be used to deliver waste to the Landfill and allow County to weigh and determine the unloaded ("tare") weight of each such vehicle.
- C. If new vehicles are placed into service and if any significant repairs to existing Vehicles are made, City shall promptly bring such vehicles to the landfill before commencing any deliveries with those vehicles and allow County to weigh such vehicles and determine the tare weight of each vehicle.
- D. Upon County's request at least every year, and more frequently if the Director determines there is reasonable suspicion that any tare weight(s) is/are not accurate, City shall bring to the YCCL each vehicle used to deliver waste to the Landfill and allow County to re-weigh and revise tare weights for all vehicles.

5.6 Monthly Invoicing.

- A. County will invoice City each month for waste deliveries made by City to YCCL and for any other applicable charges (e.g., shortfall payments), and will mail and/or email each invoice to City.
- B. City will pay County within thirty (30) days of County's transmittal of the monthly invoice.

6. **APPLICABLE LAW**

- A. In the performance of the services required by this Agreement, City shall comply with all applicable Federal, State, and County statutes, ordinances, regulations, directives and laws. This Agreement is also subject to any additional restrictions or conditions that may be imposed upon the County by the Federal or State government.
- B. This Agreement shall be deemed to be executed within the State of California and construed in accordance with and governed by the laws of the State of California. Any action or proceeding arising out of this Agreement shall be filed and resolved in a California State court located in Woodland, California. City hereby waives any venue or removal rights it might have under State or Federal law.

7. **LICENSES AND PERMITS**

City shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Yolo and all other appropriate governmental agencies, including any certification and credentials required by County. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by County pursuant to Section 2.

8. INDEMNIFICATION

City shall indemnify, defend, and hold harmless County, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, to the extent arising out of or resulting from City's breach of this Agreement or any willful or negligent acts or omissions of City, its employees and/or agents.

County shall indemnify, defend, and hold harmless City its officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, to the extent arising out of or resulting from County's breach of this Agreement or any willful or negligent acts or omissions of County, its employees and/or agents.

9. INSURANCE

A. During the term of this Agreement, City shall at all times maintain, at their expense, the following coverages and requirements. The commercial general liability insurance shall include broad form property damage insurance.

1. Minimum Coverages (as applicable). Insurance coverage shall be with limits not less than the following:

- a. **Commercial General Liability** -- \$1,000,000/occurrence
- b. **Automobile Liability** -- \$1,000,000/occurrence bodily injury and \$500,000/occurrence property damages (include coverage for Hired and Non-owned vehicles)
- c. **Excess /Umbrella Liability** -- \$3,000,000 per occurrence
- d. **Pollution Liability** -- \$3,000,000 per occurrence
- e. **Workers' Compensation** -- Statutory Limits/**Employers' Liability** - \$1,000,000/accident for bodily injury or disease (If no employees, this requirement automatically does not apply.)

2. The County, its officers, agents, employees and volunteers shall be named as additional insured on all but the workers' compensation and professional liability coverages. (Evidence of additional insured may be needed as a separate endorsement due to wording on the certificate negating any additional writing in the description box.)

3. Said policies shall remain in force through the life of this Agreement and, with the exception of pollution liability coverage, shall be payable on a "per occurrence" basis unless the County Risk Manager specifically consents in writing to a "claims made" basis. For all "claims made" coverage, in the event that the City changes insurance carriers City shall purchase "tail" coverage covering the term of this Agreement and not less than three years thereafter if the

Retroactive Date of the replacement claims made policy has been advanced. City further agrees that tail coverage will be purchased upon the termination of this Agreement for a period of not less than three (3) years commencing with the termination date of this Agreement. Proof of such "tail" coverage shall be required at any time that the City changes to a new carrier or upon termination of this Agreement prior to receipt of any payments due.

Upon City's request, the County agrees to provide a "claim polling letter" signed by the Director, County Risk Manager or other County designee stating whether he/she is then presently aware of any pending claim or incident caused by the City for which the County intends to seek indemnification from the City.

4. The City shall declare all aggregate limits on the coverage before commencing performance of this Agreement, and the County's Risk Manager reserves the right to require higher aggregate limits to ensure that the coverage limits required for this Agreement as set forth above are available throughout the performance of this Agreement.

5. Any deductibles or self-insured retentions in excess of twenty-five thousand dollars (\$25,000) must be declared to and are subject to the approval of the County Risk Manager.

6. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Director (ten (10) days for delinquent insurance premium payments).

7. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII, unless otherwise approved by the County Risk Manager.

8. The policies shall cover all activities of City, its officers, employees, agents and volunteers arising out of or in connection with this Agreement.

9. For any claims relating to this Agreement, the City's insurance coverage shall be primary, including as respects the County, its officers, agents, employees and volunteers. Any insurance maintained by the County shall apply in excess of, and not contribute with, insurance provided by City's liability insurance policy.

10. The City shall waive all rights of subrogation against the County, its officers, employees, agents and volunteers.

B. Prior to commencing services pursuant to this Agreement, City shall furnish the Director with original endorsements reflecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of, the County Risk Manager before work commences. Upon Director's request, City shall provide complete, certified copies of all

required insurance policies, including endorsements reflecting the coverage required by these specifications.

- C. During the term of this Agreement, City shall furnish the Director with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon Director's request, City shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

10. DISPUTES

Any dispute arising under this Agreement shall be decided by the County Administrative Officer who shall put his or her decision in writing and mail a copy thereof to the address for the notice to City. The decision of the County Administrative Officer shall be final unless, within thirty (30) days from the date such copy is mailed to City, City appeals the decision in writing to the County Board of Supervisors. Any such written appeal shall detail the reasons for the appeal and contain copies of all documentation supporting City's position. In connection with any appeal proceeding under this Section, City shall be afforded the opportunity to be heard and offer evidence in support of its appeal to the County Board of Supervisors at a regular Board meeting. Pending a final decision of the dispute, City shall proceed diligently with the performance of this Agreement and in accordance with the County Administrative Officer's decision. The decision of the County Board of Supervisors on the appeal shall be final for purposes of exhaustion of administrative remedies. Thereafter, County and or City may pursue judicial remedies available in law or in equity.

11. CONFLICT OF INTEREST

- A. City shall comply with the laws and regulations of the State of California and County regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100 including regulations promulgated by the California Fair Political Practices Commission.
- B. City covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of City's obligations and responsibilities hereunder. City further covenants that in the performance of this Agreement, no person having any such interest shall be employed. This covenant shall remain in force until City completes performance of the services required of it under this Agreement.

12. SUBCONTRACTS, ASSIGNMENT

The services and obligations provided to and/or required of City under this Agreement are not assignable in whole or in part.

13. AMENDMENT

This Agreement may be amended only by written instrument signed by the County and City; provided, however, that the parties agree to amend this Agreement as necessary to reflect any changes to State, Federal or local laws and regulations.

14. WAIVER

The waiver by the County or any of its officers, agents or employees or the failure of the County or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement shall not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this Agreement.

15. SUCCESSORS

This Agreement shall bind the successors and assign of County and City in the same manner as if they were expressly named.

16. AUTHORIZED REPRESENTATIVE

The person executing this Agreement on behalf of City affirmatively represents that she/he has the requisite legal authority to enter into this Agreement on behalf of City and to bind City to the terms and conditions of this Agreement. Both the person executing this Agreement on behalf of City and City understand that the County is relying on this representation in entering into this Agreement.

17. PUBLIC RECORDS ACT

Upon its execution, this Agreement (including all exhibits and attachments) shall be subject to disclosure pursuant to the California Public Records Act.

18. ADDITIONAL PROVISIONS

- A. Where there is a doubt as to whether a provision of this document is a covenant or a condition, the provision shall carry the legal effect of both. Should the County choose to excuse any given failure of City to meet any given condition, covenant or obligation (whether precedent or subsequent), that decision will not be, or have the legal effect of, a waiver of the legal effect in subsequent circumstances of either that condition, covenant or obligation or any other found in this document. All conditions, covenants and obligations continue to apply no matter how often County may choose to excuse a failure to perform them.
- B. Except where specifically stated otherwise in this document, the promises in this document benefit the County and City only. They are not intended to, nor shall they be interpreted or applied to, give any enforcement rights to any other persons (including corporate) which might be affected by the performance or non-performance of this Agreement, nor do the parties hereto intend to convey to

anyone any "legitimate claim of entitlement" with the meaning and rights that phrase has been given by case law.

19. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the County and City and supersedes all prior negotiations, representations, or agreements, whether written or oral. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement.

20. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

CITY OF _____

COUNTY OF YOLO

By: _____
[Insert Name & Title]:

By: _____
Mike McGowan, Chair
Yolo County Board of Supervisors

Date: _____

Date: _____

Attest:
Ana Morales, Clerk
Board of Supervisors

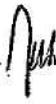
By: _____
Deputy
(SEAL)

Approved as to Form:
Robyn Truitt Drivon, County Counsel

By: _____
, Deputy



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE : April 21, 2009
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Mary Jo Rodolfa, Executive Assistant
SUBJECT: Approval of new City of Winters official logo designed by DaRe, LLC

RECOMMENDATION:

The City Council approve the new City of Winters official logo designed by DaRe, LLC.

BACKGROUND:

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

To facilitate moving forward with the branding process including the design of a logo and related services, the CDA entered into a contract with DaRe, LLC on January 30, 2009.

As City staff and the branding committee worked with DaRe, LLC, the need became clear for the development of a new City of Winters official logo along with letterhead, envelope and business card templates that are consistent with the community branding. Attached is a mock-up of the new logo as it will appear on official City letterhead, envelopes and business cards.

FISCAL IMPACT:

None at this time. The new logo will be incorporated as the need for new stationery arises.



318 First Street
 Winters, CA, 95694
 T: 530.295.4910
 F: 530.295.4935



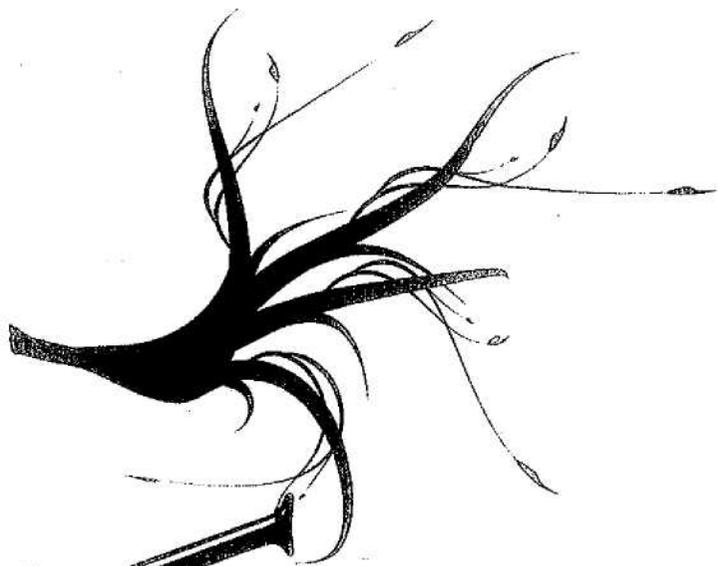
318 First Street
 Winters, CA, 95694
 T: 530.295.4910
 F: 530.295.4935

Michael Martin
 Woody Felber

Cecilia M. Curry
 Herald Anderson
 Tom Stew

E. Robert Chapman
 Michael Sebastian

Kane Mills
 John W. Doolittle, Jr.



CITY OF

WINSTERS

Carolina

Est. 1875



318 First Street
Winters CA, 95694
P: 530.795.4910
F: 530.795.4935

MAYOR
Michael Martin

MAYOR PRO TEM
Woody Fridae

COUNCIL MEMBERS
Cecilia Aguiar-Curry
Harold Anderson
Tom Stone

MAYOR EMERITUS
J. Robert Chapman

TREASURER
Michael Sebastian

CITY CLERK
Nanci Mills

CITY MANAGER
John W. Donlevy, Jr.



518 First Street
Winters CA, 95694

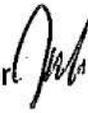
T: 530.795.4910
F: 530.795.4935



CECILEY M. CURRY
CITY CLERK
1000 W. WINTERS BLVD.
WINTERS, CA 95986
(530) 835-1234



**COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT**

TO: Chairman and Board of Directors
DATE: May 5, 2009
FROM: John W. Donlevy, Jr., Executive Director 
SUBJECT: Winters Visitor Center

RECOMMENDATION:

That the Agency Board of Directors:

- a. Approve the Winters Visitor Center Concept Plan; and
- b. Approve a Consultant Services Agreement with DaRe, LLC for interior design and multi-media center development.
- c. Approve a Development Budget of \$15,000 for furniture, fixtures and equipment.
- d. Conceptually authorize an agreement between the Winters Community Development Agency and the Winters Chamber of Commerce for staffing and management.

BACKGROUND:

In February, the CDA Board of Directors approved a lease agreement for the use of 11 Main Street. The proposed use was for the development of a "destination location" in the heart of Downtown to draw visitors and help enhance the overall Winters experience. The goals were to either recruit a destination business to fill the space, or to develop an Agency sponsored location to spur local economic and business development.

This item is to recommend the launch of a Winters Visitor Center, a partnership with the local businesses, Chamber of Commerce and the greater Winters Area including Lake Berryessa, Capay Valley and surrounding destinations.

DISCUSSION:

The proposal is to advance a number of key concepts and agreements, including:

1. Visitor Center Concept;

2. Contract and partnership with the Winters Chamber of Commerce to assist in the management; and
3. Contract for interior design and multi-media center development; and
4. Purchase of equipment and fixtures for the Center.

The following is an overview of each recommendation.

Concept:

The Winters Visitor Center is meant to serve as a key “destination” resource to help advance the Winters “brand”. The concept is pretty simple, to provide a location and concept to serve visitor attraction and interest in the many facets of Winters, including Downtown, agri-tourism, Lake Berryessa and the surrounding area.

Some of the main goals of the Center will be to:

- Serve as an information resource through displays, web based advertisement, interactive multi-media and personalized interaction.
- Be the “concierge” of Winters. Helping visitors connect with destination activities and businesses. A high level of customer service which places people in activities and contacts to make an “ultimate Winters experience”. The Visitors Center will be a visitors “insider”, making the calls to wineries, ranches and attractions for those special experiences which abound in our area.
- Sell the Winters “brand”. The idea of marketing food, wine, recreational amenities, destination businesses, environmental stewardship and the overall locale.
- The ultimate information resource. Inform residents, potential businesses and visitors on the many projects being advanced within Winters. From the Library and Public Safety Center to available commercial spaces, the Center will be ready to answer any question posed by potential contacts. Answering the questions of what to do, where to go and what is going on and when.
- Operate a Winters Product Store, selling products from Winters including fruits and nuts to honey, jerky, olive oil and tee shirts. Basically, “Winters stuff”. Products sold here will not include crafts, novelties or products which can be purchased in galleries.

The Visitors Center will include the following elements:

- An interactive multi-media aspect to include video, advertisements for Winters destinations and key projects occurring in the area.
- Winters Product Store.
- **VisitWinters.com**, a website featuring the many destinations of Winters.
- The Winters Concierge Desk.

Generally, it is expected that the Visitor Center will become a hub of marketing for the

Winters Downtown and business community. Additionally, the Visitor Center will examine opportunities for collaboration with Capay Valley Vision to explore cross marketing "Western Yolo County".

A draft floor plan for 11 Main Street is included in this item as Exhibit A.

Contract:

The CDA Staff and the Winters Chamber of Commerce Board have met to discuss the potential for collaboration on this venture.

A contracting opportunity between the CDA and Chamber would include:

- Visitor Center Development to include:
 - Working with the Agency to develop an overall business plan. Examination of revenue and business opportunities which will maximize both the value of the Center for the Greater Winters Area and potentially generate revenues to offset expenses.
 - Contacting local destination businesses to locate their information in the Center.
 - Work with Lake Berryessa concessionaires to market the resorts from this location.
 - Development of an agri-tourism program and "Winters Experiences". This will include packaged tours for persons to maximize their overall experience of the Winters area.
 - Content development for the center. Working with the CDA and the entire area to keep the visitors center fresh and current from businesses to activities occurring. The Center will be the hub of all information about Winters.
- Staffing the concierge desk and providing information to visitors and residents. This will require energetic persons ready to present a positive impression for Winters. This will include:
 - Greeting and engaging visitors to help them get information they need and offering suggestions on destinations to visit.
 - Making reservations and calls for visitors to get them into areas in the Winters area.
 - Exceptional customer service is a must.
- Content development for the multi-media, website and marketing aspects. This will include working with the City to develop videos and interactive media to inform visitors about the area. Other media can include brochures, printed post cards, etc.
- Operation of the Winters Product Store including:
 - Development of a business plan for a Chamber operated store.
 - Contacting area producers and generating product for the location.
 - Display development and preparation of marketing concepts.

- o Sales of product.

A couple of conditions which would be proposed:

- Agency would approve all products, media and content of the Visitors Center.
- The Chamber would be required to work in concert with the CDA on all activities involving the Center.
- Chamber business could be operated from the location, within agreed upon parameters between both parties.

The Agency has received a proposal from the Chamber for this project. This is attached as Exhibit B and includes the following elements:

- Contract rate of \$2,400 per month.
- 48 to 53 hours per week staffing of the Center
- Adherence to the Visitor Center Concepts outlined above.

Staff will need to complete the development of a consultant services agreement if this is approved.

Interior Design and Multi-Media Development:

The CDA has been working with DaRe LLC over the past number of months on the "branding" initiative for the City. Their work has been outstanding and their knowledge and abilities along with the products provided have exceeded expectations. Their overall eye for detail and quality is outstanding.

Staff has requested and received a proposal from DaRe to assist in the interior design of the facility and the development of a multi-media/website for the Center. They would develop the VisitWinters.com interactive website, as well as promotional materials for the Center.

The proposal is attached as Exhibit C. In total, the request will be for \$14,000 for this contract.

Staff will need to complete the development of a consultant services agreement if this is approved.

Furniture, Fixtures and Equipment:

Staff has developed the following budget to furnish and decorate the Visitors Center which is attached as Exhibit D to this report.

The total estimated costs are approximately, \$15,000.

FISCAL IMPACT:

The breakdown of estimated costs for the Visitor Center are as follows:

| | |
|-----------------------|----------|
| CDA/Chamber Contract: | \$28,800 |
| Da/Re Contract: | 14,000 |
| FFE Budget | 15,000 |

Total costs for the development of the Visitor Center is \$57,800. The annual rent and utilities is approximately \$1,000 per month in addition.

ATTACHMENTS:

- Winters Visitor Center- Floor Plan
- Chamber of Commerce Proposal
- Da Re Proposal

The Winters District Chamber of Commerce wishes to advance the following proposal to the City of Winters:

1. The Winters Chamber of Commerce will move its office from the current location at the Community Center, 201 Railroad Avenue to the City-leased location at 11 Main Street.

- A. Any expense involved in the physical re-location of furniture, files, etc. will assumed by the Chamber of Commerce.
- B. The Chamber will occupy approximately 120 -150 square feet of 11 Main at the north end of the facility.
- C. The City of Winters will continue to assume leasing costs of 11 Main for a period of two years at the end of which time renegotiation of the space will begin.
- D. The Chamber will be an independent non-profit organization operating under its by-laws and conforming to standard operating procedures for such an entity.
- E. The Chamber will be entitled to have adequate and appropriate identification, such as signage, etc. on the interior and exterior of the facility.
- F. The City of Winters will assume utility costs for the facility. The Chamber will assume the normal operating costs of telephone, computer, FAX, etc. for all Chamber equipment.

2. The Winters Chamber of Commerce will sign a contract with the City of Winters to operate the Winters Visitor Center for a period of two years commensurate with the date of the move to 11 Main Street..

- A. The Chamber will agree to staff the visitors center for a period of 48 to 53 hours per week; this will include weekends and those periods when major events occur. It is recommended that establishing normal hours of operation be contingent upon experience learned after the Center has been in existence for a short period of time.
- B. The Chamber will agree to operate and staff theVisitors Center for a monthly contract fee of \$2,400.
- C. The Chamber will provide a staff of an Executive Director and an Administrative Assistant. The duties of these personnel will be for both the Chamber of Commerce office and the Visitors Center. The employment and supervision of these personnel will be at the discretion of the Chamber of Commerce and it's bylaws.
- D. The City of Winters will be responsible for the purchase and maintenance of any and all equipment required for the Visitors Center. Additionally, the City will provide certain technical assistance to initiate and operate the multi-media equipment of the Visitors Center; this will include filming, brochures, web site, etc.
- E. The Chamber, in full partnership with City staff, will develop the following:
 - 1. A comprehensive business plan to promote both City and Chamber goals of enhancing the "Winters Brand." This plan should consider the potential of both visitor and local populations.
 - 2. An interactive multi-media resource for the Visitors Center.
 - 3. An active program to utilize the potential of the Winters location such as Lake Berryessa, agri-businesses, wineries, cultural activities, and other appropriate destination experiences.
 - 4. A Winters Product Facility which will display and sell locally grown, non-crafts, items. The selection of these items will be approved by the Chamber Executive Director and a designated City staff member. Revenues from such sales will be used by the Chamber of off-set any or all operating costs of the Facility.

Add item for Visitor Center signage and security system.



P: 530.795.3816
F: 530.795.3995

102 west 6th street
winters.ca 95694

City of Winters
Att'n: John Donlevy

4/14/2009

Dear John,
Attached is our proposal for the Visitor Center. We have separated our work out into line items for the interior design service, media center/web design, and the Winters Branding postcard which will serve as a template for local business buy ins.
This price is based on previous conversations in regards to our role in the Visitors Center

Sincerely,
Sara Ogando

Visitor's Center Proposal 4/14/2009

Interior Design

Includes preliminary concept presentation and 3D visual walk through, consulting and coordinating with vendors, and comprehensive design services from start to finish.

\$6,200.00

Media Center/Web Site Design

\$6,500.00

Flash Site to include the following:

Individual Video Consulting

Video Processing for the City of Winters branding video

Flash Template Design 1) 800 x 600 px recommended for average monitor
2) 1024 x 768 px for large, in-house monitor

Flash Template Production with Progressive Video Download

CD of SWF site to be played when internet is not available

Price includes setup, install on computer, and troubleshooting

City of Winters Postcard Template Design

\$650.00

Creation of postcard template for the Winters Brand

Unlimited revisions to achieve a consistent template to be used by Winters businesses

Includes 500 printed postcards of Winters brand postcard

Total

\$13,350.00

Additional Items:

Business Buy In (Includes postcard design and video package production and processing)

To be billed on a per piece basis.

\$320.00

Postcard Printing Services

Postcard Printing 500 pc.

\$150.00

Postcard Printing 1000 pc.

\$230.00

Budget for Installing the Visitor Center

Total \$ 14,215.00

| | qty | source | Item | cost | extend |
|--------------------------------|------|---------------|---------------------------|------|----------|
| Remodel | | | | | |
| Flooring | 700 | Valley Floors | Flooring | 4.67 | 3,269.00 |
| Electrical | 1000 | | Sockets | 1 | 1,000.00 |
| Painting | 1 | Oscar | | 550 | 550.00 |
| Signs | 2 | | Bracket hanger and window | 150 | 300.00 |
| Wall art | 1 | | Maps, photos, art | 1000 | 1,000.00 |
| Track lighting | 1 | | | 600 | 600.00 |
| Furniture | | | | | |
| Couch | 1 | IKEA | | 500 | 500.00 |
| Desk | 2 | IKEA | Galant | 240 | 480.00 |
| Drawer Unit | 1 | IKEA | Jonas | 125 | 125.00 |
| Shelves | 2 | IKEA | Exedit Small | 68 | 136.00 |
| Shelves | 1 | IKEA | Exedit Large | 215 | 215.00 |
| Conference Table | 1 | IKEA | | 400 | 400.00 |
| Desk Chair | 1 | IKEA | Allac | 500 | 500.00 |
| File cabinet | 1 | IKEA | | 150 | 150.00 |
| Desk Gear | 1 | Office Max | | 150 | 150.00 |
| Miscellaneous office | 1 | Office Max | | 400 | 400.00 |
| Electronics | | | | | |
| Display | 1 | Costco | Toshiba 40" LCD | 1100 | 1,100.00 |
| Windows Computer/HDMI | 1 | Fry's | | 1100 | 1,100.00 |
| Software | 1 | Fry's | Office, CS3 | 1200 | 1,200.00 |
| UP supply | 1 | Fry's | | 200 | 200.00 |
| Wall mount | 1 | Costco | | 230 | 230.00 |
| Printer /Scan/Fax | 1 | Fry's | HP | 200 | 200.00 |
| Phone | 1 | Costco | | 60 | 60.00 |
| Internet and other connections | 1 | | | 350 | 350.00 |