



Winters City Council Meeting  
City Council Chambers  
318 First Street  
Tuesday, August 17, 2010  
6:30 p.m.  
**AGENDA**

*Members of the City Council*

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

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

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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, August 3, 2010 (pp 1-10)

### PRESENTATIONS

Presentation by Pool Manager Justin Hyer

### DISCUSSION ITEMS

1. Public Hearing, Waive First Reading, Read by Title Only and Introduce Ordinance 2010-09, an Ordinance of the City Council of the City of Winters Amending Chapter 17.96 (Alcoholic Beverage Establishments) of the Winters Municipal Code (pp 11-16)
2. Public Hearing, Waive First Reading, Read by Title Only and Introduce Ordinance 2010-08, an Ordinance of the City Council of the City of Winters Regarding Medical Marijuana Dispensary Moratorium Extension (pp 17-26)
3. Council Liaison Assignments (pp 27-29)
4. Agreement for Provision of Professional Consulting Services with AK& Company for Preparation of the SB90 State Mandated Cost Reimbursement Claim (pp 30-36)
5. Streetlight Cost Savings Options Update (pp 37)

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### COMMUNITY DEVELOPMENT AGENCY

1. Almondwood Apartments Housing and Loan Agreement and Community Development Agency Consideration of Chase and California Tax Credit Advisory Committee ("TCAC") Subordination Agreements Related to the Almondwood Apartments Housing and Loan Agreement (*Postponed to the 9/7/10 City Council meeting*)
2. Sublease By and Between the City of Winters Community Development Agency and the Winters Chamber of Commerce and

the Winters Visitors Center Concept Plan and Performance  
Expectations (pp 38-56)

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CITY MANAGER REPORT

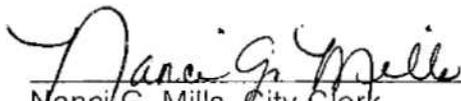
INFORMATION ONLY

EXECUTIVE SESSION

City Manager Performance Evaluation Pursuant to Section 54957  
of the Government Code

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the August 17, 2010 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 August 11, 2010, and made available to the public during normal business hours.

  
\_\_\_\_\_  
Nancy G. Mills, City Clerk

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

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

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

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Wednesday at 10:00 a.m.

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



Minutes of the Winters City Council Meeting  
Held on Tuesday, August 3, 2010

Mayor Fridae called the meeting to order at 6:30 p.m.

Present: Council Members Cecilia Aguiar-Curry, Harold Anderson, Michael Martin, Tom Stone and Mayor Woody Fridae.  
Absent: None  
Staff: City Manager John Donlevy, City Attorney John Wallace, City Clerk Nanci Mills, Director of Financial Management Shelly Gunby, Housing Programs Manager Dan Maguire, Fire Chief Scott Dozier, Fire Captain Brad Lopez, Firefighter Jason Van Doren, Grant Writer Dawn Van Dyke, City Engineer Nick Ponticello, Police Lieutenant Sergio Gutierrez, and Administrative Assistant Tracy Jensen.

Jackie Avellar led the Pledge of Allegiance.

Approval of Agenda: Staff and Council requested the following changes to the agenda: Consent Item D to Discussion Item #6; Consent Item F to Discussion Item #3; Discussion Item #2 to #5; Discussion Item #3 to #4; Discussion Item #4 to #2. Motion by Council Member Aguiar-Curry and seconded by Mayor Fridae to approve the agenda with the described changes. Motion carried unanimously.

**COUNCIL/STAFF COMMENTS:** Council Member Anderson attended the July 8<sup>th</sup> meeting of the Lower Putah Creek Coordinating Committee (LPCCC) in Davis, the July 19<sup>th</sup> meeting of the Winters Putah Creek Committee in Winters and visited the City of Ripon in July to view surveillance camera system used by the Ripon Police Department.

Council Member Aguiar-Curry recently attended a Greenwise meeting for the Green Initiative, a Chicano/Latino Leadership meeting at CSUS, and on 7/22 attended the League of California Cities meeting in Redding, where they toured the Shasta Dam and the Redding Library. Upcoming events include the Yolo County Fair beginning on 8/18, Earth Day on 8/27, League of California Cities Annual Conference beginning on 9/15 in San Diego, and the Hispanic Advisory Committee-sponsored Festival de la Comunidad on 9/25.

Council Member Stone said the upcoming Chamber Mixer will be held at Velo City on Monday, August 9<sup>th</sup> @ 5:30 p.m. and plans to attend a Town and Gown

conference in Fresno in October, which explores partnerships between cities and universities.

Council Member Martin met with the President of Solano College and attended a meeting to promote educational opportunities in Winters by providing adult courses at the High School.

Mayor Fridae expressed his appreciation to Council Member Martin for his leadership now as well as during his tenure as Mayor. A letter from Congressman Mike Thompson was received and read into the record, where Congressman Thompson thanked staff and Council for the hospitality shown during his recent visit to Winters, which included the Administration of Oath for Mayor Fridae, new Council Members, and Offices of City Treasurer and City Clerk at the July 6<sup>th</sup> City Council meeting.

**PUBLIC COMMENTS:** John Hagelis, 6210 Hillview Lane, spoke regarding increased vandalism and the need to form an alliance to address the issue as the City is becoming increasingly violated. He suggested the organization of an intervention program to include the Police Department and community members. He also offered the following suggestions: 1) patrols consisting of 2 residents with walkie talkies between 10pm and 6am with weekly de-briefings; 2) Police Department to enlist cadets to patrol with community volunteers, generating an internship and receive school credits; 3) Conduct a pilot study so the Police Department could apply for a grant to pay for the 2<sup>nd</sup> year; 4) if the pilot program is successful for 2 years, apply for federal grants for seed money.

### **CONSENT CALENDAR**

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, July 6, 2010
- B. Minutes of the Joint Meeting of the Winters City Council and Winters Planning Commission Held on Tuesday, July 13, 2010
- C. Resolution 2010-44 Confirming Delinquent Utility Bills
- D. Resolution 2010-43 Intention to Approve an Amendment to the Contract Between the Board of Administration of the Public Employees' Retirement System (CalPERS) and the City Council of the City of Winters to Provide 2% @ 50 Retirement Formula for Local Fire Members and Introduction of Ordinance 2010-06 Authorizing Amendment of the CalPERS Contract *(Moved to Discussion Item #6)*
- E. Resolution 2010-46 Confirming Weed Abatement Invoices
- F. Resolution 2010-42 Rescinding Resolution 2010-34 and Adopting a Budget of Estimated Revenues and Expenditures for Fiscal Year 2010-2011 and 2011-2012 For the City of Winters *(Moved to Discussion Item #4)*

- G. Resolution 2010-41, A Resolution of the City Council of the City of Winters Approving the Application for Grant Funds for the Sustainable Communities Planning Grant and Incentives Program Under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) for the development of a Climate Action Plan**
- H. Street Closure Request – Winters District Chamber of Commerce is Requesting Approval of a Temporary Street Closure on August 27<sup>th</sup> for the Earthquake Street Festival. Closure would be Main Street from Railroad Avenue to First Street**
- I. Revised Project Budget Sheet, and Construction Contract for Grant Ave. (SR 128) Widening and Safety Improvements, Phase 2 – Walnut Avenue Realignment, Project No. 09-05**
- J. Contract with Matriscope for Materials Sampling and Testing for Grant Ave. (SR 128) Widening and Safety Improvements, Phase 2 – Walnut Avenue Realignment, Project No. 09-05**
- K. Amplified Sound Permit Application – First Baptist Church Youth Group**

City Manager Donlevy gave an overview. Motion by Council Member Aguiar-Curry, second by Council Member Martin to approve the consent calendar. Motion carried unanimously.

**PRESENTATIONS:** None

### **DISCUSSION ITEMS**

- 1. Ordinance 2010-07, An Urgency Ordinance of the City of Winters Adopting an Interim Flood Area Storm Drainage Fee Which Would Be Applied to All Construction in the Flood Overlay Zone as Identified within the General Plan of the City of Winters**

City Engineer Nick Ponticello gave an overview. Council Member Martin asked about the estimated finish date. Nick replied 60 days. Nick also said the fee schedule would be brought back before Council with a recommendation to adopt a final fee schedule. The interim fee schedule can be extended for two more 30-day periods, if needed. Council Member Martin asked if the fees were increasing or decreasing as we go. Nick replied they are not higher, but have adjusted like other AB1600 fees to stimulate building in Winters. We are back to 2001 costs, and bids are coming in with a 2001 cost option.

Motion by Council Member Aguiar-Curry and second by Council Member Anderson to approve Urgency Ordinance 2010-07. Motion carried with the following vote:

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

**2. Discussion Regarding Dog Bites in the Community (Moved from #4)**

Lieutenant Sergio Gutierrez gave an overview and stated as per SB861, "no program regulating any dog shall be specific as to breed" but also spoke about mandatory spay or neuter programs that are not breed-specific but aimed at potentially dangerous or vicious dogs. Lt. Gutierrez contacted the City of Auburn, who has instituted spay and neuter programs for non breed-specific, as well as Santa Cruz County Animal Control, who has in place a county-wide spay and neuter program for dangerous dogs. Records show a reduction in dog bites. Lt. Gutierrez also said the Yolo County Animal Control has reduced their hours to 9 hours a day, 6 days a week. To call out Animal Control after hours requires a supervisor approval and a \$200 call-out fee. Lt. Gutierrez said the public must be educated and violations must be enforced. Dog owners must be responsible for securing their dogs and must be held accountable for their actions.

Council Member Martin asked what number the residents can call to report vicious animals. The Winters Police Department can be reached through dispatch at 795-4561 as well as Yolo County Animal Control at 668-5287 or 666-8920 for emergencies. Council Member Aguiar-Curry asked what the additional cost to the City would be for increased enforcement. Lt. Gutierrez said the cost for concentrated and increased enforcement has not yet been determined. Council Member Martin asked how any animal control ordinance approved by the County would affect the City of Winters? Lt. Gutierrez said the County would act as the lead agency. Mayor Fridae suggested education, working with the local veterinarians, spaying and neutering and the enforcement of existing laws. City Manager Donlevy said there are four components: 1) Notices/public information/patrol officer; 2) work with Animal Control; 3) public information campaign; 4) send notices out to licensed owners regarding pet ownership responsibility. Council Member Martin said leash laws should be enforced. Lt. Gutierrez said leash laws will be enforced as well as a license check, and it would be at the discretion of the officer whether to issue a citation if not licensed. Council Member Stone suggested a timetable to finish an education campaign, and that monthly notices might be tossed aside. Would notices be more effective if received less frequently? Council Member Stone said he would be in favor of establishing a spay/neuter requirement. Mayor Fridae said the passage of Measure W & Y included a safety commitment to the community.

Karen Neil, 8226 Olive School Lane/212 Almond, said the problem of vicious dogs must be addressed on a personal as well as professional level. She

suggested the formation of a committee to create recommendations and asked that Council please not put this issue to rest.

Jessica Barbosa, 1029 Village Circle, agrees that education and licensing are important, but not all pit bulls are vicious. She spoke of temperament and aggression testing that can be done by a veterinarian, the cost of which would be the responsibility of the pet owner.

Emily Back, 129 Riverview Ct., said pit bull is not a single breed, but a broad term to include a collection of many breeds. She added that 8 of 10 dog attacks are by unaltered dogs and that any concerns should include all large dogs.

Debra DeAngelo, 220 White Oak Lane, said any exotic or dangerous animals are dangerous to humans. She said the current laws should be enforced and mentioned secondary gates.

Kathleen Callison, 701 Valley Oak Drive, said dogs are like sharp scissors with small children. She provided a handout entitled "Facts about Pit Bulls" and stated any dog is liable to injure.

Kathy Cowan, 106 Third St., said all dogs bite. Teeth = Bite. She suggested enforcing the current leash laws, which aren't real elaborate.

Mayor Fridae said this is bigger than a one-night issue and wants to look at all the options. Council Member Aguiar-Curry noted the liability notices in the agenda packet that were prepared by City Attorney Wallace and asked if these could be reviewed and mailed out to the community. Mayor Fridae said he doesn't mean to persecute pit bulls or their owners. San Francisco does have a breed specific ordinance in place, but Winters does not have the resources to do this. Mayor Fridae suggested starting an education campaign and work with local veterinarians and post information on the City website about how to protect yourself, where to report a vicious animal, and what owner penalties might be. A spay & neuter program should be reviewed and we should enforce the laws we do have. Council Member Aguiar-Curry said not everyone receives a utility bill and City newsletter and any notices that do go out should be in English and Spanish. City Manager Donlevy confirmed newsletters are mailed monthly to all apartment complexes within the City, as well as Yolo Housing. She also said temperament testing should be examined. Council Member Anderson agrees with all suggestions, but not a spay/neuter requirement. Everyone should not be penalized. Mayor Fridae said it wouldn't be considered a penalty, but to prevent unwanted pregnancies and lessen the crowding at the animal shelters. City Attorney Wallace added that studies show there is less aggression in male neutered dogs. Mayor Fridae said punishment is for those who do not follow rules and agreed that education is important. He suggested providing information to local veterinarians and placing the information on the City's website, including mobile veterinarians. Council Member Stone asked if the Police Department and City Attorney could put together a draft. Council Member

Aguiar-Curry said the educational materials in the packet were well done and easy to read. She added that a telephone number to report dog incidents is also important (530-666-8920.) Mayor Fridae asked if a 2X2 meeting between the Board of Supervisors and Council could be scheduled. City Manager Donlevy said a county-wide roll back of animal services is currently taking place. Council Member Stone suggested expanding the cost gap between neutered and non-neutered licensing, which is currently at \$10 (neutered) and \$25 (non-neutered.) Asked by Council Member Martin whether residents who call to report aggressive dogs can remain anonymous, Lieutenant Gutierrez replied that callers may remain anonymous. Mayor Fridae suggested this topic be revisited following a discussion with the County.

**3. Resolution 2010-42 Rescinding Resolution 2010-34 and Adopting a Budget of Estimated Revenues and Expenditures for Fiscal Year 2010-2011 and 2011-2012 For the City of Winters (Moved from Consent Item F)**

City Manager Donlevy gave an overview, stating Measure W will provide funding for additional police officers, funding for a Fire Sleeper Program, additional police technology, and to offset City-wide assessment revenue. The City also anticipated approximately \$400,000 in property taxes, and the recent payment received from the County was approximately \$100,000 less than expected. Director of Financial Management Gunby continued by reviewing the contents of Resolution 2010-42.

Council Member Martin asked why the funding for a police technology program was specifically stated, and asked why the allocations were defined now. Ms. Gunby replied that without a line itemized budget, the funds have not been allocated anywhere and the budget will reflect no intent to spend the money, which will end up in the fund balance. Council Member Fridae said cameras might be a really good idea. Council Member Aguiar-Curry said she was frustrated by the recreation omission.

Albert Vallecillo, 210 Main Street, submitted a letter questioning various fund allocations and asked that the letter be read into the record.

Sally Brown, 24 E. Main, submitted original and new Measure W Allocation Proposals for 2010-11 and 2011-12, along with concerns about the City's new Measure W Allocation proposal. She reminded Council that Measure W was passed "to protect/main essential City services, including public safety (police/fire), 9-1-1 policy/fire response times, maintaining the Community Center, recreation and swim programs, library services, and preserving other general City services."

Jeff Tenpas, 24 E. Main, said residents were led to believe there was a real budget crisis.

Ms. Gunby indicated the money raised by Joe Tramontana's group, CCAPFC (Community Center and Pool Fund Committee), is not included in the budget as the City has not been told how to spend it. With the elimination of the recreation coordinator and the Fun in the Park and Adventure Day Camp programs, Council Member Stone said the City has saved approximately \$60,000.

City Manager Donlevy apologized for any assumptions or conjectures made, making people think these numbers have been made up. He stated no additional cuts are being recommended.

Council Member Anderson said streetlights have to come back before the money is spent, inquired about the City-Wide Assessment District, and suggested not assigning monies to an expenditure account as the expenditures will be less that amount. Mayor Fridae reiterated that Measure W is as stated, and the Measure Y sets the priority. The subject of rebates to businesses will be brought back to a future City Council meeting. Regarding rebates, Council Member Stone said the specific number of those requesting a rebate cannot be anticipated. Al Vallecillo asked if a cap might be easier than a rebate.

Motion by Council Member Martin, seconded by Council Member Stone, to authorize the following: the hiring of one police officer (2010-11); start up the Fire Sleeper Program (2010-11); create a streetlight placeholder in the budget with a \$95,000 contingency; the hiring of a police officer (2011-12); provide a full Fire Sleeper Program (2011-12); allocate a \$20,000 contingency program. Motion carried with the following vote:

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

#### 4. Railroad Ave./Russell St. Intersection- Petition

Mayor Fridae stepped down due to a possible conflict of interest.

City Manager Donlevy gave an overview, saying the upcoming Putah Creek Bridge Replacement project will address the request for a stop sign at Russell & Railroad submitted by Dan Mickel of 6 Russell Street. With the upcoming \$11 million dollar project, does the City want to spend another fifteen to twenty thousand on a required traffic study for this intersection? Council Member Anderson concurred, not wanting to spend the engineering budget on a short-term fix, and suggested going to a controlled intersection. Staff recommendation is to not pursue a stop sign at this intersection. Council Member Martin said visual improvements may be enough.

Edmund Lis, 9 Russell St., agreed, saying it was a bad intersection with poor visibility. He noted Winters has become a visitor destination and tourists may not be aware of the situation. He said he did not understand the warrants and studies process, but suggest a temporary stop sign (City would be liable if something did happen) or a Police car decoy (parked on Railroad Avenue next to the Community Center.)

Mayor Pro Tem Aguiar-Curry read Dan Mickel's statement into the record, which included a petition containing 40 signatures. If stop signs were installed at this intersection, large agricultural vehicles could stop the flow of traffic and it would be too costly to pay for a study at this stage. City Manager Donlevy said the parking space on Railroad at Russell could be painted red to improve visibility of oncoming traffic. He also stated a letter would be mailed to all petitioners to let them know the status of their request.

Motion by Council Member Anderson and seconded by Council Member Martin to approve painting of the curb red at the corner of Railroad and Russell. Motion carried unanimously, with Mayor Fridae absent.

Mayor Fridae returned to the dais at this time.

**5. Update on Fire Consolidation Agreement- City of Winters and Winters Fire District (Moved from Consent F)**

City Manager Donlevy gave an overview. Council Member Aguiar-Curry inquired about the PERS Unfunded Liability and Director of Financial Management Gunby said it contained three components. City Manager Donlevy said this agreement will come back to Council for approval.

**6. Resolution 2010-43 Intention to Approve an Amendment to the Contract Between the Board of Administration of the Public Employees' Retirement System (CalPERS) and the City Council of the City of Winters to Provide 2% @ 50 Retirement Formula for Local Fire Members and Introduction of Ordinance 2010-06 Authorizing Amendment of the CalPERS Contract (Moved from Consent Item D)**

City Manager Donlevy gave an overview. Council Member Stone confirmed the Police Department's 3% @ 55 and the Fire Department's proposed 2% @ 50 and asked if the two departments couldn't be meshed to 3% @ 55. City Manager Donlevy confirmed a 7% contribution rate. Fire Captain Brad Lopez voiced the collective concern of the Fire Department, saying 2% @ 50 was a sticker shock and wants to get started on the right track. Fire Chief Scott Dozier asked Council to think about the 7 years the fire staff has been kept here. Council Member Martin said the receipt of a certain package, which was then dropped to another

amount may be hard, but understands the reality. Mayor Fridae also understands, being in the teacher's retirement. Council Member Aguiar-Curry said the whole state is looking at this.

Council Member Anderson said the City cannot sustain anything higher than what is being presented, and with that made a motion to adopt Resolution 2010-43, approving an amendment to the contract between the Board of Administration of the Public Employees' Retirement System (CalPERS) and the City Council of the City of Winters to Provide 2% @ 50 Retirement Formula for Local Fire Members, and introduce and waive the first reading of Ordinance 2010-06, authorizing an amendment to the contract between the City Council of the City of Winters and the Board of Administration of the California Public Employees Retirement System. Seconded by Council Member Aguiar-Curry. Motion carried with the following vote:

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

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### COMMUNITY DEVELOPMENT AGENCY

Agency Chairman Aguiar-Curry called to order the meeting of the Community Development Agency at 10:40 p.m.

### CONSENT CALENDAR

**1. Approve Annual Contribution to the Yolo County Visitors Bureau as per the original Consultant Services Agreement**

Housing Programs Manager Dan Maguire gave an overview and said the annual contribution being requested is a good investment. Along with the Agency's \$7,000 contribution, the Chamber will be contributing \$1,000, for a total contribution of \$8,000 from the City of Winters. Agency Chairman Aguiar-Curry said more Winters activities should be included. Agency Member Martin agreed Winters is not getting enough exposure or our fair share of publicity. Mr. Maguire confirmed that Howard Hupe was the Winters Representative on the Yolo County Visitor's Bureau Board.

Motion by Agency Member Anderson, second by Agency Member Stone, to approve the annual contribution of \$7,000 to the Yolo County Visitor's Bureau as per the original Consultant Services Agreement dated 3/4/08.

**2. Resolution 2010-45 Rescinding Resolution 2010-35 and Adopting a Budget of Estimated Revenues and Expenditures**

**for Fiscal Year 2010-2011 and 2011-2012 For the Winters  
Community Development Agency**

Director of Financial Management Gunby gave an overview, confirming the only change to the resolution would be to decrease the stated assessed value.

Motion by Agency Member Fridae, second by Agency Member Stone to approve Resolution 2010-45, rescinding Resolution 2010-35 and adopting a Budget of Estimated Revenues and Expenditures for Fiscal Year 2010-2011 and 2011-2012 for the Winters Community Development Agency. Motion carried with the following vote:

**AYES:** Agency Members Anderson, Fridae, Martin, Stone, Agency  
Chairman Aguiar-Curry  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Agency Chairman Aguiar-Curry adjourned the meeting of the Winters Community Development Agency into Executive Session at 10:55 p.m.

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**CITY MANAGER REPORT:** None

**INFORMATION ONLY:** None

**EXECUTIVE SESSION**

**Personnel Matters Pursuant to Section 54957.6 of the  
Government Code - Labor Negotiations**

Staff received authority to make employment offers based on salary and benefit packages to be made at a later date.

**City Manager Performance Evaluation Pursuant to Section  
54957 of the Government Code**

**ADJOURNMENT:** Executive Session was adjourned at 11:30 p.m.

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Woody Fridae, MAYOR

**ATTEST:**

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Nanci G. Mills, City Clerk



CITY COUNCIL  
STAFF REPORT

TO: Honorable Mayor and Council Members  
DATE: August 17, 2010  
THROUGH: John W. Donlevy, Jr., City Manager   
FROM: Nelia C. Dyer, Community Development Director  
SUBJECT: Public Hearing, Waive First Reading, Read by Title Only and Introduce Ordinance 2010-09 amending Chapter 17.96 (Alcoholic Beverage Establishments) of the Winters Municipal Code

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**RECOMMENDATION:** Staff recommends that the City Council: 1) Receive the staff report; 2) Conduct a public hearing; and 3) Waive first reading, read by title only, and introduce Ordinance 2010-09 amending Chapter 17.96 (Alcoholic Beverage Establishments) of the Winters Municipal Code.

**BACKGROUND:** Staff has received inquiries from potential business owners concerning the City's regulations governing alcoholic beverage establishments in the central business district, which is also known as the Downtown Form Based Code area as defined in Chapter 17.58 of the Winters Municipal Code. Presently, the Chapter 17.96 of the Winters Municipal Code states that no on-sale liquor establishments shall be authorized or maintained within 200 feet of sensitive uses in the central business district. Sensitive uses include schools (public and private); established churches or places of worship; hospitals, clinics, or other health care facilities; public parks, playgrounds, or other recreational uses; or other on-sale liquor establishments. With the current businesses/uses in the downtown in combination with the current municipal code, it is difficult for additional on-sale liquor establishments, such as wine tasting rooms, to locate in the downtown.

Based upon this, City staff is of the opinion that the Winters Municipal Code should be amended to offer appropriate regulations for these businesses that wish to locate in the downtown. Below are the proposed amendments.

**PROPOSED AMENDMENTS:**

***17.96.020 On-sale liquor establishments defined.***

An "on-sale liquor establishment" means any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises including but not limited to any facility which has obtained a California Department of Alcoholic Beverages Control license. Typical on-sale uses include, but are not limited to, the following establishments: ballrooms; dance halls/bars, **taverns**, piano bars, billiard and/or game parlors, night clubs, **wineries**, **wine tasting rooms**, **breweries** or other private clubs. This definition shall not include restaurants as defined in Chapter 17.08, veterans' clubs, or the following fraternal organizations: Elks Club, Moose club, or Eagle Club, **Lions Club**, or **Rotary**

*Club. Fraternal organizations not listed may be exempt upon planning commission approval. (Ord. 97-03 § 2 (part): prior code § 8-1.6009(B))*

**17.96.030 Requirements for on-sale liquor establishments.**

A. *No on-sale liquor establishments shall be authorized or maintained within five hundred (500) feet of sensitive uses. Sensitive uses include schools (public and private); established churches or places of worship; hospitals, clinics, or other health care facilities; public parks, or playgrounds or other park or recreational uses; or another on-sale liquor establishment. The separation requirement between on-sale liquor establishments and a sensitive use shall be reduced to two hundred (200) feet within the central business district. There shall be no separation requirement between on-sale liquor establishments and a sensitive use within the Regulating Plan Area for the Form Based Code for Downtown as defined in Chapter 17.58. For the purposes of this section, distance shall be measured from the nearest entrance used by patrons of such establishments along the shortest route intended and available for public passage to the entrance of other such establishments, or to the nearest property line of any of the other sensitive use. Veterans' clubs, fraternal organizations and restaurants are excluded from the separation requirement of this section. The separation requirement shall not be applicable to Rotary Park and Rotary Park is expressly excluded from the definition of a sensitive use.*

**PLANNING COMMISSION RECOMMENDATION:** The Ordinance was presented to the Planning Commission in a special meeting on July 13, 2010. A public hearing was held, and no comments were made from the public. After some deliberation, the Planning Commission unanimously recommended approval of the Ordinance to City Council.

**PROJECT NOTIFICATION:** Public notice for the public hearing on this project was prepared by the City Clerk accordance with notification procedures set forth in the City of Winters' Municipal Code and State Planning Law. A legal notice was published in the Winters Express on Thursday, August 5, 2010. Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since Friday, August 13, 2010.

**ENVIRONMENTAL ASSESSMENT:** The proposed Ordinance is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines, Section 15061(b)(3).

**RECOMMENDATION:** Staff recommends that the City Council approve Ordinance 2010-09 by making the affirmative motion as follows:

I MOVE THAT THE WINTERS CITY COUNCIL WAIVE THE FIRST READING, READ BY TITLE ONLY, AND INTRODUCE ORDINANCE 2010-09 AMENDING CHAPTER 17.96 OF THE WINTERS MUNICIPAL CODE PERTAINING TO ALCOHOLIC BEVERAGE ESTABLISHMENTS.

**ALTERNATIVES:** The City Council may modify the Ordinance or the City Council may choose to not introduce and adopt the Ordinance.

**ATTACHMENTS:**

1. Ordinance 2010-09 Amending Chapter 17.96 of the Winters Municipal Code Pertaining to Alcoholic Beverage Establishments
2. Draft Minutes from the July 13, 2010 Planning Commission Meeting

**ORDINANCE No. 2010-09**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS  
AMENDING CHAPTER 17.96 OF THE WINTERS MUNICIPAL CODE  
PERTAINING TO ALCOHOLIC BEVERAGE ESTABLISHMENTS**

WHEREAS, Chapter 17.96 of the Winters Municipal Code governs alcoholic beverage establishments in the City of Winters;

WHEREAS, the Winters Municipal Code Section 17.96.030 states that no on-sale liquor establishments shall be authorized or maintained within 200 feet of sensitive uses in the central business district. Sensitive uses include schools (public and private); established churches or places of worship; hospitals, clinics, or other health care facilities; public parks, playgrounds, or other recreational uses; or other on-sale liquor establishments;

WHEREAS, with the current uses in the downtown in combination with the current municipal code, it is difficult for additional on-sale liquor establishments to locate in the downtown;

WHEREAS, City staff is of the opinion that the Winters Municipal Code should be amended to offer appropriate regulations for these businesses in the downtown;

WHEREAS, the ordinance was revised by City staff and is hereby submitted to Council for adoption as the City's Alcoholic Beverage Establishment Ordinance;

WHEREAS, the amendments to the ordinance are exempt from the California Environmental Quality Act pursuant to Section 15061 (b)(3);

WHEREAS, on July 13, 2010, the Planning Commission of the City of Winters held a public hearing and recommended approval of Ordinance 2010-09 to the City Council; and

WHEREAS, the City Council of the City of Winters conducted a duly noticed public hearing on August 17, 2010, at City Hall, 318 1<sup>st</sup> Street, Winters, CA 95694. Notice of the time, place, and purpose of the aforementioned meeting was duly noticed in accordance with Government Code 65090.

THE CITY COUNCIL OF THE CITY OF WINTERS, CALIFORNIA, DOES HEREBY  
ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT.

- A. Chapter 17.96, Section 17.96.020 (On-sale liquor establishments defined) is amended to read as follows:

An "on-sale liquor establishment" means any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises including but not limited to any facility which has obtained a California Department of Alcoholic Beverages Control license. Typical on-sale uses include, but are not limited to, the following establishments: ballrooms, dance halls/bars, taverns, piano bars, billiard

and/or game parlors, night clubs, wineries, winetasting rooms, breweries or other private clubs. This definition shall not include restaurants as defined in Chapter 17.08, veterans' clubs, or the following fraternal organizations: Elks Club, Moose club, or Eagle Club, Lions Club, or Rotary Club. Fraternal organizations not listed may be exempt upon planning commission approval. (Ord. 97-03 § 2 (part): prior code § 8-1.6009(B))

B. Chapter 17.96, Section 17.96.030 (A) is amended to read as follows:

A. No on-sale liquor establishments shall be authorized or maintained within five hundred (500) feet of sensitive uses. Sensitive uses include schools (public and private); established churches or places of worship; hospitals, clinics, or other health care facilities; public parks, or playgrounds or other park or recreational uses; or another on-sale liquor establishment. ~~The separation requirement between on-sale liquor establishments and a sensitive use shall be reduced to two hundred (200) feet within the central business district. There shall be no separation requirement between on-sale liquor establishments and a sensitive use within the Regulating Plan Area for the Form Based Code for Downtown as defined in Chapter 17.58.~~ For the purposes of this section, distance shall be measured from the nearest entrance used by patrons of such establishments along the shortest route intended and available for public passage to the entrance of other such establishments, or to the nearest property line of any of the other sensitive use. Veterans' clubs, fraternal organizations and restaurants are excluded from the separation requirement of this section. ~~The separation requirement shall not be applicable to Rotary Park and Rotary Park is expressly excluded from the definition of a sensitive use.~~

SECTION 2. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after the date of its adoption. Within fifteen (15) days of its adoption it shall be posted in two (2) public places within the City of Winters and the ordinance, or a summary of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Winters prior to the effective date.

INTRODUCED on the 17th day of August, 2010.

PASSED AND ADOPTED as an ordinance of the City of Winters at a regular meeting of said Council on the 7th day of September, 2010, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Woody Fridae, MAYOR

ATTEST:

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Nanci G. Mills, CITY CLERK

**MINUTES OF THE WINTERS PLANNING COMMISSION SPECIAL MEETING  
HELD ON TUESDAY, JULY 13, 2010**

Chairman Neu called the meeting to order at 5:00 p.m.

**PRESENT:** Commissioners Cowan, Guelden, Meisch, Tramontana, and  
Chairman Neu

**ABSENT:** Commissioner DeVries, Commissioner Martinez

**STAFF:** Community Development Director Nelia Dyer, Contract City  
Attorney Laura Hollender, Administrative Assistant Jenna Moser

Commissioner Tramontana led the Pledge of Allegiance.

**CITIZEN INPUT:** None

**COMMUNICATIONS:**

**Staff Reports:** Community Development Director Dyer reminded commissioners that the Current Projects List is updated for each meeting, and items in bold/italics have recent updates.

**Commission Reports:** None

**CONSENT ITEM**

Approve minutes of the June 22, 2010 regular meeting of the Planning Commission.

**Motion by Commissioner Cowan, Second by Commissioner Guelden to approve the minutes for the June 22, 2010 regular Meeting of the Planning Commission with amendments. Motion carried with the following roll call vote:**

**AYES:** Commissioners Cowan, Guelden, Meisch, Tramontana, and  
Chairman Neu

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Commissioner DeVries, Commissioner Martinez

**DISCUSSION ITEM**

**A. PUBLIC HEARING AND CONSIDERATION OF A PARCEL MAP APPLICATION FOR THE DEDICATION OF RIGHT-OF-WAY FOR THE WALNUT LANE RE-ALIGNMENT PROJECT AND SPLITTING ONE LOT INTO TWO NEW LOTS AT 101 EAST GRANT AVENUE (APN 003-350-06)**

This item has been continued to the July 13, 2010 special Planning Commission meeting.

**MINUTES OF THE WINTERS PLANNING COMMISSION SPECIAL MEETING  
HELD ON TUESDAY, JULY 13, 2010**

**B. PUBLIC HEARING AND CONSIDERATION OF THE ADOPTION OF AN  
ORDINANCE AMENDING CHAPTER 17.96 (ALCOHOL BEVERAGE  
ESTABLISHMENTS) OF THE WINTERS MUNICIPAL CODE**

Community Development Director Dyer provided an overview of the staff report. Commissioner Guelden asked for clarification on if existing businesses would be exempt. Ms Dyer responded that existing businesses would not be exempt, but that restaurants are not included, just on sale establishments. Chairman Neu opened the Public Hearing at 5:07PM. Hearing no comments, Neu closed the Public Hearing at 5:07PM.

**Motion by Commissioner Cowan, Second by Commissioner Tramontana to recommend approval of an Ordinance amending Chapter 17.96 of the Winters Municipal Code. Motion carried with the following roll call vote:**

**AYES:** Commissioners Cowan, Guelden, Meisch, Tramontana, and  
Chairman Neu  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** Commissioner DeVries, Commissioner Martinez

**COMMISSION/STAFF COMMENTS:**

Chairman Neu provided information on a program about planning communities for aging populations. Commissioner Tramontana reminded citizens to obey bicycle safety rules. Commissioner Neu also asked staff to look into installing signs near the exit of the pedestrian bridge over Putah Creek to warn motorists and pedestrians that bikes are entering the roadway.

The meeting was adjourned at 5:15 p.m.

**ATTEST:**

\_\_\_\_\_  
Jenna Moser, CDD Admin

\_\_\_\_\_  
Pierre Neu, Chairman



CITY COUNCIL  
STAFF REPORT

TO: Honorable Mayor and Councilmembers  
DATE: August 17, 2010  
THROUGH: John W. Donlevy, Jr., City Manager   
FROM: John C. Wallace, City Attorney  
SUBJECT: Ordinance No. 2010-08, Medical Marijuana Dispensaries Moratorium  
Further Extension

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**RECOMMENDATION:** (1) Open the public hearing; (2) Approve and place the California Government Code Section 65858(d) written report into the record; (3) Hear from any members of the public; (4) Close the public hearing; (5) Council Discussion; (6) Introduction of the ordinance.

**BACKGROUND:** The City Council on November 3, 2009 adopted Ordinance 2009-15, an urgency interim ordinance establishing a moratorium on issuing permits, licenses or other entitlements for the operation of Medical Marijuana Dispensaries pending further study by the Planning Commission. That ordinance would have expired after 45 days, on December 18, 2009. State Law allows a second extension of the moratorium initially for up to 10 months and 15 days. The Winters City Council on December 15, 2010, voted to extend the moratorium for an additional 10 months and 15 days. That moratorium will expire on September 30, 2010. Staff has presented the issue to the Planning Commission, and has supplied documentation to the Planning Commission. Staff has recommended this further extension, for up to one year, to incorporate the results of the state-wide initiative in November on marijuana usage into a final recommendation to the City Council. Such an extension, the last one legally available, is authorized by state law.

**FISCAL IMPACT:** Staff time, publication costs.

**GOVERNMENT CODE SECTION 65858(d) WRITTEN REPORT:** State law requires that the City Council issue a written report at least 10 days before the expiration of the 45 day moratorium ordinance. The written report has been issued at least 10 days prior to this Council Meeting, and is attached.

**Conclusion**

Staff recommends that Council introduce City of Winters Ordinance No. 2010-08, an urgency ordinance extending the moratorium on the establishment and operation of medical marijuana dispensaries for an additional period of one year in order to allow the City to continue to study the impacts of such uses, and make decisions regarding siting and zoning.

Attachment:

Ordinance No. 2010-08

Ordinance No. 2010-08 Notice of Public Hearing

Ordinance No. 2010-08 65858 Written Report

Ordinance No. 2010-08 8-17-2010 Agenda Report

CITY OF WINTERS  
ORDINANCE NO. 2010-08

AN INTERIM URGENCY ORDINANCE OF THE CITY OF WINTERS ENACTED PURSUANT TO GOVERNMENT CODE SECTION 65858 TO EXTEND INTERIM URGENCY ORDINANCE NO. 2009-15 FOR AN ADDITIONAL ONE YEAR AND CONTINUE FOR THIS PERIOD THE TEMPORARY PROHIBITION AGAINST ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES

WHEREAS, on November 3, 2009, pursuant to section 65858 of the California Government Code, the City Council of the City of Winters ("City Council") adopted Ordinance No. 2009-15, an interim urgency ordinance, which temporarily prohibits the establishment and operation of medical marijuana dispensaries in all locations in the City of Winters; and

WHEREAS, Section 65858(a) of the California Government Code provides that Ordinance No. 2009-15 shall expire and be of no further force and effect forty-five (45) days from its date of adoption; and

WHEREAS, Section 65858(a) of the California Government Code provides that prior to the expiration of Ordinance No. 2009-15, the City may extend Ordinance No. 2009-15 for an additional ten (10) months and fifteen (15) days after giving notice pursuant to Section 65090 of the California Government Code and conducting a public hearing; and

WHEREAS, The City Council of the City of Winters on December 15, 2010 adopted Ordinance 2009-17, an ordinance extending Ordinance No. 2009-15 for an additional ten (10) months and fifteen (15) days after giving notice pursuant to Section 65090 of the California Government Code and conducting a public hearing; and

WHEREAS, prior to this hearing, the City Council authorized the issuance of a written report describing the measures and actions taken by the City to alleviate the circumstances and conditions which led to the adoption of the Ordinance No. 2009-15 since its adoption on September 26, 2006, and Ordinance No. 2009-17 since its adoption on December 15, 2009, as required by Government Code section 65858(d) ("Council Report"); and

WHEREAS, based on the Council Report, the City Council has determined that the circumstances and conditions that led to the adoption of Ordinance Nos. 2009-15 and 2009-17, which are set forth in the recitals of Ordinance No. 2009-15 and are fully incorporated herein by this reference, have not been alleviated

as of the date of this Ordinance and continue to create the concerns described in Ordinance Nos. 2009-15 and 2009-17; and

WHEREAS, the City Council now seeks to extend the temporary prohibition on the establishment and operation of medical marijuana dispensaries, as currently authorized under Ordinance Nos. 2009-15 and 2009-17, to continue studying possible amendments to the Winters General Plan and the City's zoning regulations to help ensure that medical marijuana dispensaries are regulated in a way that protects the community and complies with applicable law; and

WHEREAS, the purpose for extending Ordinance Nos. 2009-15 and 2009-17 is to avoid the potentially significant adverse impacts to the public's health, safety, and welfare described in Ordinance Nos. 2009-15 and 2009-17; and

WHEREAS, the City Council has determined there is a need to extend Ordinance Nos. 2009-15 and 2009-17 for an additional one year as authorized under section 65858(a) of the California Government Code; and

WHEREAS, the notice and public hearing required by section 65858(a) of the California Government Code for the extension of Ordinance Nos. 2009-15 and 2009-17 has been provided in accordance with applicable law;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINTERS, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Adoption of this urgency interim ordinance ("Ordinance") shall constitute an extension of Ordinance Nos. 2009-15 and 2009-17 pursuant to section 65858 of the California Government Code.

SECTION 2. During the time this Ordinance is in effect, the City shall not issue any use permit, variance, building permit, business license or other applicable entitlement for the establishment or operation of a medical marijuana dispensary in Winters.

SECTION 3. For purposes of this Ordinance, the terms defined below shall have the following meanings:

A. "Medical marijuana dispensary" shall mean any facility or location where a primary caregiver intends to or does make available, sell, transmit, give, or otherwise provide medical marijuana to two or more of the following: a qualified patient, a person with an identification card, or a primary caregiver.

B. "Primary caregiver," "qualified patient," and "identification card" shall have the meanings set forth in Health and Safety Code section 11362.7.

SECTION 4. The City Council hereby finds and determines that adoption of this Ordinance and the extension of Ordinance Nos. 2009-15 and 2009-17 is necessary for the current and immediate protection of the public health, safety, and welfare of the City and its residents for all the reasons set forth in the recitals above, the recitals of Ordinance Nos. 2009-15 and 2009-17, and the agenda report prepared in connection with this Ordinance, which are hereby expressly incorporated as though fully set forth herein, and the following additional reasons:

A. The City continues to study the issue of regulation of medical marijuana dispensaries, and has collected studies, reports, and other information from other California cities concerning the effects created by the operation of medical marijuana dispensaries, which have indicated that dispensaries can have negative effects on the surrounding areas if not properly regulated.

B. Establishment and/or operation of medical marijuana dispensaries under existing zoning and development standards will have a detrimental effect because the existing standards do not consider the unique impacts created by medical marijuana dispensaries, which would create the potential for severe land use incompatibilities, with associated impacts to adjacent residents and businesses. These adverse impacts on the public health, safety, and welfare can be avoided through careful study and proper planning for the regulation of medical marijuana dispensaries.

SECTION 5. The City Council hereby directs the Planning Division to consider and study possible means of regulating or prohibiting medical marijuana dispensaries, including zoning-based regulations and other regulations.

SECTION 6. The City Council hereby finds that this Ordinance is not subject to the California Environmental Quality Act (Pub. Resources Code, Sec. 21000 et seq.) ("CEQA") pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 7. Ten days prior to the expiration of this Ordinance, the City Council shall issue a written report describing the measures which the City has taken to alleviate the conditions which led to the adoption of this Ordinance.

SECTION 8. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this

Ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 9. This Ordinance shall be adopted by a four-fifths vote of the City Council. Upon adoption, the Mayor shall sign this Ordinance, and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in the Winters Courier, a semi-weekly newspaper of general circulation, printed, published and circulated in the City of Winters. The term of this Ordinance shall be in effect beginning September 7, 2010 for one year and shall thereafter be of no further force and effect.

PASSED, APPROVED, AND ADOPTED this 7<sup>th</sup> day of September, 2010

STATE OF CALIFORNIA  
COUNTY OF YOLOss:  
CITY OF WINTERS

I, Nanci G. Mills, City Clerk of the City of Winters, County of Yolo, State of California, hereby certify that the foregoing Urgency Ordinance No. 2010-08 was introduced, passed and adopted by said city council, signed by the mayor, and attested by the city clerk of said city, all at a regular meeting of said council held on the 7<sup>th</sup> day of September, 2010, by the following vote:

AYES:

Councilmembers:

NOES:

Councilmembers: None

ABSENT:

Councilmembers: None

ABSTAINED:

Councilmembers: None

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NANCI G. MILLS, CITY CLERK  
CITY OF WINTERS

## NOTICE OF PUBLIC HEARING

### CITY OF WINTERS ORDINANCE NO. 2010-08

#### **AN INTERIM URGENCY ORDINANCE OF THE CITY OF WINTERS ENACTED PURSUANT TO GOVERNMENT CODE SECTION 65858 TO EXTEND INTERIM URGENCY ORDINANCE NOS. 2009-15 AND 2009-17 FOR AN ADDITIONAL ONE YEAR AND TO CONTINUE FOR THIS PERIOD THE TEMPORARY PROHIBITION AGAINST ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES**

NOTICE IS HEREBY GIVEN that the Winters City Council will hold a public hearing on Tuesday, August 17, 2010, at 6:30 p.m. in the Council Chambers of City Hall, 318 First Street, Winters, California. Purpose of the Public Hearing is consider introduction and adoption of CITY OF WINTERS ORDINANCE NO. 2010, AN INTERIM URGENCY ORDINANCE OF THE CITY OF WINTERS ENACTED PURSUANT TO GOVERNMENT CODE SECTION 65858 TO EXTEND INTERIM URGENCY ORDINANCE NOS. 2009-15 AND 2009-17 FOR AN ADDITIONAL ONE YEAR AND TO CONTINUE FOR THIS PERIOD THE TEMPORARY PROHIBITION AGAINST ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES.

The ordinance is summarized, pursuant to the California Government Code, as follows:

Interim urgency ordinance 2009-15 took effect November 3, 2009, establishing a 45-day moratorium on the approval or issuance of any use permit, variance, building permit, business license, or other applicable entitlement for the establishment or operation of a medical marijuana dispensary in the City of Winters. The ordinance directed the Winters Planning Commission to consider and study possible means of regulating or prohibiting medical marijuana dispensaries, including zoning based regulations and other regulations. Ordinance 2009-17 extended the moratorium for an additional 10 months and 15 days, to allow additional time for study and legislative action. That ordinance is currently in effect and the moratorium, absent further action by the City Council, will expire next month. This ordinance will extend the moratorium an additional one year, to allow the City Planning Commission and the Winters City Council to complete its study of the issue, and to incorporate the results of the November, 2010 statewide initiative measure on marijuana usage. The ordinance will take effect upon adoption.

Copies of the proposed ordinance are on file with the Winters City Clerk, 318 First Street, Winters, California. A written report on the reasons for the extension are also on file. Written comments may be submitted at the hearing or by prior

submission to the Winters City Clerk, and oral comments may be made at the hearing. All interested citizens are invited to attend.

In compliance with the Americans With Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in these proceedings, please contact City Clerk Nanci Mills at (530) 795-4910, ext. 101. Please make your request as early as possible and at least one full business day before the start of the hearing.

Dated: August 3, 2010

/s/ John C. Wallace, City Attorney,  
City of Winters



CITY COUNCIL  
STAFF REPORT

**TO:** Honorable Mayor and Councilmembers  
**DATE:** November 17, 2009  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** Nelia "Nellie" Dyer, AICP, Community Development Director  
**SUBJECT:** Ordinance No. 2010-08, Medical Marijuana Dispensaries Moratorium  
Further Extension

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**RECOMMENDATION:** Introduction, then approval on September 7, 2010.

**BACKGROUND:** The City Council on November 3, 2009 adopted Ordinance 2009-15, an urgency interim ordinance establishing a moratorium on issuing permits, licenses or other entitlements for the operation of Medical Marijuana Dispensaries pending further study by the Planning Commission. That ordinance would have expired after 45 days, on December 18, 2009. State Law allows an extension of the moratorium initially for up to 10 months and 15 days. On December 15, 2010, the City Council adopted Ordinance 2009-17, extending the moratorium an additional 10 months and 15 days. That ordinance is due to expire in September.

**FISCAL IMPACT:** Staff time, publication costs.

**GOVERNMENT CODE SECTION 65858(d) WRITTEN REPORT:** State law requires that the City Council issue a written report at least 10 days before the expiration of the 10 month and 15 day extension of the moratorium ordinance. The written report is hereby summarized as follows:

Pursuant to the Council's direction, City staff has commenced a study of the potential

impacts of medical marijuana dispensaries and possible amendments to the City's zoning code related to such uses; this process is still ongoing. Staff has supplied documents and sample ordinances to the Planning Commissioner. Staff has compiled data from other communities throughout the state on the impacts of medical marijuana dispensaries and options for regulating them. This includes specifically a Police Chiefs' report on increased criminal activity where medical marijuana dispensaries operate. Concurrently, staff is also in the process of developing the performance standards for a zoning ordinance, such as distance between such dispensaries, distance from other uses, and limitations on operations. By state law, no marijuana may be smoked, with or without a medical card, within 1000 feet of a school or youth center. Incorporating that proscription into performance standards is an issue to be addressed by the planning commission. There is a state-wide initiative in November that proposes changes in California law relating to marijuana usage. Staff is awaiting the results of the election to complete its study and recommendations.

Per Government Code Section 65858, the Council may, following a public hearing, extend the moratorium for an additional period of one year. At the present time, staff believes this extension, the last one legally available, will allow sufficient time to complete the process.

**This report constitutes the written report required by Government Code Section 65858(d).**

#### **Conclusion**

Staff recommends that Council approve City of Winters Ordinance No. 2010-08, an urgency ordinance extending the moratorium on the establishment and operation of medical marijuana dispensaries for a period of one year in order to allow the City to continue to study the impacts of such uses. Staff further recommends that the Council adopt this written report and order it issued.



**CITY COUNCIL  
STAFF REPORT**

**TO:** Honorable Mayor and Council Members  
**DATE:** August 17, 2010  
**THROUGH:** John W. Donlevy, Jr., City Manager *JWD*  
**FROM:** Nanci G. Mills, Director of Administrative Services  
**SUBJECT:** Councilmember Liaison Assignments

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**RECOMMENDATION:** Council Members review the current liaison assignments and make changes as necessary.

**BACKGROUND:** The June 8, 2010 election brought about a change to the Council. In light of these changes, it is necessary to periodically update the liaison assignments.

**FISCAL IMPACT:** None



Council Member	2009/2010 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 City Representative & Sub-Committee Member Lower Putah Creek Coordinating Committee (Primary) Planning Commission Vacancy Selection Committee Sacramento Area Council of Governments (SACOG) (Primary) Ten-Year Plan to End Homelessness Exec Comm (Alternate) Winters Affordable Housing Steering Committee (Primary) Winters Economic Development Committee (Alternate) Winters Putah Creek Committee Yolo County Transportation District (Primary) Yolo-Soiano Air Quality Management District (Alternate)
Tom Stone	Audit Committee per SAS 114 Budget Adjustment Committee - Fiscal Year 2007-08 Budget Overview Committee League of California Cities (Alternate) Lower Putah Creek Coordinating Committee (Alternate) Planning Commission Liaison Police/Fire/PW Facility Citing Committee Ten-Year Plan to End Homelessness Exec Comm (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 Natural Heritage Program (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) Grant Avenue Commercial Project Committee 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 Water Resources Association Board Member (Primary) Winters Economic Development Committee (Primary) Winters Public Finance Authority Winters Swimming Pool Committee Yolo County Comprehensive Economic Development Strategies Yolo County Visitor Bureau Representative
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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) Grant Avenue Commercial Project Committee 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 Natural Heritage Program (Alternate) Yolo County Visitor Bureau Representative (Alternate) Yolo-Solano Air Quality Management District (Primary)
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UPDATED: 7/14/2010



CITY COUNCIL  
STAFF REPORT

TO: Honorable Mayor and Councilmembers  
DATE: August 17, 2010  
THROUGH: John W. Donlevy, Jr., City Manager: *John W. Donlevy, Jr.*  
FROM: Shelly A. Gunby, Director of Financial Management: *Shelly A. Gunby*  
SUBJECT: State Mandated Cost Claiming Services.

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**RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution 2010-47, A Resolution of the City Council of the City of Winters approving an Agreement for Provision of Professional Consulting Services to the City of Winters by AK & Company for SB90 State Mandated Cost Reimbursement Claim.

**BACKGROUND:**

The State of California has mandated that cities and counties must provide certain services and programs, and under state law, the State of California is required to reimburse the cost of providing those programs and services. Cities and Counties must submit claims to the State of California in order to receive the reimbursement. The City of Winters began submitting claims in February 2002 and the state currently has remitted to the City of Winters approximately \$90,252. Although most of the mandates are expected to be suspended in the 2010-2011 California state budget, the City must continue to file the claims in order to receive payment when the state budget includes the repayment of past claims, and the payment of current claims. The cost of submitting the claim to the state is reimbursed by the state.

**FISCAL IMPACT:**

The City will receive approximately \$6,000 in funds for the current fiscal year to offset the cost of providing services and programs. Our policy is to use these funds, when received, to help provide funding for our equipment replacement funds.

**ATTACHMENTS**

Consultant Services Agreement  
Resolution 2010-47

**RESOLUTION 2010-47**

**RESOLUITON OF THE CITY COUNCIL OF THE CITY OF WINTERS APPROVING AN AGREEMENT FOR PROVISION OF PROFESSIONAL CONSULTING SERVICES TO THE CITY OF WINTERS BY AK & COMPANY FOR SB 90 STATE MANDATED COST REIMBURSEMENT IN THE AMOUNT OF \$3,000.00**

**WHEREAS**, the City finds it prudent to submit a claim to the State of California for reimbursement for the cost of state mandated programs; and

**WHEREAS**, AK & Company has presented the City with a proposal to prepare the claim for reimbursement of state mandated programs;

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Winters hereby approves the contract with AK& Company in the amount of \$3,000 to file the claim for reimbursement for the cost of state mandated programs and authorizes the City Manager to execute the contract with AK & Company

**PASSED AND ADOPTED** by the City Council, City of Winters, this 17th day of August 2010 by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

\_\_\_\_\_  
Woody Fridae, MAYOR

**ATTEST:**

\_\_\_\_\_  
Nanci G. Mills, CITY CLERK

**AGREEMENT FOR PROVISION OF  
PROFESSIONAL CONSULTING SERVICES TO THE  
CITY OF WINTERS**

This AGREEMENT is entered into on the 17<sup>th</sup> day of August, 2010, both by and between ak & company ("Consultant" for the purposes of this Agreement) and the City of Winters ("City" for the purposes of this Agreement).

**PURPOSE:**

Article XIII B of the State of California's Constitution allows local agencies to recover costs associated with provision of certain activities that have been mandated by the State. The City has determined that provision of the Consultant's services to prepare and file mandated cost reimbursement ("SB 90" for the purposes of this Agreement) claims is the most cost effective and economical method to complete this process. The Consultant has knowledge and experience in completion of the data collection, preparation and submission of SB 90 claims to the State of California. The City agrees that Consultant will assist the City in the preparation, submission and negotiations involving these state mandated programs.

The City and Consultant mutually agree that Consultant will perform the following:

- 1) Scope of Services. Consultant will perform in a professional manner the following services:
  - a) By February 15, 2011, prepare and submit SB 90 Annual Claims to the State Controller's Office, according to the State Controller's 2010 Annual Claiming Instructions.
  - b) By February 14, 2011, prepare and submit SB 90 Amended Claims to the State Controller's Office, if necessary.
  - c) Prepare and submit SB 90 New Claims according to Claiming Instructions issued during the 2010-2011 fiscal year. New Claims are those with a claim due date other than February 15, 2011, that have not been previously reimbursable.
  - d) Advise the City of State Controller's Office issues associated with any SB 90 claims prepared and submitted by the Consultant.
  - e) Include both direct and indirect costs in SB 90 claims submitted by the Consultant. The Consultant may choose to use either the State Controller's ten percent (10%) indirect cost rate or to calculate a higher rate if necessary City financial records are available.
- 2) Term of Agreement. This Agreement shall become effective immediately upon signing and continue in effect until September 30, 2011.
- 3) Staff. "Consultant" includes all staff required to complete performance of this Agreement's services. Services included in this Agreement will be completed by the Consultant or under the Consultant's supervision. Any additional staff will be experienced in the SB 90 process.

- 4) Costs of Agreement and Method of Compensation – Annual, New and Amended, Claims. In exchange for the Consultant's provision of the above services, the City agrees to compensate the Consultant in a Fixed Fee in the amount of three thousand dollars (\$3000). This fee will be paid in two equal installments: Fifty percent (50%) or \$1500 will be due and payable upon receipt of invoice following signing of the Agreement and fifty percent (50%) or \$1500 will be due and payable upon receipt of invoice in February, 2011, following the Annual Claims deadline.
- 5) City's Provision of Staff and Materials. Consultant will inform City staff of the necessary data for timely claims submission. Consultant will presume that all data provided by the City is correct and complete. There will be no Consultant liability for unfiled or late claims resulting from insufficient data or data not provided in a timely fashion.
- The City and Consultant agree that Consultant requested data must be provided by City staff either within three (3) weeks of the request or three (3) weeks prior to the filing deadline, whichever occurs first. Data not received within this timeframe will not be considered to be provided in a timely fashion. All Annual Claims data requested must be provided no later than **FRIDAY, NOVEMBER 12, 2010**.
- For any New Claim, the City and Consultant agree that the Consultant will receive written direction from the City prior to beginning the data collection and claim preparation process. City will provide such notification to Consultant within **three** weeks of the Consultant's initial notification of each New Claim.
- 6) Third Party Obligations. The only parties to this Agreement and entitled to enforce the terms of the Agreement are the City and the Consultant. No right or benefit, direct or indirect, is given to any third parties.
- 7) Records and Inspections. In accordance with State law, Consultant will maintain complete, accurate records concerning all matters covered under this Agreement. During normal business hours, the City will have access to these records. A thirty (30) day written notice will be provided by the City when it intends to inspect or audit these records. Prior to being granted such access, any City employee, consultant, subcontractor or agent will execute a non-disclosure agreement.
- 8) Waiver of Submission of Claims. Submission of claims pursuant to Section 1) a) and b) may be waived. If a waiver is exercised by either party, the Consultant will be paid by the City for all work completed prior to and until the waiver's date of effect. The amount paid will not exceed the dollar amount indicated in Section 4). In case of a waiver, the Consultant will be paid based on the percentage of work required to submit the claims that were completed prior to the effective date of the waiver.
- a) At Option of the City. Pursuant to a specific State claiming instruction, at the City's discretion, it may instruct the Consultant not to file a specific claim or claims. This instruction must be in writing and provided to the Consultant at least thirty (30) days prior to the due date of the claim. The date the Consultant receives the City's written instruction will be the effective date of the City's waiver.

- b) At Option of the Consultant. At the Consultant's discretion, Consultant may advise the City of the reasons it does not intend to file a specific claim. The date the Consultant mails its notification to the City will be the effective date of the Consultant's waiver. The City will expect the Consultant to file any pertinent claim that meets the minimum limit set by the State.
- 9) No Waiver of Rights and Remedies. In no event will any City payment to Consultant constitute a waiver by the City of any breach of covenant or any default that may exist on the part of the Consultant. Payment made by the City while any such breach or default does not impair or prejudice any City right or remedy in respect to such breach or default.
- 10) Consultant Audit Liability. Consultant will presume that all statistical and financial data provided by the City is correct and complete. Consultant will provide workpapers and records to State Controller's Office (SCO) auditors if an audit should occur. Any State disallowance of amounts paid to the City under the claim or claims for whatever reason will be solely the City's responsibility. If the City so requests, Consultant will assist the City in defending claims at the desk audit level, provided such a disallowance amounts to at least ten percent (10%). No contest by the Consultant for reductions of less than 10 percent (10%) will be made. Incorrect Reduction Claims preparation is not included in any part of this Agreement.
- 11) Independent Contractor. In performing the scope of services of this Agreement, the City and Consultant agree that Consultant is an independent contractor with complete control of the work and manner in which it is performed. For no purposes are the Consultant or Consultant's employees considered agents or employees of the City.
- 12) Insurance. Appropriate general liability, automobile and professional liability insurances will be maintained by the Consultant.
- 13) Limitation of Liability. Consultant will not be liable for consequential, special, indirect, or punitive damages. For any reason whatsoever, foreseeable or not, will the Consultant's liability exceed the total amount paid to the Consultant under this Agreement.
- 14) Changes. If either the City or the Consultant requires changes in the scope of services included in this Agreement, they must be mutually agreed upon by and between the City and the Consultant. Any changes will be included in a written and duly executed amendment to this Agreement.

- 15) Notices. Under this Agreement, any signatures, reports, bills or notices required will be adequate if sent by either the City or the Consultant via postage paid USPS mail to the address noted below:

**Contact Name:** Shelly Gunby **Title:** Director of Financial Management

**Address:** 318 First St, Winters, CA 95694

**Phone #:** 530-795-4910 x 104 **Fax #:** 530-795-4935

**Email Address:** shelly.gunby@cityofwinters.org

**ak & company**  
**3531 Kersey Lane, Suite M**  
**Sacramento, CA 95864**

**Phone #: 916 972 1666**  
**Fax #: 916 972 1666**  
**email: akcompany@um.att.com**

Any notices will be considered delivered after five (5) days of being deposited in a USPS mailbox.

- 16) Agreement Complete. The City and Consultant agree that this Agreement and any subsequent documents incorporated by specific reference contain all the terms and conditions previously agreed upon. No other agreements regarding this Agreement will bind either the City or the Consultant in any way.
- 17) Severability. If any portion, section, provision, part, or term of this Agreement are found to be in conflict with either a law of the United States of America or the State of California, or otherwise be unenforceable, the remaining portions, sections, provisions, parts or terms will be deemed severable and shall remain in full force and effect.
- 18) Receipt of Agreement. Consultant must receive a signed copy of this Agreement by **FRIDAY, AUGUST 13, 2010** in order to warrant that Annual Claims will be submitted in a timely fashion. *20*
- 19) Signature Authority. Individuals signing this Agreement certify to the following:
- a) He or she is authorized to sign this Agreement on behalf of the City;
  - b) The City has all approvals necessary to enter into this Agreement;
  - c) This Agreement is a valid, enforceable obligation of the City upon execution.

THEREFORE, The City and the Consultant execute this Agreement as of the date below.

**City of Winters**

**ak & company**

By: \_\_\_\_\_  
(City Official)

By: Anita Kerezi Worlow  
Anita Kerezi Worlow, Principal

Title: \_\_\_\_\_

Date: 7/5/2010

Date: \_\_\_\_\_

Taxpayer I.D. Number: 20-3180401

**ATTEST:**

By: \_\_\_\_\_  
(City Official)

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## Memorandum

To: Honorable Mayor and Councilmembers  
 Date: August 17, 2010  
 From: Carol Scianna, Environmental Service Manager *CS*  
 Subject: Streetlight Cost Savings Options Update

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Staff has been investigating possible cost savings regarding options of turning off streetlights. The City currently has 495 streetlights of those 471 are owned by PG& E and 24 are City owned. The City is charged a facility charge as well as electricity charge per light. Costs vary depending on the wattage, type of light and classification of service provided.

On average two thirds of our total charges per light are facility charges. If the City chooses to turn off a portion of their street lights the facility charges would remain. Therefore, the expected savings to the City on the electrical portion would only be one third of the total cost per light. Below is a chart that details the number of lights per classification and their facility and electrical charges:

### PG & E Owned Lamps

Class/ Lamp Qty	Facility Charge	Electrical Charge
LS1-A /164	\$6.465	\$3.53 / \$4.99 (8 lmp)
LS1-C / 16	\$4.948	\$3.53 / \$ 4.99 (8 lmp)
LS1-E / 264	\$7.603	\$3.53 (198 lmp) / \$4.99 (60 lmp)
LS1-F / 27	\$7.678	\$3.53(19 lmp) / \$7.30 (6 lmp)

### City Owned Lights

LS2-C 18	\$2.68	\$8.40
LS2-A 6	\$0.187	\$7.30 (5 lmp) / \$11.08 (1 lmp)

The above information shows that we pay substantially more in facility charges for lights owned by PG&E. Staff has begun investigating the option of purchasing these lights from PG& E and the costs associated with taking on the responsibility for their ongoing maintenance.



**WINTERS COMMUNITY DEVELOPMENT AGENCY  
STAFF REPORT**

**TO:** Honorable Chair and Agency Members  
**DATE:** August 17, 2010  
**FROM:** John W. Donlevy, Jr. *JWD*  
**SUBJECT:** Sublease By and Between the City of Winters Community Development Agency and the Winters Chamber of Commerce and the Winters Visitors Center Concept Plan and Performance Expectations

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**RECOMMENDATION:**

Staff recommends the Community Development Agency ("CDA") approve the Sublease By and Between the City of Winters Community Development Agency and the Winters Chamber of Commerce including the approval of the Winters Visitors Center Concept Plan and Performance Expectations as incorporated therein.

**BACKGROUND:**

One of the objectives identified in the CDA Five Year Implementation Plan is to provide a stable, diversified and stronger economic base for the Project Area and Community. One of the CDA's strategies for facilitating economic development is to promote Winters as a "destination" location for the purpose of attracting visitors and tourism dollars along with marketing Winters as an attractive location for "destination" types of businesses.

The establishment of the Winters Visitors Center is meant to serve as the hub of marketing for the Winters downtown and business community by providing information resources, assisting in connecting visitors with destination activities and businesses and marketing local products. Through a variety of communication methods the Winters Visitors Center will be instrumental in informing residents, visitors and potential businesses on everything from the various events, activities and projects in Winters to available commercial spaces.

To maximize the success of the Winters Visitors Center location and staffing are of key importance. Locating the Winters Visitors Center at 11 Main Street, in the heart of downtown Winters, and entering into an agreement with the Winters Chamber of Commerce to provide staffing will provide it with the visibility and resources importance to its success.

The attached Sublease including Exhibit B, the Winters Visitors Center Concept Plan and Performance Expectations, describes in detail the lease terms for 11 Main Street, Winters, California and the operation of the Winters Visitors Center.

**FISCAL IMPACT:**

- \$2,400 per month for staffing of the Winters Visitors Center by the Winters Chamber of Commerce
- Maintenance, repair and replacement costs, taxes, utilities (including but not limited to electricity, gas, water, sewer, and garbage), and other charges directly to the providing or taxing persons or entities. The Winters Chamber of Commerce will be responsible for the normal operating costs of telephone service, computer service, FAX service and similar costs.
- Revenues from the Winters Product Store and Winters Visitors Center operations will be used to offset any or all operating costs of the Winters Visitors Center.

**ATTACHMENT:**

Sublease

## SUBLEASE

THIS SUBLEASE, is executed in duplicate at Winters, California effective as of \_\_\_\_\_, by and between the City of Winters Community Development Agency, a public body, corporate and politic ("Agency" or "Sub-Landlord"), and the Winters Chamber of Commerce ("CHAMBER" or "Sub-Tenant").

## RECITALS

A. WINTERS OPERA HOUSE PARTNERS ("Master Landlord"), as Landlord, and Agency, as Tenant, entered into a written Lease dated as of January 28, 2009 (the "Master Lease"), regarding that certain real property located at 11 Main Street, Winters, California (the "Premises"). A copy of the Master Lease is attached as **Exhibit A**.

B. The Agency is charged with implementing the City of Winters Community Development Project Area Plan (the "Redevelopment Plan") and has legal authority under Health and Safety Code section 33430 to lease any property within the redevelopment project area for purposes of redevelopment.

C. The Agency has determined that an appropriate part of its redevelopment plan is to provide a location and concept to serve visitor attraction and interest in the many facets of Winters, including Downtown. The Agency plans that the Visitors Center will become a hub of marketing and development for the Winters Downtown and business community.

D. To assist in the goals specified above, The Agency will assist the plan by entering into a market rate Master Lease for the Premises and subleasing the Premises to CHAMBER, at below-market rent.

E. In exchange for such assistance, CHAMBER agrees to diligently and actively proceed to staff the Visitor Center as provided below, and to fulfill the terms and conditions of this Sublease.

F. This Sublease is conditioned on the redevelopment and use of the Premises in conformity with the Redevelopment Plan.

G. Capitalized terms used but not defined in this Agreement shall have the respective meanings provided in the Master Lease.

## AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sub-Landlord and Sub-Tenant hereby agree as follows:

1. Recitals. The recitals above are incorporated by reference as though fully stated herein.

2. Master Lease. Except as otherwise expressly provided in this Sublease, the covenants, agreements, provisions and conditions of the Master Lease (to the extent that they are not inconsistent with the terms of this Sublease) are made a part of and incorporated into this Sublease as if fully restated herein.

3. Sublease Subject to Master Lease. This Sublease is subject and subordinate to the Master Lease. During the term hereof, Sub-Tenant shall be bound by the terms and conditions of the Master Lease, as they may be amended, except as otherwise specifically provided in this Sublease; and the rights of Sub-Tenant are subordinate to the terms and conditions of the Master Lease. Except as otherwise agreed to by Master Landlord, Sub-Landlord and Sub-Tenant, this Sublease shall terminate if the Master Lease is terminated for any reason.

4. Subleasing. Sub-Landlord subleases to Sub-Tenant and Sub-Tenant subleases from Sub-Landlord, at the rent and upon all the terms and conditions set forth herein, the Premises, approximately 750 square feet at 11 Main Street, Winters, California.

5. Term. The term of this Sublease shall commence on July 1, 2009 and end on January 31, 2011, unless sooner terminated as provided herein or in the Master Lease.

6. Rent. Commencing on the Commencement Date, Sub-Tenant shall pay as rent, without deduction or set-off, ONE DOLLAR (\$1.00) per month (the "Sublease Rent").

7. Staffing. The assistance of The Agency is specifically conditioned upon the CHAMBER staffing the Visitors Center. Staffing is defined under this agreement as those obligations of CHAMBER listed in the Winters Visitors Center Concept Plan and Performance Expectations Dated May 22, 2009, attached hereto as Exhibit B, Winters Visitors Center Concept Plan and Performance Expectations, and made a part hereof. For the staffing services, The Agency shall pay to CHAMBER the contract sum of \$2,400 per month. Both parties acknowledge that the relationship of such staffing is that of an independent contractor, defined by the terms in Exhibit B, attached hereto. Both parties are acting as independent contractors, and no employment, joint venture, or partnership is created therefrom. Any and all expenses of CHAMBER, arising from this sublease agreement, shall remain the sole responsibility of CHAMBER. No employment relation is created by this agreement.

8. Other Charges. Sub-Tenant acknowledges that pursuant to the Master Lease, Sub-Landlord is obligated to pay maintenance, repair and replacement costs, taxes, utilities (including but not limited to electricity, gas, water, sewer, and garbage), and other charges directly to the providing or taxing persons or entities rather than to Master Landlord. Sub-Tenant shall not be responsible for those charges.

9. Sub-Tenant's Maintenance and Repair. Agency shall, at its own expense, undertake to keep, maintain and repair all fixed and permanent portions of the

Premises. Sub-Tenant shall, at its own expense keep, maintain and repair all Sub-Tenant's personal property and trade fixtures, during the term of this Lease, in good working and sanitary order. Sub-Tenant shall be liable for any damage to the Premises resulting from the acts or omissions of Sub-Tenant or its authorized representatives.

10. Holding Over. If Sub-Tenant remains in possession of the Premises after the expiration of the Sublease Term, with the express written consent of Sub-Landlord, such occupancy shall be a tenancy from month to month at the rental and on the terms set forth in this Sublease, plus all other charges payable hereunder.

11. Assignment. Sub-Tenant may not assign or sub-sublet ("Transfer") the Premises or Sub-Tenant's interest in the Sublease, or any portion thereof, without prior written consent and approval of both the Sub-Landlord and Master Landlord. It is the specific and unique nature of CHAMBER that has generated this sub-lease, and The Agency will not generally favor any assignment during the term of this sub-lease. Before any Transfer shall be effective the assignee or sub-subtenant must assume, in writing, all of the obligations of Sub-Tenant under this Sublease. Any such Transfer shall not, in any way, affect or limit the liability of Sub-Tenant under the terms of this Sublease even if after such Transfer the terms of this Sublease are materially changed or altered without the consent of Sub-Tenant, the consent of whom shall be unnecessary. Regardless of Landlord's consent, no Transfer shall relieve Sub-Tenant of Sub-Tenant's obligations under this Sublease or alter the primary liability of Sub-Tenant to pay the rent and other sums due, and to perform and to comply with all other obligations of Sub-Tenant hereunder. Any assignee shall deliver to Sub-Landlord, before the assignment shall be effective, a written original of the assignment of this Sublease and the party's agreement to be bound by and to perform and observe all terms, covenants and conditions of Sub-Tenant under this Sublease (including all restrictions on use, assignment and subletting) and to assume all obligations of Sub-Tenant under this Sublease, which instruments must be satisfactory in form and content to Sub-Landlord. Sub-Tenant shall pay to Sub-Landlord any and all consideration paid or payable by any sub-subtenant or assignee in excess of the rent payable by Sub-Tenant to Sub-Landlord hereunder. Consent to any one assignment or sublease shall not be deemed consent to any subsequent assignment or sublease. In the event of default by any sub-subtenant, in the performance of any of the terms hereof, Sub-Landlord may proceed directly against Sub-Tenant or any guarantor(s) or anyone else responsible for the performance of this Sublease, including the assignee or sub-subtenant, without the necessity of first exhausting Sub-Landlord's remedies against any other person or entity responsible therefor to Sub-Landlord, or any security then held by Sublandlord or Sub-Tenant. Sub-Landlord may consent to subsequent assignments or subleases or amendments or modifications to this Sublease or any sub-sublease, without notifying Sub-Tenant, any successor of Sub-Tenant, or anyone else liable under this Sublease without obtaining its or their consent thereto and such action shall not relieve Sub-Tenant or any such other parties of liability under this Sublease or the sub-sublease.

12. Quiet Enjoyment. As long as Sub-Tenant is not in default of this Sublease, Sub-Landlord shall be obligated to perform all of its obligations under the

Master Lease, and during the term of this Sublease Sub-Tenant shall have quiet enjoyment of the Premises.

13. Use and Continuous Operating Covenant.

(a) The Premises shall be used and occupied only for the use set forth in the Master Lease and for no other purpose. Such use is conditioned on the redevelopment and use of the Premises in conformity with the Redevelopment Plan.

(b) Sub-Tenant shall conduct the business of the Winters Visitors Center, as set forth in Section 4 of the Master Lease, at all times in a manner of such character and quality as is reasonably designed to produce an economically reasonable return and meet the goals of Sub-Landlord as set forth in the Recitals.

14. Sub-Landlord's Obligations Under Master Lease. Sub-Landlord agrees to maintain the Master Lease during the Sublease Term, subject, however, to any termination of the Master Lease as set forth therein. Sub-Landlord's performance of its obligations under this Sublease is expressly conditioned on performance by the Master Landlord of its obligations under the Master Lease and Sub-Landlord will not be liable to Sub-Tenant for any Master Landlord default or breach.

15. Sub-Tenant's Obligations Under Master Lease. The rights and obligations of the Sub-Landlord under the Master Lease (except as to Rent or Early Termination) are hereby deemed to be the rights and obligations of Sub-Tenant under this Sublease, and inure to the benefit of and are binding on Sub-Tenant. As between Sub-Landlord and Sub-Tenant only, in the event of a conflict between the terms of the Master Lease and the terms of this Sublease, this Sublease will control.

16. Indemnity and Insurance.

(a) Indemnity. Sub-Tenant agrees to protect, defend, indemnify, and hold harmless Sub-Landlord and City and their respective partners, affiliates, subsidiaries, directors, officials, officers, successors and assigns, agents, employees, volunteers, and representatives harmless from and against any and all liabilities, claims, expenses, losses and damages, orders, fines, penalties and expenses of any kind whatsoever (including but not limited to reasonable attorneys fees and costs) that may at any time be asserted against Sub-Landlord or City arising out of or in connection with the Master Lease and/or this Sublease (except to the extent caused by Sub-Landlord's or City's sole or active negligence or willful misconduct), or resulting from or in connection with the obligation to comply with all laws with respect to the Premises, including, without limitation, all applicable federal and state labor laws and standards.

(b) Insurance. Sub-Tenant shall carry such insurance as required of Sub-Tenant under the Master Lease, and Sub-Landlord shall be named as an additional insured on all such policies.

17. Release. Sub-Tenant fully releases and discharges Sub-Landlord and City from all and any manner of rights, demands, liabilities, obligations, claims, or cause

of actions, in law or equity, of whatever kind or nature, whether known or unknown, whether now existing or hereinafter arising, which arise from or relate in any manner to the Sub-Landlord or City arising out of or in connection with this Sublease or the Master Lease, except to the extent caused by Sub-Landlord's or City's sole or active negligence or willful misconduct. Sub-Tenant acknowledges and agrees that the release and waiver set forth in this section is material consideration for Sub-Landlord's sublease of the Premises to Sub-Tenant on the terms set forth herein and that, but for this release and waiver, Sub-Landlord would not have subleased the Premises to Sub-Tenant. It is hereby intended that the above release relates to both known and unknown claims that the Sub-Tenant may have, or claim to have, against the Sub-Landlord or the City with respect to the subject matter contained herein or the events relating thereto. By releasing and forever discharging claims both known and unknown which are related to or which arise under or in connection with the items set out above, the Sub-Tenant expressly waives any rights under California Civil Code section 1542, which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

18. Consent of Master Landlord. The signature of Master Landlord at the end of this document shall constitute its consent to the terms of this Sublease.

19. Attorneys' Fees. If Sub-Landlord or Sub-Tenant (each a "party") brings an action to enforce the terms of this Sublease, to declare rights hereunder or for any other relief against another party or parties, the prevailing party in any such action, on trial and appeal, shall be entitled to its reasonable attorneys' fees and costs of suit to be paid by the losing party as fixed by the Court.

20. Notices. All notices to be given hereunder shall be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or delivered by personal or courier delivery, or sent by facsimile (immediately followed by one of the preceding methods), to the addresses indicated below, or to such other place as Sub-Landlord or Sub-Tenant may designate in a written notice given to the other party. Notices shall be deemed served upon the earlier of receipt or three (3) days after the date of mailing.

To Sub-Landlord: City of Winters Community  
Development Agency  
Attn: Executive Director  
318 First Street  
Winters, CA 95694  
Telephone: (530) 795-4910  
Facsimile: (530) 795-4935

To Sub-Tenant: Winters Chamber of Commerce  
Attn: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_\_  
Facsimile: ( ) \_\_\_\_\_

21. Non-Discrimination. The Tenant herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, and this Sublease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Premises herein leased nor shall the Tenant himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, subtenants, or vendees in the Premises herein leased.

22. No Brokers. Neither party has had any contact or dealings regarding the Premises, or any communication in connection with this Sublease, through any real estate broker or other person who is entitled to a commission or finder's fee in connection with this transaction. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any contact, dealings or communication with either party, then the party upon whose contact, dealings or communication the claim is based shall indemnify and hold the other party harmless from all costs and expenses (including but not limited to attorneys' fees) incurred by such other party in connection with such claim.

23. Counterparts. This Sublease may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument..

24. Force Majeure. In the event that either Party hereto is delayed, hindered in or prevented from the performance of any act required under this Agreement by reason of a cause beyond the reasonable control of the obligated Party, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Such cause shall include "acts of God;" strikes; lockouts; weather in which work cannot proceed (even if normal); protests; riots; terrorism or insurrection; war; unavailability of materials from normal sources; delays by governmental authorities, including courts; the inaction of any utility company (e.g. PG&E) not caused or contributed to by the Party claiming the delay; and shall specifically include a lack of funding resources on the part of the Sub-Landlord.

25. Miscellaneous. This Sublease constitutes the entire understanding of Sub-Landlord and Sub-Tenant with respect to the matters covered by it and supersedes all prior Subleases and understandings, written or oral, between Sub-Landlord and Sub-Tenant with respect to such matters. This Sublease may not be modified or amended, nor may any term or provision be waived or discharged, except in writing signed by the party or parties against whom such amendment, modification, waiver, or discharge is sought to be enforced. The waiver by any party of any breach by another party of any provision of this Sublease will not constitute or operate as a waiver of any other breach of such provision or of any other provision by such party, nor will any failure to enforce any provision operate as a waiver of such provision or any other provision. This Sublease will be construed in accordance with, and be governed by, the laws of the State of California, with venue in Yolo County, California. This Sublease will benefit and be binding upon the parties to it and their respective heirs, representatives, successors and assigns. If any provision of this Sublease or the application of any such provision shall be held by a court of competent jurisdiction to be invalid, void or unenforceable to any extent, the remaining provisions of this Sublease and the application thereof shall remain in full force and effect and shall not be affected, impaired or invalidated.

IN WITNESS WHEREOF, the parties have executed this Sublease the day and year first above written.

SUB-LANDLORD:

City of Winters Community Development Agency, a public body, corporate and politic

By: \_\_\_\_\_  
Its: Executive Director

Approved as to Form:

By: \_\_\_\_\_  
Its: Agency Counsel

SUB-TENANT:

Winters Chamber of Commerce

By: \_\_\_\_\_  
Its: \_\_\_\_\_

CONSENT OF MASTER LANDLORD

The undersigned hereby consents to the foregoing Sublease and to Sub-Tenant's use of the Premises.

MASTER LANDLORD:

\_\_\_\_\_

## EXHIBIT A

### LEASE

THIS LEASE, executed in duplicate at Winters, California on this JANUARY 28, 2009, by and between Winters Opera House Partners, herein referred to as "LESSOR", and the Winters Community Development Agency, herein collectively referred to as "LESSEE".

WITNESSETH:

WHEREAS, LESSOR is desirous of leasing unto LESSEE and LESSEE is desirous of leasing from LESSOR approximately 750 square feet of inside commercial property, more or less, hereinafter "THE PREMISES", 11 Main Street, Winters, California, hereinafter "the property;" excluded is the interior hallway and entry way to the Opera House stairway. This common area will not be used for storage and will remain clean and clear.

There is no parking on the premises and business owners and employees are encouraged to park in the city parking lot and leave street parking for customers.

NOW THEREFORE, it is hereby mutually understood and agreed by and between the parties hereto as follows:

1. **Leasing and Description of Premises:** LESSOR hereby leases to LESSEE and LESSEE hereby hires from LESSOR THE PREMISES. THE PREMISES shall consist of walls, ceiling, and flooring. LESSEE shall be responsible for the installation of plumbing, plumbing fixtures, electricity, water lines, floor covers, utilities, dividing wall in old kitchen, and any utility services to be hooked up to outside city or private services. All installations and improvements of LESSEE shall be subject to the written approval of LESSOR, at LESSOR's sole discretion.
2. **Term:** The term of this lease shall be for 2 (TWO) YEARS, commencing on FEBRUARY 1, 2009, ending on JANUARY 31, 2011.
3. **Rent:** Upon the commencement of the term of this lease, Lessee shall pay rent to Lessor for the leased premises at the rate of \$937.50 per month, plus approximately \$35 in City of Winters water, sewer and municipal tax (20 percent of the city bill for the Opera House building), plus a \$700 deposit for a total of \$1,637.50. Such rent shall continue, payable monthly in advance, for the next ten (10) months of the term hereof. On the first anniversary date, February 1, 2010, and for the remaining duration of this lease, the monthly rental for the ensuing twelve (12) months shall be adjusted upward or downward (but never less than the base rent provided hereinabove; \$937.50) in the same percentage proportion that the Bureau of Labor Statistics, United States Department of Labor, Consumer Price Index, All Items for All Urban Consumers, shall be increased or decreased over the price index which is published nearest in point of time to the commencement of the term hereof. In the event said index is discontinued, revised or replaced during the term of this lease or any extension thereof, such other governmental index or computation with which it is revised or replaced, shall be deemed the basis of the re-computation.
4. **Use:** The premises shall be used for a retail business, tourism/chamber office, city offices or other purposes reasonably related to Main Street business, and for no other purposes. No use shall be made or permitted to be made of said premises, nor acts done which will increase the existing rate of insurance upon the building in which the said premises may be located or cause a cancellation of any insurance policy covering said building, or any part thereof, nor shall LESSOR sell, or permit to be kept, used, or sold, in or about said premises, any articles which may be prohibited by a standard form of fire insurance policy. LESSEE shall make no repairs or alterations to the premises without the consent of the LESSOR

in writing first. Said consent shall be given at LESSOR's sole discretion. All repairs, alterations or attachments of property to the premises shall, upon expiration or sooner termination of this lease, become the sole property of the LESSOR.

5. Security Deposit: LESSEE shall keep a deposit with LESSOR in the sum of SEVEN HUNDRED DOLLARS (\$700). Said sum shall be held by LESSOR as security for the faithful performance of the LESSEE of all the terms, conditions and covenants of this lease by said LESSEE to be kept and performed during the term hereof. If at any time during the term of this lease any of the rent herein reserved shall be overdue and unpaid, or any other sum payable by LESSEE to LESSOR hereunder shall be overdue and unpaid, then LESSOR may, at the option of LESSOR (but LESSOR shall not be required to) appropriate and apply any portion of said sum to the payment of any overdue rent or other sum. Should LESSEE comply with all of the said terms, covenants and conditions and promptly pay all of the rental herein provided for as it falls due, and all other sums payable by LESSEE to LESSOR hereunder, the said sum shall be returned in full to LESSEE at the end of the term of this lease, together with interest thereon at 1% per annum.

6. Signs: any sign and/or signs shall be permitted only with the written approval of LESSOR. If approval of sign design or placement is required by any public agency, the responsibility of obtaining such approval shall be that of LESSEE who shall, in any event, bear the expense of installation of such sign.

7. Removal of Trade Fixtures; Conditioned upon LESSEE being in full and complete performance of all the provisions of this lease, LESSEE may remove all moveable furniture, trade fixtures, and store equipment installed in the demised premises by LESSEE, prior to the termination of this lease, and provided further that the same may be removed without damage to the building, and if damage is caused by such removal, LESSEE agrees to repair such damage at LESSEE's own cost and expense forthwith, and LESSEE also agrees to repair any damage at LESSEE's expense that may be caused by removal of any sign or signs under this lease.

8. Liability Insurance: LESSEE agrees to take out and keep in full force during the life hereof, at LESSEE's expense, public liability insurance to protect against any liability to the public incident to the use of or resulting from any accident occurring in or about said premises, the liability under each such insurance to be no less than THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) for any one person injured, FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for any one accident, and ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) for property damage. These policies shall insure the contingent liability of LESSOR and are to be placed with LESSOR, and LESSEE is to obtain a written obligation on the part of the insurance carriers to notify LESSOR in writing prior to any cancellation thereof, and LESSEE agrees, if LESSEE does not keep such insurance in full force and effect, the LESSOR may take out the necessary insurance and pay the premium, and the repayments thereof shall be deemed to be part of the rental and payable as such on the next day upon which rent becomes due.

9. Personal Property Taxes: LESSEE hereby agrees to pay before delinquent any and all personal property taxes arising by reason of LESSEE's use or occupancy of the subject premises or the existence of LESSEE's personal property on said premises.

10. Successor and Assigns: The covenants and conditions herein contained shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties

hereto; and all the parties hereto shall be jointly and severally liable hereunder.

11. Holding Over: Any holding over after the expiration of the said term, with the consent of LESSOR, shall be construed to be a tenancy from month-to-month, at a rental each month equal to the last regular month's rent.

12. Waiver: The waiver by LESSOR of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition therein contained. The subsequent acceptance of rent hereunder by LESSOR shall not be deemed to be a waiver of any preceding breach by LESSEE of any term, covenant or condition of this lease, other than the failure of LESSEE to pay the particular rental so accepted, regardless of LESSOR's knowledge of such preceding breach at the time of acceptance of such rent.

13. Attorney's fees: In the event of any legal action concerning this lease, the losing party shall pay to the prevailing party reasonable attorney's fees and court costs to be fixed by the court wherein such judgment shall be entered.

14. Late Charge: In addition to all other rights and remedies regarding nonpayment of rent, LESSOR shall have the right to assess a late charge at the rate of one percent (1%) per day after the 1<sup>st</sup> of each month for which the rent remains unpaid. Such late charge is to cover additional administrative handling necessitated by late payment of rent and is not to be deemed interest or to include interest.

15. Subordination: this lease shall be subject to and subordinate at all times to the lien of any mortgage or mortgages or trust deed or deeds which may be placed upon the demised premises or the property of which the demised premises are a part, and the LESSEE covenants that it will execute and deliver to the LESSOR or to the nominee of the LESSOR proper subordination agreements to this effect at any time upon the request of the LESSOR and without payment being made therefore.

16. Property Taxes: LESSOR shall pay all real property taxes assessed against THE PREMISES.

17. Gas and Electric Utilities: LESSEE shall, in addition to all other sums agreed to be paid by LESSEE under this lease, pay for all gas and electric charges billed for use of the premises.

18. Payment of Utilities: Water, Garbage, and Sewer: LESSEE shall, in addition to all other sums agreed to be paid by LESSEE under this lease, pay his pro-rata share of all water, garbage and sewer charges which shall, during the term of this lease and any extension thereof, be assessed against the premises. If a total utility billing is assessed against more than one tenant, LESSEE shall pay only LESSEE's pro-rata share of said utility cost. This payment shall include any increases in costs which might be assessed by public or private agencies supplying said service. If, because of a change in the law or otherwise such charges be made directly of LESSOR then LESSEE agrees to pay such sum to LESSOR.

19. Repair and Maintenance: LESSEE shall, at LESSEE's sole cost and as part of the consideration of rental, undertake to maintain said premises and appurtenances and every part thereof in a good and sanitary order (excepting exterior walls, floor structure, windows and roof, which LESSOR agrees to repair), including but not limited to doors, plumbing facilities, and electrical facilities, of THE PREMISES.

20. Option to Renew Lease: In the event LESSEE has fully complied with all of the terms, covenants and conditions of this lease during the TWO-YEAR term. Renewal shall be on the same terms and conditions as provided for

herein, except as to the rent. Said rent shall be re-negotiated. Notice of LESSEE's intention to renew this lease shall be given by LESSEE to LESSOR at least ninety (90) days prior to the expiration of this lease.

21. Notices: Notices between the parties shall be given in writing, and mailed, postage prepaid, addressed to LESSOR c/o Winters Opera House Partners, 312 Railroad Avenue, Winters, CA 95694. Either party may change its address for purpose of notice by giving said change of address to the other party by mail as above stated.

22. Insolvency-Receiver-Bankruptcy: Either

(a) the appointment of a receiver to take possession of all or substantially all of the assets of LESSEE, or

(b) a general assignment by LESSEE for the benefit of creditors, or

(c) any action taken or suffered by LESSEE under any insolvency or bankruptcy act shall constitute a breach of this lease by LESSEE, and LESSOR may declare this lease void and be entitled to remedies provided by law and by this lease.

23. Assignment or Sub-letting: LESSEE shall have the right to market and solicit sub-lessees with the approval of the LESSOR. LESSOR shall have approval authority on a new sub-lessee, but such approval shall not be unreasonably withheld

24. Surrender of Lease not a Merger: The voluntary or other surrender of this lease by LESSEE, or mutual cancellation thereof, shall not work a merger.

25. Entry by LESSOR: LESSEE shall permit LESSOR and its agents to enter into and upon said premises at all reasonable times for the purpose of inspecting the same or for the purpose of maintaining the building in which said premises are situated, or for the purpose of making repairs, alterations or additions to any other portion of said building, including the erection and maintenance of such scaffolding, canopies, fences, and props as may be required, or for the purpose of posting notices of nonresponsibility for alterations, additions, or repairs, or for the purpose of placing upon the property in which the said premises are located any usual or ordinary "for Sale" signs, without any rebate of rent and without any liability to LESSEE for any loss of occupation or quiet enjoyment of the premises thereby occasioned; and shall permit LESSOR and its agents, at any time within ninety (90) days prior to the expiration of this lease, to place upon said premises any usual or ordinary "to let" or "to lease" signs and exhibit the premises to prospective tenants at reasonable hours.

26. Compliance with Governmental Regulations: LESSEE shall, at LESSEE's sole cost and expense, comply with all of the requirements of all Municipal, State and Federal Authorities now in force, or which may hereafter be in force, pertaining to the said premises, and shall faithfully observe in the use of the premises all Municipal ordinances and State and Federal statutes now in force or which may hereafter be in force. If there are permit requirements of the City of Winters LESSOR shall bear all costs of obtaining said permits, including processing fees, permit fees, parking in-lieu fees, and any other costs and expenses, excluding any building permit fees, incurred in obtaining said permits. LESSEE shall not be liable to LESSOR for any failure to obtain permits from the City of Winters.

27. Free from Liens: LESSEE shall keep the demised premises and the property in which the premises are situated, free from any liens arising out of any work performed, materials or obligations incurred by LESSEE.

28. Remedies of Owner on Default: In the event of any breach of this lease by LESSEE, then LESSOR besides other rights or remedies it may have, shall

have the immediate right of re-entry and may remove all persons and property from the premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of LESSEE. Should LESSOR elect to re-enter as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this lease or it may from time to time, without terminating this lease, re-let said premises or any part hereof for such term or terms (which may be for a term extending beyond the term of this lease) and at such rental or rentals and upon such other terms and conditions as LESSOR in its sole discretion may deem advisable with the right to make alterations and repairs to said premises; upon each such re-letting (a) LESSEE shall be immediately liable to pay to LESSOR, in addition to any indebtedness other than rent due hereunder, the cost and expenses of such re-letting and of such alterations and repairs, incurred by LESSOR, and the amount, if any, by which the rent reserved in this lease for the period of such re-letting (up to but not beyond the term of this lease) exceeds the amount agreed to be paid as rent for the demised premises for such period on such re-letting; or (b) at the option of LESSOR rents received by LESSOR from such re-letting shall be applied: first, to the payment of any indebtedness, other than rent due hereunder from LESSEE to LESSOR; second, to the payment of any costs and expenses of such re-letting and of such alterations and repairs; third, to the payment of rent due and unpaid hereunder and the residue, if any, shall be held by LESSOR and applied in payment of future rent as the same may become due and payable hereunder. If LESSEE has been credited with any rent to be received by such re-letting under option (a), and such rent shall not be promptly paid to LESSOR by the new tenant, or if such rentals received from such re-letting under option (b) during any month be less than that to be paid during that month by LESSEE hereunder, LESSEE shall pay any such deficiency to LESSOR. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of said premises by LESSOR shall be construed as an election on its part to terminate this lease unless a written notice of such intention be given to LESSEE or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such re-letting without termination, should LESSOR at any time thereafter elect to terminate this lease for any breach, in addition to any other remedy it may have, it may recover from LESSEE all damages it may incur by reason of such breach, including the cost of recovering the premises, and including the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this lease for the remainder of the stated term over the then reasonable rental value of the premises for the remainder of the stated term, all of which amounts shall be immediately due and payable from LESSEE to LESSOR. LESSOR shall additionally have the right, pursuant to Civil Code Section 1951.2 upon breach and termination to recover from LESSEE the worth at the time of the award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rental loss that the LESSEE proves could have been reasonably avoided.

29. Time: Time is of the essence of this lease.

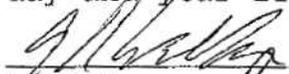
30. Integration: This lease represents the entire agreement between the parties hereto and there are no collateral oral agreements or understandings.

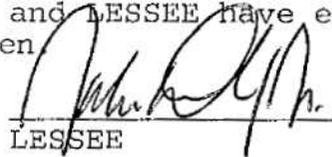
31. Arbitration: In the event of any dispute between LESSOR and LESSEE relevant to the construction or interpretation of this lease, they shall each select an arbitrator, the two arbitrators so selected shall select a

third arbitrator and the three arbitrators so selected shall hear and determine the controversy and their decisions thereon shall be final and binding upon both LESSOR and LESSEE, who shall bear the cost of such arbitration equally between them.

32. Lease Provisions: If any paragraph, term, or clause hereof is unenforceable the remaining provisions of this lease shall nevertheless remain full effective.

IN WITNESS WHERE, LESSOR and LESSEE have executed these presents, the day and year first above written

  
\_\_\_\_\_  
LESSOR

 1-28-09  
\_\_\_\_\_  
LESSEE

  
\_\_\_\_\_  
LESSOR

## EXHIBIT B

### Winters Visitors Center Concept Plan and Performance Expectations

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 mutli-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”.

## **Contract:**

The following parameters will be included in the contract:

- 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.
  - Collaboration with Capay Valley Vision for cross marketing of Western Yolo County.
- 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.
- Additional lease terms:
  - Any expense of the relocation of the Chamber office in the Community Center to 11 Main Street (e.g., personal property, furniture, files) will be assumed by the Winters Chamber of Commerce.
  - The Winters Chamber of Commerce will occupy approximately 120 – 150 square feet of the 11 Main Street location as a designated Winters Chamber of Commerce business office.
  - The Winters Chamber of Commerce will continue to be an independent non-profit organization operating under its bylaws and conforming to standard operating procedures for such an entity. No joint venture, partnership, or other legal connection is created by this sub-lease.

- The Winters Chamber of Commerce will be provided sufficient space on the interior and exterior of 11 Main Street for signage and identification.
- Except as specifically provided for in the Sub-Lease, the Agency will pay for, and hold Sub-Tenant harmless from, the rent due under the Master Lease, or any extension thereof.
- The Agency will pay and be responsible for all utility costs required for 11 Main Street, including gas, electricity, water, sewer, and garbage service. The Winters Chamber of Commerce will be responsible for the normal operating costs of telephone service, computer service, FAX service and similar costs.

**Performance Objectives:**

1. Business Plan, Budget and Strategy for the Center- Due August, 2009. The business plan should outline a thorough strategy on operations, marketing and business development for the Center and the Winters Community.
2. Local Destination Information (including Lake Berryessa)- Inventory and opportunity list to be marketed in the Center. September, 2009
3. Agri-Tourism Program- 12 "Experiences" tours/packages established by January, 2010.
4. Content Development- Working within the parameters of the website and advertising cards, fill no less than 20 units by January, 2010.
5. Staffing- To commence in July, 2009.

**Winters Product Store:**

The Winters Product Store is viewed as both a revenue and marketing opportunity. The sale of merchandise will provide an offsetting revenue to the Agency which will go toward the lease, marketing and reduced subsidy.

- Operation of the Winters Product Store will include:
  - Development of a business plan for the store.
  - Contacting area producers and generating product for the location.
  - Display development and preparation of marketing concepts.
  - Sales of product.

**Performance Objectives:**

1. Product Development- Working with local farms and purveyors to develop a wide variety of merchandise, including agricultural products and Winters novelties. The store will not serve as satellite or competitor with local merchants (arts, crafts, etc.)- Store should commence with opening.
2. Goal- No less than 30 products within the store.

**Conditions: Operation:**

- Agency will 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.
- Quarterly reports on the Winters Product Store.
- Chamber business can be operated from the location, within agreed upon parameters between both parties.

**Contract Parameters:**

- Contract rate of \$2,400 per month.
- 48 to 53 hours per week staffing of the Center
- Revenues from the Winters Product Store and Winters Visitors Center operations will be collected by the Winters Chamber of Commerce and deposited into a separate account to be used solely to offset any or all operating costs of the Winters Visitors Center.
- Adherence to the Visitor Center Concepts outlined above.