



Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, March 15, 2011
6:30 p.m.
AGENDA

Members of the City Council

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

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

PLEASE NOTE -- The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon request of the Mayor or Councilmembers. Public comments time may be limited and speakers will be asked to state their name.

Roll Call

Pledge of Allegiance

Approval of Agenda

COUNCIL/STAFF COMMENTS

PUBLIC COMMENTS

At this time, any member of the public may address the City Council on matters, which are not listed on this agenda. Citizens should reserve their comments for matter listed on this agenda at the time the item is considered by the Council. An exception is made for members of the public for whom it would create a hardship to stay until their item is heard. Those individuals may address the item after the public has spoken on issues that are not listed on the agenda. Presentations may be limited to accommodate all speakers within the time available. Public comments may also be continued to later in the meeting should the time allotted for public comment expire.

CONSENT CALENDAR

All matters listed under the consent calendar are considered routine and non-controversial, require no discussion and are expected to have unanimous Council support and may be enacted by the City Council in one motion in the form listed below. There will be no separate discussion of these items. However, before the City Council votes on the motion to adopt, members of the City Council, staff, or the public may request that specific items be removed from the Consent Calendar for separate discussion and action. Items(s) removed will be discussed later in the meeting as time permits.

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, March 1, 2011 (pp 1-6)
- B. Minutes of the Special Meeting of the Winters City Council Held on Friday, March 4, 2011 (pp 7-11)
- C. Resolution 2011-17, a Resolution of the City Council of the City of Winters Receiving from the Community Development Agency the Annual Housing Element Progress Report to Legislative Body, Governor's Office of Planning and Research and State Department of Housing and Community Development for the Calendar Year Ending December 31, 2010 and Authorizing its Transmittal to the State Department of Housing and Community Development and the Governor's Office of Planning and Research (pp 12-22)
- D. Project Acceptance – Municipal Well Pump Station No. 7, Project No. 05-05 (pp 23)
- E. Request to Award Lowest Bid for a Residential 60" Dual Oven Range for the New Police-Fire Facility Living Quarters (pp 24)
- F. Request for Street Closure and Amplified Sound Permit for East Main Street submitted by Chris Turkovich for Roots to Wine Event (pp 25-29)
- G. Approve a Traffic Engineering Service Work Order with Fehr & Peers Associates, Inc in the Amount of \$16,350 to Prepare a Cumulative Traffic Analysis for the Gateway Area Development Projects and Authorize the City Manager to Execute the Work Order with Fehr & Peers Associates, Inc. (pp 30-36)
- H. Proclamation Recognizing "National Agriculture Week", March 13-19, 2011 (pp 37)

PRESENTATIONS

DISCUSSION ITEMS

- 1. Consideration and Adoption of Ordinance 2011-02, an Urgency Ordinance of the City Council of the City of Winters, Establishing a

- Moratorium on the Establishment and Operation of Street Vendors Pursuant to Government Code Section 65858 (pp 38-41)
2. Public Hearing and Possible Adoption of Resolution 2011-18, A Resolution of the City Council of the City of Winters Authorizing Submittal of an Application and Contract Execution for Funding from the Economic Development Allocation of the State Community Development Block Grant ("CDBG") Program (pp 42-45)
 3. Public Hearing for Property Transfer from Community Development Agency to City of Winters (Joint with Community Development Agency) (pp 46-72)
 4. City of Winters/Winters Community Development Agency Cooperation Agreement:
 - a. Approval of Resolution 2011- 21 A RESOLUTION OF THE WINTERS CITY COUNCIL AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSING PROJECTS. (pp 73-80)
 - b. A COOPERATION AGREEMENT BETWEEN THE CITY OF WINTERS AND THE WINTERS COMMUNITY DEVELOPMENT AGENCY FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSINGPROJECTS (pp 81-89)
 - c. Approval of Resolution 2011-19 A RESOLUTION OF THE CITY OF WINTERS AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES (pp 90-92)
 - d. COOPERATIVE AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES (pp 93-95)
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COMMUNITY DEVELOPMENT AGENCY

1. Public Hearing for Property Transfer from Community Development Agency to City of Winters (Joint with City Council) (pp 96-122)
2. Authorization for Community Development Agency to provide funding for legal fees for possible litigation by League of California Cities and California Redevelopment Association relating to Governor Browns proposal to eliminate Redevelopment Agencies as part of the States 2011-2012 Budget. (pp 123-124)

3. City of Winters/Winters Community Development Agency Cooperation Agreement:
 - a. Approval of Resolution 2011-22 A RESOLUTION OF THE WINTERS COMMUNITY DEVELOPMENT AGENCY AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSING PROJECTS (pp 125-132)
 - b. A COOPERATION AGREEMENT BETWEEN THE CITY OF WINTERS AND THE WINTERS COMMUNITY DEVELOPMENT AGENCY FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSINGPROJECTS (pp 133-140)
 - c. Approval of Resolution 2011-20 A RESOLUTION OF THE WINTERS COMMUNITY DEVELOPMENT AGENCY AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES (pp 141-143)
 - d. COOPERATIVE AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES (pp 144-146)
4. Approve Amendment No. 3 to Rick Engineering Contract for Design of the Downtown Streetscape Phase II Project (pp 147-150)
5. Approve Legal Services Agreement with Best Best & Krieger (pp 151-158)

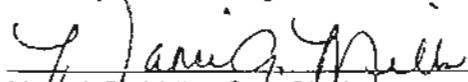
CITY MANAGER REPORT

INFORMATION ONLY

EXECUTIVE SESSION

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the March 15, 2011 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 March 9, 2011, and made available to the public during normal business hours.



Nancy G. Mills, City Clerk

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

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

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

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

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Any attachments to the agenda that are not available online may be viewed at the City Clerk's Office or locations where the hard copy packet is available.

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City Council agenda packets are available for review or copying at the following locations:

Winters Library – 708 Railroad Avenue

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

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

City Council meetings are televised live on City of Winters Government Channel 20 (available to those who subscribe to cable television) and replayed following the meeting.

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, March 1, 2011

Mayor Woody 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, Environmental Services Manager Carol Scianna, Fire Captains Brad Lopez and Art Mendoza, Firefighter Jason Van Doren and Administrative Assistant Tracy Jensen

Katie Clark, a student at Winters High School led the Pledge of Allegiance. Katie wrote the Mission Statement and designed t-shirts for her Government class, helps teachers clean, prepare and organize their classrooms and played a key role in the recent "Every 15 Minutes" exercise.

Approval of Agenda: City Manager Donlevy requested to add an urgency item to the Community Development Agency entitled "Approve Amendment No. 3 to Rick Engineering Contract for Design of the Downtown Streetscape Phase II Project." Mayor Fridae and Council Member Anderson said they would recuse themselves for this item due to a possible conflict of interest. As the required 4/5 vote with the remaining Council Members on the dais would not be possible, the agenda was not amended to add this item. Motion by Council Member Anderson, seconded by Council Member Aguiar-Curry to approve the original agenda. Motion carried unanimously.

COUNCIL/STAFF COMMENTS: Council Member Stone said the next Chamber Mixer will be held at Anytime Fitness on Monday, March 14th. Council Member Anderson said SACOG will be touring small town regions with representatives from the East Coast. Council Member Aguiar-Curry asked all to attend a Yolo County Leadership meeting to collaborate with other cities and counties on March 14th from 4-6:30 at the Woodland Community Center. Ms. Aguiar-Curry attended a Water Resource Association (WRA) Executive Council meeting and

also attended the recent Winters Chamber of Commerce Breakfast meeting held at Cody's, where there were approximately 40 attendees. City Manager Donlevy gave a presentation on Economic Development, the Economic Development Advisory Committee and Redevelopment. Ms. Aguiar-Curry congratulated Chamber President Debra DeAngelo for sponsoring such a nice event.

Mayor Fridae said the Winters Art Walk will take place this Saturday, the I-505 Grant Avenue Corridor Planning Committee meeting will take place on Monday, and the First Annual Winters Poetry Jam will take place on Tuesday.

PUBLIC COMMENTS: None

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, February 15, 2011
- B. Approve Extension of Service Agreement No. 011-09 with Wallace-Kuhl & Associates to Continue Landfill Monitoring Services for 2011 in the Amount Not to Exceed \$7000
- C. Street Closure/Amplified Sound Request by The Buckhorn for Monthly Car Show
- D. GEARGRID Racking System for Public Safety Facility (pp 26-28)
- E. Contract Extension for Ponticello Enterprises for Engineering Services
- F. Request to go to Bid for a Residential 60" Dual Oven Range for the New Police-Fire Facility, Living Quarters

City Manager Donlevy gave an overview. Due to weather conditions, the Buckhorn Car Show will begin on April 12. Alan Mitchell of Ponticello Enterprises changed some of the phrasing of the contract extension, but City Attorney Wallace asked Council to approve by form. Council Member Anderson requested the following correction to the February 15, 2011 minutes: Mr. Anderson also attended a Yolo County Transportation District (YCTD) meeting last night and said the pedestrian bridge project made the Cap to Cap list, which will be lobbied for in Washington D.C. Motion by Council Member Aguiar-Curry, seconded by Council Member Anderson to approve the Consent Calendar with the noted change. Motion carried unanimously.

PRESENTATIONS

A Proclamation of the City Council of the City of Winters Recognizing Youth Art Month was presented to Winters High School art teacher Kate Humphrey. Nancy Meyer, representing the Winters Chamber of Commerce, said 27 businesses

would be displaying Winters High School art projects. A Stroll About Winters is scheduled for Saturday, March 5, which would give everyone the opportunity to view the artwork and vote for their favorite projects at the Chamber office. Judging will take place on March 19th, where prizes will be given for 1st, 2nd and 3rd places. Ms. Humphrey thanked Nancy Meyer for her support.

Charles W. Anderson, Regional Public Affairs Manager of the Sacramento Division of the League of California Cities, spoke to the Council regarding Legislative Update, the budget and the Governor's proposal to end redevelopment agencies.

DISCUSSION ITEMS

- 1. Public Hearing, Second Reading and Adoption of Ordinance 2011-01, and Ordinance of the City Council of the City of Winters Adding Chapter 3.36 to Title 3 of the Winters Municipal Code to Establish Informal Bidding Procedures Pursuant to the Uniform Public Construction Cost Accounting Act**

City Attorney Wallace gave an overview. Mayor Fridae opened the public hearing at 7:12 p.m. and closed the public hearing at 7:12 p.m. with no comments. Motion by Council Member Stone and seconded by Council Member Anderson to adopt Ordinance 2011-01 adding Chapter 3.36 to Title 3 of the Winters Municipal Code to establish informal bidding procedures pursuant to the Uniform Public Construction Cost Account Act. Motion carried with the following vote:

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

- 2. Approve purchase of Aqualitec Inclined Multi-Rake Screen Equipment to be installed at East Street Wastewater Headworks in the amount of \$87, 944.81**

Environmental Services Manager Carol Scianna gave an overview. The wastewater headworks, which currently operates with a grinder, is inadequate. Also, if the new aerators get jammed up, any damage to these aerators could void the warranty. The installation of the proposed inclined multi-rake screen equipment would remove 90% of the debris with its' simple design and low maintenance. Aqualitec has extended the warranty to two years and given the City a 20% discount. Council Member Martin asked if the citizen's could help.

Wesley Mercado of Southwest Water said resident self-awareness is a big issue and many problems are due to habitual behavior. If residents could throw items in the garbage rather than the toilet, sink or garbage disposal, mechanical issues can be avoided and man hours could be eliminated. Mayor Fridae suggested public awareness articles be included in the City newsletter. Council Member Martin asked about the life expectancy of the new equipment. Mr. Mercado said 20-30 years at least, and the equipment would be versatile if the plant were to be enlarged. Council Member Aguiar-Curry asked about training for the new system equipment. Mr. Mercado said Aqualitec will train Southwest Water employees and City of Winters public works department staff members.

Motion by Council Member Martin, seconded by Council Member Aguiar-Curry to approve the purchase of Aqualitec Inclined Multi-Rake Screen Equipment to be installed at East Street Wastewater Headworks in the amount of \$87, 944.81. Motion carried unanimously.

3. July 4th Fireworks Committee

City Manager Donlevy gave an overview and said several individuals had approached staff members and Council members about facilitating a fireworks show for 2011. Council Member Aguiar-Curry asked whether the cost would be the City's fiscal responsibility or done solely by donation. City Manager Donlevy said they need a good fundraising team as fireworks will cost approximately \$10,000. The City currently has \$1,800 on account to go towards the cost. Council Member Aguiar-Curry asked how fireworks have been funded in the past. City Manager Donlevy said mostly through private donations, the Fire Department's Pancake Breakfast, donation cans around town, and a quilt raffle. But since the economy has turned, donations have not been forthcoming. City Manager Donlevy also confirmed the fireworks will be no cost to the City. Council Member Anderson said he was concerned if the fundraising goal is not met and if there different packages or levels available, ie: \$5,000 or \$7,000 etc. City Clerk Mills confirmed a 15-20 minute firework display costs \$10,000.

Council agreed unanimously to form a fundraising committee from the community and appoint Council Member Tom Stone as the Council liaison.

Agency Chair Cecilia Aguiar-Curry opened the Community Development Agency concurrently with the City Council at 7:40 p.m.

4. Resolution 2011-15, A Resolution of the City Council of the City of Winters Approving a Purchase and Sale Agreement with the Winters Community Development Agency with Respect to Certain Properties

City Manager Donlevy gave an overview of City Council Resolution 2011-15 and Community Development Agency Resolution 2011-16 and the accompanying Purchase and Sale Agreement, which would place Community Development properties in an escrow account. Appraisals for the properties listed in the Purchase and Sale Agreement will be conducted and the properties will be properly transferred. City Attorney Wallace said a public hearing will be held at the March 15th City Council meeting and asked Council to include the following correction in their motion: 110 Baker Street to 110 E. Baker Street.

Motion by Council Member Aguiar-Curry, seconded by Council Member Martin to approve Resolution 2011-15, approving a Purchase and Sale Agreement with the Winters Community Development Agency with respect to certain properties, including said correction. Motion carried with the following vote:

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

COMMUNITY DEVELOPMENT AGENCY

1. Resolution 2011-16, A Resolution of the City of Winters Community Development Agency Approving a Purchase and Sale Agreement with the City of Winters with Respect to Certain Properties

Motion by Agency Member Stone, seconded by Agency Member Fridae to approve Resolution 2011-16, approving a Purchase and Sale Agreement with the City of Winters with respect to certain properties, including said correction. Motion carried with the following vote:

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

2. Approve Appraisals of Redevelopment Agency Properties at A Cost not to exceed \$15,000

Executive Director Donlevy gave an overview.

Motion by Agency Member Fridae, seconded by Agency Member Stone to authorize appraisals on six properties owned by the CDA in order to facilitate a transfer of those properties to the City to satisfy existing debt of the CDA to the City. Motion carried unanimously.

Agency Chair Aguiar-Curry closed the Community Development Agency at 7:50 p.m.

INFORMATION ONLY

1. **January 2011 Treasurer Report**
2. **January 2011 Investment Report**

CITY MANAGER REPORT: City Manager Donlevy said the Downtown Streetscape Phase II might not happen and \$700,000 will be given away if the vote passes on Friday. The City has got to remain above board and not stoop to the State's level. The City is also finding ways to preserve equity. The City has received four submittals for supplemental legal services for the CDA, which will be pre-screened by staff. City Clerk Nanci Mills celebrated 25 years with the City on February 26th. Ms. Mills is also the chairperson of a committee consisting of various staff members regarding formal employee recognition.

EXECUTIVE SESSION: None

ADJOURNMENT: Mayor Fridae adjourned the meeting at 8:00 p.m.

Woody Fridae, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



Minutes of the Special Winters City Council Meeting
Held on Friday, March 4, 2011

Mayor Fridae called the meeting to order at 7:00 a.m.

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

Absent: None

Staff: City Manager John Donlevy and City Clerk Nanci Mills

Pledge of Allegiance

COUNCIL/STAFF COMMENTS: None

PUBLIC COMMENTS: None

CONSENT CALENDAR: None

PRESENTATIONS: None

DISCUSSION ITEMS

City Manager gave an overview and indicated that the attached Exhibit A which lists the Winters Community Development Agency Project Summary Profile lists the first item, Joint Public Safety Facility with a cost of \$4,500,000 and the correct cost is \$8,500,000, which results in a project total \$18,273,250, not \$14,273,250.

The reason that we are taking this action is to ensure that bond proceeds are spent within the city. If the State moves forward, absent these agreements, a successor agency would move right in and take all City assets and would be unable to move forward with these projects. Costs are reflected in the budget.

1. City of Winters/Winters Community Development Agency Cooperation Agreement:
 - a. Approval of Resolution 2011-21 A RESOLUTION OF THE WINTERS CITY COUNCIL AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSING PROJECTS.

Council Member Aguiar-Curry made a motion to approve Resolution 2011-21, a Resolution authorizing the execution of a Cooperation Agreement for payment of costs incurred by the City associated with certain agency-funded capital improvement and affordable housing projects. Seconded by Council Member Anderson. Motion carried with the following vote:

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

- b. A COOPERATION AGREEMENT BETWEEN THE CITY OF WINTERS AND THE WINTERS COMMUNITY DEVELOPMENT AGENCY FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSINGPROJECTS

Motion by Council Member Aguiar-Curry and seconded by Council Member Anderson to approve cooperation agreement between the City of Winters and the Winters Community Development Agency for payment of costs incurred by the City associated with certain agency-funded capital improvement and affordable housing projects. Motion carried unanimously.

- c. Approval of Resolution 2011-19 A RESOLUTION OF THE CITY OF WINTERS AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES

Council Member Aguiar-Curry made a motion to approve Resolution 2011-19, a Resolution authorizing the execution of a Cooperation Agreement for advance and reimbursement of administrative and overhead expenses. Seconded by Council Member Anderson. Motion carried with the following vote:

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

- d. COOPERATIVE AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES

Motion by Council Member Aguiar-Curry and seconded by Council Member Anderson to approve cooperation agreement between the City of Winters and the Winters Community Development Agency for advance and reimbursement of administrative and overhead expenses. Motion carried unanimously.

COMMUNITY DEVELOPMENT AGENCY

1. City of Winters/Winters Community Development Agency Cooperation Agreement:

- a. Approval of Resolution 2011-22 A RESOLUTION OF THE WINTERS COMMUNITY DEVELOPMENT AGENCY AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSING PROJECTS

Agency Member Fridae made a motion to approve Resolution 2011-22, a Resolution of the Winters Community Development Agency authorizing the execution of a Cooperation Agreement for payment of costs incurred by the City associated with certain agency-funded capital improvement and affordable housing projects. Seconded by Agency Member Martin. Motion carried with the following vote:

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

- b. A COOPERATION AGREEMENT BETWEEN THE CITY OF WINTERS AND THE WINTERS COMMUNITY DEVELOPMENT AGENCY FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED

CAPITAL IMPROVEMENT AND AFFORDABLE HOUSING PROJECTS

Motion by Agency Member Fridae and seconded by Agency Member Martin to approve cooperation agreement between the City of Winters and the Winters Community Development Agency for payment of costs incurred by the City associated with certain agency-funded capital improvement and affordable housing projects. Motion carried unanimously.

- c. A RESOLUTION 2011-20 OF THE WINTERS COMMUNITY DEVELOPMENT AGENCY AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES

Agency Member Fridae made a motion to approve Resolution 2011-20, a Resolution of the Winters Community Development Agency authorizing the execution of a Cooperation Agreement for advance and reimbursement of administrative and overhead expenses. Seconded by Agency Member Martin. Motion carried with the following vote:

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

- d. COOPERATIVE AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES

Motion by Agency Member Fridae and seconded by Agency Member Martin to approve cooperative agreement for advance and reimbursement of administrative and overhead expenses. Motion carried unanimously.

- 2. Approve Amendment No. 3 to Rick Engineering Contract for Design of the Downtown Streetscape Phase II Project

Agency Members Anderson and Fridae recused themselves due to a possible conflict of interest.

City Manager Donlevy gave an overview and stated that the estimated amount to the contract is for \$13,700 for inspection, project management, and architecture side.

Motion by Agency Member Martin and seconded by Agency Member Stone to approve Amendment No. 3 to Rick Engineering Contract for Design of the Downtown Streetscape Phase II Project. Motion carried unanimously.

CITY MANAGER REPORT

City Manager Donlevy indicated that staff was in negotiations with Best, Best & Krieger for legal services.

INFORMATION ONLY

EXECUTIVE SESSION

ADJOURNMENT

Meeting adjourned at 7:20 a.m.

Woody Fridae, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council members
DATE: March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Dan Maguire, Housing Programs Manager *DM*
SUBJECT: Resolution 2011-17 of the City Council of the City of the City of Winters Receiving from the Community Development Agency the Annual Housing Element Progress Report to Legislative Body, Governor's Office of Planning and Research and State Department of Housing and Community Development Department for the Calendar Year Ending December 31, 2010 and Authorizing its Submittal

RECOMMENDATIONS:

Approve Resolution 2011-17 authorizing submittal of the Annual Housing Element Progress Report for the Calendar Year ending December 31, 2010 to Legislative Body and direct staff to submit the Annual Report to the State Department of Housing and Community Development and the Governor's Office of Planning and Research.

BACKGROUND:

Government Code Section 65400 establishes the requirement that each city, county, or city and county planning agency prepare an annual report on the housing element of the general plan and progress in its implementation using forms and definitions adopted by the Department of Housing and Community Development. The forms are to be used for reporting on the status of the housing element and implements Sections 6200, 6201, and 6203 of the Department of Housing and Community Development California Code of Regulations, Title 25, Division 1, Chapter 6.5.

FISCAL IMPACTS:

None by this action

Resolution No. 2011-17

**A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE
CITY OF WINTERS SUBMITTING THE ANNUAL HOUSING ELEMENT
PROGRESS REPORT FOR THE CALENDAR YEAR ENDING DECEMBER 31,
2010 TO THE CITY COUNCIL OF WINTERS**

WHEREAS, Section 65400 of Government Code of the State of California requires that each city within the State of California present an annual report to its legislative body; and

WHEREAS, the Community Development Agency of the City of Winters has prepared the 2010 Annual Report containing performance implementation and goal progress information and has submitted it to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the Community Development Agency of the City of Winters that it has submitted the Annual Housing Element Progress Report for the Calendar Year ending December 31, 2010 to the City Council of the City of Winters.

**PASSED AND ADOPTED THIS 15th DAY OF MARCH, 2011, BY THE
FOLLOWING VOTE:**

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

Woody Fridae, MAYOR

ATTEST:

Nanci G. Mills, CITY CLERK

Department of Housing and
Community Development

ANNUAL HOUSING ELEMENT PROGRESS REPORT

City or County Name: WINTERS

Mailing Address: 318 First Street
Winters, CA 95694

Contact Person: Alan Maguire Title: Housing Programs Manager

Phone: 530 795 4910 FAX: 530 795 4935 E-mail: daniel.maguire@cityofwinters.org

Reporting Period by Calendar Year: from January 1, 2010 to December 31, 2010

These forms and tables, (see sample – next page) must be submitted to HCD and the Governor's Office of Planning and Research (OPR) on or before April 1, of each year for the prior calendar year; submit separate reports directly to both HCD and OPR (Government Code Section 65400) at the addresses listed below:

Department of Housing and Community Development
Division of Housing Policy Development
P.O. Box 952053
Sacramento, CA 94252-2053

-and-

Governor's Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction Winters, CA
Reporting Period 1/1/2010 - 12/31/2010

Table A

Annual Building Activity Report Summary - New Construction
Very Low-, Low-, and Mixed-Income Multifamily Projects

Housing Development Information								Housing with Financial Assistance and/or Deed Restrictions		Housing without Financial Assistance or Deed Restrictions
1	2	3	4		5	5a	6	7	8	
Orchard Village	5+	R	38	35	1	74	74	TCAC RDA USDA RD	Funding Sources	N/A
(9) Total of Moderate and Above Moderate from Table A3			▶	▶	1	0	1	0		
(10) Total by income Table A/A3			▶	▶	38	35	2	0	74	74
(11) Total Extremely Low-Income Units*			19							

* Note: These fields are voluntary

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction Winiers, CA
Reporting Period 1/1/2010 - 12/31/2010

Table A2
Annual Building Activity Report Summary - Units Rehabilitated, Preserved and Acquired pursuant to GC Section 65583.1(c)(1)

Please note: Units may only be credited to the table below when a jurisdiction has included a program in its housing element to rehabilitate, preserve or acquire units to accommodate a portion of its RHNA which meet the specific criteria as outlined in GC Section 65583.1(c)(1)

Activity Type	Affordability by Household Incomes				(4) The Description should adequately document how each unit complies with subsection (c)(7) of Government Code Section 65583.1
	0-30%	31-50%	51-80%	81-100%	
(1) Rehabilitation Activity				0	
(2) Preservation of units At Risk				3	
(3) Acquisition of Units				0	
(5) Total Units by Income	0	0	0	0	

* Note: This field is voluntary

Table A3
Annual building Activity Report Summary for Above Moderate-Income Units (not including those units reported on Table A)

	1. Single Family	2. 2 - 4 Units	3. 5+ Units	4. Second Unit	5. Mobile Homes	6. Total	7. Number of infill units*
No. of Units Permitted for Moderate	1					1	1
No. of Units Permitted for Above Moderate						0	

* Note: This field is voluntary

ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation (CCR Title 25 §6202)

Jurisdiction Winters, CA
Reporting Period 1/1/2010 12/31/2010

Table B

Regional Housing Needs Allocation Progress

Permitted Units Issued by Affordability

Fiscal Calendar Year starting with the first year of the RHNA allocation period. See Example		2006	2007	2008	2009	2010	2011	2012	2013	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Income Level	RHNA Allocation by Income Level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8		
Very Low	Deed Restricted	34	0	0	0	38				72	24
	Non-deed restricted	0	0	0	0	0				0	
Low	Deed Restricted	0	0	0	0	35				35	29
	Non-deed restricted	0	0	0	0	0				0	
Moderate	Deed Restricted	0	0	0	0	0				0	37
	Non-deed restricted	0	0	0	0	1				1	
Above Moderate		2	3	0	0	1				6	169
Total RHNA by COG Enter allocation number.		405									
Total Units		30	3	0	0	75				114	289
Remaining Need for RHNA Period											

Note: units serving extremely low-income households are included in the very low-income permitted units totals

ANNUAL ELEMENT PROGRESS REPORT

Jurisdiction Winters, CA
Reporting Period 1/1/2010 - 12/31/2010

Table C

Name of Program	Objective	Timeframe in HE	Status of Program Implementation
II.1 Affordable Housing Steering	maintain committee	ongoing	committee is active
II.2 Inclusionary Housing Ordinance	continue implementation	ongoing	no development triggering inclusionary requirement
II.3 Zoning Ordinance	revise re: density bonus	Jun-09	not completed - revised goal to complete in 2011
II.4 Zoning Ordinance	revise re: secondary units	Dec-09	not completed - revised goal to complete in 2011
II.5 Zoning Ordinance	revise re: manufactured & factory built houses	Jun-09	not completed - revised goal to complete in 2011
II.6 Duplex Construction	promote construction of	ongoing	N/A - no development
II.7 Zoning Ordinance	revise to permit year round emergency shelters	Jun-09	not completed - revised goal to complete in 2011
II.8 Encourage development in upper density range	provide non financial & non financial incentives	ongoing	Orchard Village development was in the upper density range

ANNUAL ELEMENT PROGRESS REPORT

Jurisdiction Winters, CA
Reporting Period 1/1/2010 - 12/31/2010

Table C - Page 2

Name of Program	Objective	Timeframe in HE	Status of Program Implementation
II.9 State and Federal Funding to support new affordable housing	assist developers with funds and pursue state & federal	ongoing	Redevelopment Agency submitted HOME and CDBG applications in support of Orchard Village development
II.10 Housing Rehabilitation	continue implementation of housing rehab program & revise as needed	ongoing	Program on hold due to lack of funding (lack of loanable Redevelopment funds), goal to revise guidelines in 2011
II.12 Affordable Housing Production	Update AHPP	Sep-08	in compliance - no development
II.13 Energy Conservation & Solar Use	promote energy conservation		
II.14 Housing Voucher rental assistance	continue to cooperate with Yolo Housing on voucher program	ongoing	achieved
II.15 Homeless Services	Continue agreement with Yolo HPAC to provide homeless services	ongoing	approved Homeless Services Coordination Project Agreement on August 4th, 2009

ANNUAL ELEMENT PROGRESS REPORT

Jurisdiction Winters, CA
Reporting Period 1/1/2010 - 12/31/2010

Table C - Page 3

Name of Program	Objective	Timeframe in HE	Status of Program Implementation
II.16 Equal Opportunity	promote Equal Opportunity	ongoing	achieved
II.17 Local Builders	require 10% of lots to be marketed to local builders	ongoing	no building activity
II.18 At Risk Developments	assist non profit developers on at risk developments	ongoing	achieved creation of database, Agency authorized funding for Almondwood apartments (39 unit acquisition rehab)
II.19 Development Review Committee ("DRC")	Convene DRC to expedite processing and approval of projects	ongoing	committee convened to assist on Orchard Village residential project
II.20 In Lieu Fee Ordinance	Revise In Lieu Fee	Dec-08	not completed - revised goal to complete in 2011
II.21 Universal Design Features	Require new residential subdivisions to incorporate	Dec-08	achieved - included in all existing Development agreements

ANNUAL ELEMENT PROGRESS REPORT

Jurisdiction Winters, CA
 Reporting Period 1/1/2010 - 12/31/2010

Table C - Page 4

Name of Program	Objective	Timeframe in HE	Status of Program Implementation
II.22 Homeowner Counseling	Provide pre- & post-purchase counseling	Jun-09	achieved - in contract with NeighborWorks Sacramento to provide services
II.23 Zoning Ordinance	Revise re: transitional and supportive housing	Jun-09	not completed - revised goal to complete in 2011
II.24 Zoning Ordinance	Revise re: SRO's	Jun-09	not completed - revised goal to complete in 2011
II.25 Zoning Ordinance	Revise re: Farmworker Housing by Right	Ongoing	not completed - revised goal to complete in 2011

Annual Element Progress Report

Housing Element Implementation

Jurisdiction Winters, CA
Reporting Period 1/1/2010 – 12/31/2010

General Comments:

It should be noted that attainment of all goals identified in the Housing Element are conditioned on the participation (financial and otherwise) of the Winters Redevelopment Agency. If the Redevelopment Agency is eliminated by the State, it is anticipated the goals will need to be revised or eliminated.

II.3, II.4, II.5, II.7, II.23, II.24, and II.25 Zoning Ordinance – revised goal of completing the revisions to the Zoning Ordinance (revisions to be completed in 2011) was necessitated by a change in the Redevelopment Agency’s outside legal counsel. New legal representation is in place and is working with the Community Development Director to direct the changes.



STAFF REPORT

TO: Honorable Mayor and Council Members
DATE: March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Nick Ponticello, City Engineer
SUBJECT: Project Acceptance
Municipal Well Pump Station No.7 Construction, Project No. 05-05

RECOMMENDATION: Staff recommends that City Council accept the Municipal Well Pump Station No.7 Construction project as complete and direct the City Clerk to file a Notice of Completion.

BACKGROUND: On August 4, 2009 City Council awarded a contract to Clyde G. Steagall for construction of a new water well on City property at Grant Avenue and West Main Street. Construction of the well is substantially complete. There are minor punch list items to be finalized by the contractor. The City will retain 5% of the construction contract until those items are completed to the satisfaction of Staff.

Council authorized \$840,000 for Well 7 construction by Clyde Steagall. It is estimate that the final construction cost with Clyde Steagall will be \$775,000.

ALTERNATIVES: None recommended by staff.

FISCAL IMPACT: The project is being funded first through the Water Bond and Water Impact fees, and lastly with a loan from RDA. Any RDA funds will be paid back first and any new development will assist with funding through a reimbursement agreement or other mechanism.



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: March 15th, 2011
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Scott Dozier, Fire Chief and Brad Lopez, Fire Captain
SUBJECT: Request to Award Lowest Bid for a Residential 60" Dual Oven Range for the New Police-Fire Facility, Living Quarters

RECOMMENDATION: Staff is requesting approval to award lowest bidder for the acquisition of one Residential 60" Dual Oven Range for the living quarters of the New Police-Fire Facility.

BACKGROUND: The Police-Fire Facility, Project No. 05-03, was established to design and construct a facility to house both Departments. On June 15, 2005, the City Council approved the selection of the site for the new facility.

The new facility provides living quarters for on duty fire department personnel. The design and construction allows for up to two engine companies which are provided for future growth and development. The original conception and design of a 60" Dual Oven Range was included in the Police-Fire Facility by the City's Architect, Dennis Dong and is standard equipment based facility use, size and projected growth.

The intent is to purchase an oven range that will compliment the existing and future growth within the organization and to provide a unit that is durable and reliable. Staff will be available at the council meeting to answer any questions regarding the above should the need arise. Please feel free to contact Captain Brad Lopez at the station if needed.

FISCAL IMPACT: There will be no fiscal impact to the general fund in as much as the funding for the three projects have been integrated in to the over all cost of the facility.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE : March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Tracy Jensen, Administrative Assistant for Nanci G. Mills, Director of Administrative Services and City Clerk
SUBJECT: Street Closure and Amplified Sound Permit Requests for Art and Wine in the Park Event

RECOMMENDATION:

Approve the closure of East Main Street between Railroad Avenue and Elliot Street on Saturday, April 2, 2011 from 9:00 a.m. to 5:00 p.m.

BACKGROUND:

Roots to Wine, a new wine group which focuses on celebrating it's connection to California's rich agricultural and wine history and prominence, is scheduled to host their first joint wine tasting event in conjunction with Winters' Fourth Annual Plein Air Art Festival sponsored by Briggs and Company.

Nine small, mostly family-run wineries from Capay Valley, Davis, Dunnigan Hills, English Hills and Winters have joined forces to promote recognition of their region as an emerging location that produces quality wines and provides a down to earth destination for wine related tourism experiences.

Representatives from Berryessa Gap Vineyards, Capay Valley Vineyards, Julie LePia Winery, Putah Creek Winery, Rominger West Wines, Route 3, Simas Family Wines, Turkovich Family Wines and Yocha DeHe have been working over the past year to organize and form their group, which is incorporated in the State of California as, Roots to Wine, a 501(c)6 Not-for-Profit Mutual Benefit Corporation. The purpose of the Roots to Wine is to promote wine grape growers and wine producers whose products are from and produced in the five designated adjacent areas along the western edge of Yolo County and the northwest corner of Solano County.

FISCAL IMPACT: TBD (Signage, Barricade Placement)



City of Winters Request for Street Closure

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

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

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

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

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

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

Name: <u>Chris Tuckovich</u>	Organization: <u>Roots to Wine</u>
Address: <u>22 Main St Winters, CA</u>	Mailing Address: _____
Telephone: <u>530-383-6250</u>	Today's Date: <u>2/19/2011</u>
Streets Requested: <u>East Main from Railroad to Elliot St.</u>	
Date of Street Closure: <u>April 2, 2011</u>	Time of Street Closure: <u>9:00am - 5pm</u>
Description of Activity: <u>Roots to Wine will host a wine tasting event in Rotary park, East Main will be used for vintage car parking</u>	
Services Requested of City: <u>Street closure and Detour signage</u>	
APPROVED: _____ Police Department _____ Public Works Department	

Date of Application: 3/8/2011 To City Council: 3/15/11

Name of Person(s)/ Organization: Root to Wine Contact: Chris Tushnet

Business Address: 22 Main St. Telephone: 530-383-6250

Winters CA

Telephone: 530-383-6250

Type of Event: Art and Wine in the park

Purpose of Event: (ie; fundraiser, parade, festival, etc.): Festival

Date/Time of Event: April 2, 2011 From: 11:00am To: 4:30pm

Location/Address of Event: Rotary Park.

Winters CA

Rated Output of Amplifier in Watts: _____ Number of Speakers: 2

I have provided a list of and contacted all property owners adjacent to and within 300 feet of the event. Their approval of this event is indicated by their signature on the attached petition. Complaints about the sound will result in a warning and a request to reduce the volume. Additional complaints will result in the cessation of amplified sound. All amplified sound must be extinguished no later 10:00 p.m. pursuant to Winters Municipal Code Title VI; Chapter 7-Noise Control. Signing below certifies that all information contained within this application is correct. In the event that any of this information is found to be fraudulent, it may result in an automatic denial of this application.

Signature: Chris Tushnet

For City Use Only

Proof of Insurance: N/A (Not City Property) Yes No

Rental Fee Paid: N/A (Not City Property) Yes No

Police Department: Approved Denied Date: _____

Authorized Signature: _____

City Council: Approved Denied Date: _____

Authorized Signature: _____

Art and Wine in the Park, Winters Ca

****Saturday April 2, 2011*

EAST MAIN ST. Closure is proposed.

ROOTS TO WINE A NEW WINE GROUP WHICH IS FOCUSED ON CELEBRATING IT'S CONNECTION TO CALIFORNIA'S RICH AGRICULTURAL AND WINE HISTORY AND PROMINENCE.

A GRASSROOTS ORGANIZATION PROMOTING REGIONAL WINE, ANNOUNCES ITS FORMATION AND LAUNCH EVENT.

Nine small mostly family run wineries from CAPAY VALLEY, DAVIS, DUNNIGAN HILLS, ENGLISH HILLS & WINTERS have joined forces to promote recognition of their region as an emerging location that produces quality wines and provides a down to earth destination for wine related tourism experiences. Representatives from Berryessa Gap Vineyards, Capay Valley Vineyards, Julie LePla Winery, Putah Creek Winery, Rominger West Wines, Route 3, Simas Family Wines, Turkovich Family Wines and Yocha DeHe have been working over the past year to organize and form their group which is incorporated in the State of California as, ROOTS TO WINE, a 501(c)6 Not-For-Profit Mutual Benefit Corporation. The purpose of the Roots to Wine is to promote wine grape growers and wine producers whose products are from and produced in the five designated adjacent areas along the western edge of Yolo County and the northwest corner of Solano County.

Roots to Wine will come together for their first joint wine tasting event on Saturday, April 2nd from 11am-4pm at Rotary Park in Winters, CA. The event, **Wine and Art in the Park**, is being held in conjunction with Winters' Fourth Annual Plein Air Art Festival sponsored by Briggs and Company.

All nine wineries will be present at the event and many will also be hosting artists throughout the week leading up to the tasting event; those paintings will be available for viewing at the event in the park on April 2nd. "What a great addition to an already compelling event hosted in Winters. We are very pleased that Roots to Wine has chosen to hold their launch event in Historic Downtown Winters and look forward to welcoming visitors who come to the event," said Winters Chamber President Debra DeAngelo. Roots to Wine offers travelers and visitors from the Bay Area, the Central Valley and neighboring states scenic *routes* through its nascent wine country which is surrounded by fields and farms producing quality organic food and dotted with small towns where local restaurants often feature local products.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Nicholas J. Ponticello, City Engineer
SUBJECT: Approve a Traffic Engineering Service Work Order with Fehr & Peers Associates, Inc. in the amount of \$16,350 to prepare a cumulative traffic analysis for the Gateway Area Development Projects and Authorize the City Manager to execute the Work Order with Fehr & Peers Associates, Inc.

RECOMMENDATION: That City Council 1) approve a Traffic Engineering Service Work Order (Work Order) with Fehr & Peers Associates, Inc. in the amount of \$16,350 to prepare a cumulative traffic analysis for the Gateway Area Development Projects associated with the I-505 interchange and the Grant Ave./SR128 and Road 90 intersection and 2) authorize the City Manager to execute the Work Order with Fehr & Peers Associates, Inc.

BACKGROUND: The City currently has an On-Call Contract with Fehr & Peers Associates Inc. for maintaining the City's traffic model and preparing traffic/transportation related study services. Fehr & Peers Associates is currently providing Traffic Engineering Services for the Burger King/Arco Development.

On January 20, 2011, the City and Caltrans met to discuss an approach to determining the long-term transportation needs for SR 128 (Grant Avenue), so that certainty could be provided for both agencies as future development proceeds.

In conjunction with obtaining Caltrans concurrence on required State roadway facility improvements associated with the Burger King/Arco Development at Grant Ave/Sr128 and Road 90 intersection, both agencies agreed to participate in a subsequent effort to identify the long-term transportation needs of State Route 128 (Grant Avenue) in the City's Gateway area in the vicinity of the SR 128 (Grant Avenue)/ I-505 interchange.

The City and Caltrans agreed to coordinate early in the review process for determination of what level of traffic analysis would need to be conducted and considered by the City prior to project approvals. Based upon discussion between the City and Caltrans, the attached scope of work was

prepared to assist the City and Caltrans in processing future development in the vicinity of the Gateway Area and the I-505 interchange.

Fehr & Peers Associates, Inc. has presented the City with a proposal letter dated January 14, 2011, with attached Exhibit A (Scope of Work) and Exhibit B (Study Budget) to perform the traffic engineering services. The primary purpose of the analysis is to address the following questions:

- Is the CR 90 realignment needed based on development projected to occur under cumulative conditions?
- If the answer to the above question is yes, how much development can occur before the realignment of County Road (CR) 90 is triggered?
- Can the traffic signal, and left turn access as planned, be retained at the Grant Avenue/CR 90 intersection after the CR 90 realignment and under cumulative conditions?

City Staff has reviewed the proposed scope of work and budget and recommends that Fehr & Peers Associates, Inc. conduct the work.

FISCAL IMPACT: None from the General Fund. Source of Funds - Road Impact Fee and Developer funded.

ATTACHMENTS: Fehr & Peers scope of services for Traffic Engineering Services
Scope of Services Work Order

FEHR & PEERS

January 14, 2011

Mr. Nick Ponticello
City Engineer
City of Winters
318 First Street
Winters, CA 95694

Re: Cumulative Analysis for Gateway Area Development Projects

Dear Nick:

Fehr & Peers is submitting the revised work scope and budget to prepare a cumulative traffic analysis to address the following questions regarding planned development in the vicinity of the Gateway Area in the City of Winters.

- Is the CR 90 realignment needed based on development projected to occur under cumulative conditions?
- If the answer to the above question is yes, how much development can occur before the realignment of County Road (CR) 90 is triggered?
- Can the traffic signal, and left turn access as planned, be retained at the Grant Avenue/CR 90 intersection after the CR 90 realignment and under cumulative conditions?

This updated cumulative analysis will be prepared based on anticipated development that may occur in the Gateway Area. It can be used to support future CEQA documents prepared by the City, as long as the number of trips generated by proposed development does not exceed the level identified in the cumulative analysis. The optional cumulative analysis task identified in our July 22, 2010 proposal for the Burger King/Arco Traffic Access Study was designed to provide an evaluation of Cumulative plus Project conditions for the Burger King/Arco project based on the adopted General Plan roadway network and land use forecasts. That analysis will not address the above questions due to a number of factors, foremost of which is that the planned development projects in the study area are not consistent with the assumed cumulative land uses in the citywide traffic model. The above questions also require that several roadway network options be evaluated in conjunction with new land use forecasts.

The tasks that we propose to undertake to complete the analysis are described in Exhibit A. Fehr & Peers will perform Tasks 1-5 in the scope of work (Exhibit A), on a time-and-materials basis, for a fee of \$16,350. We will complete the cumulative analysis within six weeks of receiving the Notice to Proceed.

Please call me at (916) 773-1900, ext. 2370 if you have any questions.

Sincerely,

FEHR & PEERS ASSOCIATES, INC

Bob Grandy, P.E.
Principal

Attachments

Exhibit A Draft Scope of Work

The following scope of work is based on completing a cumulative traffic analysis of planned development in the vicinity of the Gateway Area. The purpose of the analysis is to answer the following questions.

- Is the CR 90 realignment needed based on development projected to occur under cumulative conditions?
- If the answer to the above question is yes, how much development can occur before the realignment of County Road (CR) 90 is triggered?
- Can the traffic signal, and left turn access as planned, be retained at the Grant Avenue/CR 90 intersection after the CR 90 realignment and under cumulative build-out conditions?

This updated cumulative analysis will be prepared based on anticipated development that may occur in the Gateway Area. It can be used to support future CEQA documents prepared by the City, as long as the number of trips generated by proposed development does not exceed the level identified in the cumulative analysis.

TASK 1 IDENTIFY CUMULATIVE LAND USE "BANK" ASSUMPTIONS

Fehr & Peers will meet with city staff to review build-out land use forecasts for the traffic analysis zones within the study area and identify refinements based on current development proposals. This will include an update of planned development of the Gateway Plan area on the south side of Grant Avenue, as well as planned development of parcels along County Road 90. Based on discussions with City staff, we will identify a "bank" of potential future development in each of a series of zones in the Gateway Area.

The citywide traffic model currently assumes future development along the CR 90 corridor will be a mix of heavy industrial, light industrial, and gas stations. The traffic model assumes future development in the Gateway Plan area will be office uses. We will also work with City staff to identify the parcels along the segment of the existing portion of CR 90 that would retain direct access to Grant Avenue after realignment of CR 90 to Timber Crest Road.

We will prepare a technical memorandum documenting the land use assumptions and provide a draft document to City staff for review. We will revise the technical memorandum, based on City staff comments, and forward the memo to Caltrans staff for review and approval prior to proceeding with Task 2. The anticipated schedule assumes that we will be able to complete Task 1 in three weeks.

TASK 2 PREPARE TRAVEL FORECASTS FOR CUMULATIVE SCENARIOS

Fehr & Peers will prepare cumulative travel forecasts for the following study intersections.

- Grant Avenue/East Main Street
- Grant Avenue/Timber Crest Road
- Grant Avenue/CR 90
- Grant Avenue/I-505 southbound ramps
- Grant Avenue/I-505 northbound ramps

Cumulative forecasts will be prepared for the following land use and network scenarios, for both the AM and PM peak hours. These forecasts will be prepared using the citywide traffic model. These forecasts will be evaluated to answer the 1st and 3rd questions above.

- Cumulative (No Project scenario) – General Plan land use forecasts and roadway network, with realigned CR 90 and right-in, right-out access only at CR 90 (note: with u-turns reflected at Timber Crest Road)
- Cumulative – revised land use forecasts and existing roadway network (Question 1)
- Cumulative – revised land use forecasts and General Plan roadway network, with right-in, right-out access only at CR 90 (note: with u-turns reflected at Timber Crest Road)
- Cumulative – revised land use forecasts and General Plan roadway network, with left turn access (eastbound, southbound, and northbound) at CR 90 (Question 3)

Near-term forecasts will be prepared to answer the 2nd question identified above. We will use the Existing & Approved & Project scenario from the Burger King/Arco Traffic Access Study as a baseline, and add trips from the development of adjacent parcels based on land uses identified by City staff. We will develop near-term forecasts for two different levels of development. The near-term forecasts will be developed by manually adding the trips generated by planned development.

TASK 3 EVALUATE INTERSECTION CONDITIONS & IDENTIFY MITIGATION TRIGGERS

Fehr & Peers will prepare service level calculations for all the study scenarios identified in Task 2 using Synchro/SimTraffic software. We will identify LOS results and queuing for key movements including the eastbound left turn and the westbound through movement at Grant Avenue/CR 90.

For the near-term analysis, we will assume that westbound Grant Avenue will be widened to provide an additional lane from just east of the I-505 southbound ramps to just west of CR 90 and that the eastbound left turn pocket at CR 90 is lengthened to 300 feet. We will also assume that traffic signals are in place at all four existing study intersections.

For the cumulative analysis, we will assume that Grant Avenue is widened to four lanes from the Grant Avenue/East Main Street intersection to the Grant Avenue/I-505 southbound ramp intersection. We will also assume that traffic signals are in place at all five study intersections (e.g., except for the scenario where access at Grant Avenue/CR 90 is limited to right-in, right-out movements).

Based on the intersection analysis conducted above, we will identify any needed near-term and long-term improvements. We will identify the trigger for each of the improvements, based on the approximate number of new vehicle trips that would prompt the need for the individual mitigation.

TASK 4 ATTEND MEETINGS

Fehr & Peers will attend up to two (2) meetings with City staff.

TASK 5 DOCUMENTATION

Fehr & Peers will submit an administrative draft report documenting the key study assumptions and results. The administrative draft report will document the cumulative analysis, mitigations, and triggers. Based on comments provided by City staff, we will prepare a Draft Report for submittal to Caltrans staff. We have budgeted four hours to respond to Caltrans staff comments and prepare a Final Report.

Mr. Nick Ponticello
 January 14, 2011
 Page 4

**Exhibit B
 STUDY BUDGET**

Task	Staff & Billing Rates					Total Hours	Total Cost
	Bob Grandy	David Stanek	Kwasi Donkor	Engineer	Support		
	\$225	\$175	\$130	\$110	\$120		
<i>Winters Gateway Area Cumulative Analysis</i>							
Task 1: Identify Land Use Assumptions	1	0	0	2	0	3	\$445
Task 2: Prepare Travel Forecasts	1	0	4	28	0	33	\$3,825
Task 3: Evaluate Intersection Conditions	1	4	0	48	0	53	\$6,205
Task 4: Meetings	4	0	0	0	0	4	\$900
Task 5: Documentation	3	0	0	16	12	31	\$3,875
<i>Total Labor Cost</i>							\$15,250
<i>Direct Costs (traffic counts, travel, phone, copies, etc.)</i>							\$1,100
<i>Traffic Access Study Total Cost</i>							\$16,350

City of Winters
On-Call Traffic Engineering Services

WORK ORDER

Date: March 15, 2011

Consultant: Fehr & Peers

Work Order No. FP 10-003

Project: Winters Cumulative Analysis for Gateway Area Development
Projects-

To: Bob Grandy, Fehr & Peers

From: City Manager, City of Winters

You are hereby authorized to proceed with the following work, for the above-listed project, in accordance with the executed On-Call Consultant Services Agreement, dated March 14, 2005, and this Work Order.

Description:

Scope of Services proposal titled "Winters Cumulative Analysis for Gateway Area Development Projects", which includes Letter Proposal dated January 14, 2011, Scope of Work (Exhibit A) and Study Budget (Exhibit B).

Scope and Cost:

Fehr & Peers shall perform the tasks indicated. The total fee of \$16,350 shall not be exceeded without prior written authorization from the City.

Authorized By:

City of Winters Representative
John W. Donlevy, City Manager

Accepted By: _____
Consultant



**A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS
RECOGNIZING "NATIONAL AGRICULTURE WEEK"**

WHEREAS, agriculture is the Nation's most basic industry and it's associated production, processing and marketing segments together provide more jobs than any other industry; and

WHEREAS, it is also very important to the local economy with Yolo County generating \$462,132,949 agricultural sales in 2009; and

WHEREAS, American agriculture deserves special recognition for its incredible achievements in feeding, clothing, and sheltering our country; and

WHEREAS, maintaining a healthy agriculture industry necessitates that all American consumers understand agriculture's effect on their lives and well-being; and

WHEREAS, Spring is an ideal time to recognize the contributions of the agriculture industry of the world.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINTERS, do hereby proclaim March 13th – March 19th, 2011, as "National Agriculture Week" in the City of Winters in recognition of the importance of agriculture in our community.

PASSED AND ADOPTED this 15th day of March, 2011, by the following roll call vote:

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

Councilmember Cecilia Aguiar-Curry

Councilmember Harold Anderson

Councilmember Michael Martin

Councilmember Tom Stone

Mayor Woody Fridae

City Manager John W. Donlevy, Jr.

ATTEST: City Clerk Nanci G. Mills



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members
DATE: March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Nelia C. Dyer, Community Development Director
SUBJECT: Consideration and Adoption of Ordinance 2011-02, An Urgency Ordinance of the Winters City Council Establishing a Moratorium on the Establishment and Operation of Street Vendors Pursuant to Government Code Section 65858

RECOMMENDATION: Staff recommends the City Council: 1) Receive the staff report; and 2) Adopt Ordinance 2011-02, an Urgency Ordinance of the Winters City Council establishing a moratorium on the establishment and operation of Street Vendors pursuant to Government Code Section 65858.

BACKGROUND: Presently, Winters Municipal Code, Chapter 5.36 allows for and regulates street vendors in the City of Winters. However, it has come to the attention of the Community Development Department that there are several inherent issues with code that need to be addressed. These issues include the permitted location of stationary vendors and its impact on surrounding "brick and mortar" businesses, the difference between the requirements for restaurants and requirements for street vendors, and whether street vending truly "fits" the agricultural character of Winters.

This urgency interim ordinance will give the City the time to research these issues and determine whether Chapter 5.36 should be amended or repealed from the Winters Municipal Code. The urgency interim ordinance can be adopted in one reading, without public notice. Approval will provide for a 45 day period of review by the Community Development Department. That time limit, in Government Code Section 65858, is not expected to suffice. An extension of the ordinance will be placed back on the City Council agenda within the 45 days for adoption, after public notice. Such an extension will extend the time allowed for planning for up to 10 months and 15 days. That should be sufficient time to coordinate planning with the police department and the community. This ordinance refers the issue to the Planning Commission to review the issue and advise the City Council.

FISCAL IMPACT: Review of the Winters Municipal Code will involve staff time and publication costs. The total fiscal impact is unknown.

CITY OF WINTERS ORDINANCE NO. 2011-02

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS ESTABLISHING A MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF STREET VENDORS PURSUANT TO GOVERNMENT CODE SECTION 65858

WHEREAS, Winters Municipal Code Chapter 5.36 addresses and regulates street vendors in the City of Winters; and

WHEREAS, the Winters Community Development Department has identified inherent issues with Chapter 5.36, including the permitted location of stationary vendors and its impact on surrounding "brick and mortar" businesses, the difference between the requirements for restaurants and requirements for street vendors, and whether street vending truly "fits" the agricultural character of Winters; and

WHEREAS, the City Council recognizes that street vending businesses raise issues of law and public policy, and that the regulation of such businesses requires careful consideration and thorough study.

THE CITY COUNCIL OF THE CITY OF WINTERS DOES ORDAIN AS FOLLOWS:

SECTION 1. The purpose of this interim urgency ordinance is to establish a forty-five-day moratorium on the approval or issuance of any use permit or other applicable entitlement for the establishment or operation of a street vending business in the City for the immediate preservation of the public health, safety, and welfare.

SECTION 2. For purposes of this ordinance, the terms defined below shall have the following meanings:

A. "Street vending business" shall mean any person, including an agent or employee of another, who sells or offers to sell food, beverages, or merchandise on any public street or sidewalk or private property from a stand, motor vehicle, or from his or her person.

SECTION 3. The City Council hereby enacts this interim urgency ordinance by not less than a four-fifths vote, and in light of the findings set forth in Section 4, under the authority granted to it by Article XI, Section 7 of the California Constitution and Section 65858(a) of the California Government Code, which allows the City to adopt an interim urgency ordinance, in order to protect the public safety, health, and welfare, prohibiting any uses that may be in conflict with a zoning proposal that the City Council, Planning Commission, or the Planning Division is considering or studying or intends to study within a reasonable time.

SECTION 4. The City Council hereby finds and determines as follows:

1. Winters Municipal Code Chapter 5.36 addresses and regulates street vending businesses in the City of Winters.
2. The Winters Community Development Department has identified inherent issues with Chapter 5.36, including the permitted location of stationary vendors and its impact on surrounding "brick and mortar" businesses, the difference between the requirements for restaurants and requirements for street vending businesses, and whether street vending truly "fits" the agricultural character of Winters.
3. The Winters City Council recognizes that street vending businesses raise issues of law and public policy, and that the regulation of such businesses requires careful consideration and thorough study.
4. To address these issues, it is necessary for the Community Development Department to study the potential impacts such facilities may have on the public health, safety, and welfare.
5. Based on the foregoing, the City Council finds that issuing permits, business licenses, or other applicable entitlements providing for the establishment and/or operation of street vending businesses, prior to the completion of the City of Winters' study of the potential impact of such facilities, poses a current and immediate threat to the public health, safety, and welfare, and that therefore a temporary moratorium on the issuance of such permits, licenses, and entitlements is necessary.

SECTION 5. The City Council hereby directs the Community Development Department to consider and study amendments to or repeal of Chapter 5.36.

SECTION 6. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the 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. 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 8. This ordinance shall become effective immediately upon adoption if adopted by at least a four-fifths vote of the City Council and shall be in effect for forty-five days from the date of adoption unless extended by the City Council as provided for

In Government Code Section 65858.

SECTION 9. The Mayor shall sign this ordinance and the city clerk shall attest and certify to the passage and adoption of it, and within fifteen (15) days, publish in the Winters Express, a weekly newspaper of general circulation, printed, published, and circulated in the City of Winters.

PASSED, APPROVED, AND ADOPTED this 15th day of March, 2011

STATE OF CALIFORNIA)
COUNTY OF YOLO)ss.
CITY OF WINTERS)

I, Nanci Mills, City Clerk of the City of Winters, County of Yolo, State of California, hereby certify that the foregoing Urgency Ordinance No. 2011-02 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 15th day of March, 2011, by the following vote:

AYES: None
NOES: None
ABSENT: None
ABSTAIN: None

Woody Fridae, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Dan Maguire, Housing Programs Manager *DM*
Dawn Van Dyke, Management Analyst *DVD*
SUBJECT: Resolution 2011-18 – A Resolution of the City Council of the City of Winters Authorizing Submittal of an Application and Contract Execution for Funding from the Economic Development Allocation of the State Community Development Block Grant ("CDBG") Program.

RECOMMENDATION:

Staff recommends the City Council:

- 1) Receive the staff report
- 2) Conduct a Public Hearing
- 3) Adopt Resolution 2011-18, A Resolution of the City Council of the City of Winters authorizing submittal of a grant application to the State of California Department of Housing and Community Development ("HCD") for funds to execute a business lending program.

BACKGROUND:

The Winters City Council adopted Guidelines for the Business Assistance Loan Program funded through CDBG Funds with the passage of Resolution 2010-09 at the City Council meeting of February 16, 2010. At that meeting, Council also authorized staff to issue a Request for Proposal ("RFP") for the services of a qualified program administrator ("Administrator") who has experience in originating business loans and is familiar with state CDBG requirements.

The Council authorized the City Manager to execute a contract with David Nelson Consulting to provide the program administrator services at the City Council meeting of July 6, 2010. The City of Winters, working with the consultant, proposes to complete and submit an application for a grant amount of up to \$500,000 under the CDBG Enterprise Fund (Economic Development Allocation) for the following eligible activities: Business Assistance lending and Micro-Enterprise lending to occur within the City of Winters.

Business Assistance lending is an existing program in the City of Winters and requires the creation (or retention) of one job, also known as a Full Time Equivalent ("FTE") per \$35,000 lent, with a requirement that 51% of the FTE's created/retained be filled by a person from a low income household. The Micro-Enterprise lending program is targeted to small businesses (5 or fewer employees including the owner) with the requirement that the owner be from a low-income household. Micro Enterprise loans generally can go up to a maximum loan of \$50,000, and they do not require job creation. Staff would submit draft guidelines for the Micro-Enterprise lending program (very similar to the existing Business Assistance guidelines) to HCD in conjunction with the application, and if this application is successful, would bring those guidelines to City Council for adoption at a future City Council meeting.

FISCAL IMPACT:

The cost of using a Program Administrator will not impact the General Fund as the RFP specified the services would be funded from CDBG funds (program income and grants) as program delivery costs as allowed under the CDBG administrative cost guidelines.

ATTACHMENT:

Resolution 2011-18

RESOLUTION No. 2011-18

A RESOLUTION APPROVING AN APPLICATION AND CONTRACT EXECUTION FOR FUNDING FROM THE ECONOMIC DEVELOPMENT ALLOCATION OF THE STATE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM AND AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT AND ANY AMENDMENTS THERETO WITH THE STATE OF CALIFORNIA FOR THE PURPOSES OF THIS GRANT.

BE IT RESOLVED by the City Council of the City of Winters as follows:

SECTION 1

The City Council has reviewed and hereby approves application for: State Community Development Block Grant (CDBG Program) for up to \$200,000 from the Enterprise Fund Component:

- 1) General Administration - \$15,000
- 2) Business Assistance - \$55,250
- 3) Business Assistance Activity Delivery - \$9,750
- 4) Microenterprise Assistance - \$102,000
- 5) Microenterprise Assistance Activity Delivery - \$18,000

SECTION 2

If the grant application is approved, the City will provide local leverage for the Business Assistance Program:

City General Administration In-Kind for Activity Delivery: \$5,000

If the grant application is approved, the City will provide local leverage for the Microenterprise Assistance Program:

City General Administration In-Kind for Activity Delivery: \$5,000

SECTION 3

The City Manager is hereby authorized and directed to act on the City's behalf in all matters pertaining to this application.

SECTION 4

If the application is approved, the City Manager is authorized to enter into and sign the grant agreement and any amendments thereto with the State of California for the purposes of this grant.

PASSED AND ADOPTED by the City Council, City of Winters, the 15th day of March, 2011 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Woody Fridae, MAYOR

ATTEST:

Nanci G. Mills, CITY CLERK



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Dan Maguire, Housing Manager *DM*
Shelly Gunby, Director of Financial Management *Shelly*
SUBJECT: City/Community Development Agency Purchase and Sale Agreement

RECOMMENDATION:

1. That the City Council and The Community Development Agency hold a Joint Public Hearing regarding Approval of a Community Development Agency Sale and City of Winters Purchase Agreement for Real Property as follows.
 - a. 318 Railroad Ave (APN# 003-204-005)
 - b. 314 Railroad Ave (APN# 003-204-006)
 - c. 23 Main Street (APN# 003-204-012)
 - d. 110 East Baker Street (APN# 003-370-038) Land only
 - e. Grant Avenue Commercial Property (APN#s 003-370-028, 003-370-029 and 003-370-030)
 - f. 311 First Street (APN# 003-204-002)
2. Approve Purchase and Sale Agreement and Joint Escrow Instructions for the above referenced Properties to the City of Winters.
3. Approve Delegation and Conveyance Agreement for the above referenced properties.

BACKGROUND:

On March 1, 2011 the City Council adopted Resolution 2011-15 Approving a Purchase and Sale Agreement with the Winters Community Development Agency with respect to the properties listed above.

This Resolution laid out the findings for the transfer of the properties listed above to the City of

Winters in consideration of the debt owed to the City of Winters by the Winters Community Development Agency, and authorized staff to have Bartholomew and Associates have all the properties appraised to determine fair market value, and further authorized the City Manager to open an escrow and obtain preliminary title reports.

Staff has undertaken all the activities approved by Resolution 2011-15

Information regarding the fair market value of the properties will be submitted under separate cover, as it is not available at the time this staff report was due. Once the fair market value of the property has been determined, staff will return to the City Council with an updated payment schedule for all debts remaining once the fair market value of the properties transferred to the City from the Agency has been used to calculate the amount of debt repaid by the Agency to the City as a result of the transfer.

The Purchase and Sale Agreement between the City of Winters and the Winters Community Development Agency sells the referenced property to the City of Winters in exchange for a reduction in the debt the Agency owes the City of Winters, and, in concert with the Cooperation Agreements approved on March 4, 2011, authorizes the City to carry out the development and disposition of these properties. There are addition redevelopment projects included in the Cooperation Agreements and all projects were included as Exhibit A with the Cooperation Agreements.

The Delegation and Conveyance Agreement conveys the properties to the City of Winters, and specifically delegates the Agency's functions and powers to the City of Winters in respect to the planning and undertaking of redevelopment projects with respect to the conveyed properties only.

Staff feels that approving both agreements is a prudent and conservative course to take given the number of unknowns that face redevelopment agencies in the near future.

FISCAL IMPACT:

Reduction in the amount of funds due from the Community Development Agency to the City of Winters as a result of the purchase of the property from the Community Development Agency.

ATTACHMENTS:

Purchase and Sale Agreement and Joint Escrow Instructions
Delegation and Conveyance Agreement

PURCHASE AND SALE AGREEMENT (PSA) AND JOINT ESCROW INSTRUCTIONS

This Purchase and Sale Agreement and Joint Escrow Instructions Agreement is made as of March 15, 2011, the Effective Date by and between the Community Development Agency (CDA) of the City of Winters, a public body corporate and politic, "the Seller" or "the CDA" and the City of Winters, a general law city, "the Buyer" or "the City" with reference to the following facts and purposes.

RECITALS

(A) The Agency is organized under Part 17 of Division 24 of the California Health and Safety Code and pursuant thereto is authorized to exercise all of the rights and powers of a community redevelopment agency under the Community Redevelopment Law, "the CRL", the Law commencing with Section 33000 of the California Health and Safety Code.

(B) Foremost among the Agency responsibilities is implementation of the Redevelopment Plan for the Winters Community Development Redevelopment Project Area. The Redevelopment Plan in accordance with existing law seeks to remediate blight within the Project Area and to promote economic revitalization.

(C) The Agency wishes to proceed in its efforts to implement the Redevelopment Plan and to further the objectives of the plan in a manner that is expeditious, fiscally sound and lawful.

(D) The City of Winters is a General Law municipal corporation, organized and operating in accordance with the Government Code of the State of California. Like the Agency the City seeks to remediate blight within the Project Area and to promote economic revitalization.

(E) The Winters City Council by ordinance adopted the Redevelopment Plan and has periodically updated that plan. In adopting the plan the Winters City Council determined that as of that date substantial and pervasive blight remained in the Project Area. The City Council in accordance with the Law determined that the use of redevelopment was necessary to effectively rehabilitate the Project Area and that success in this effort would not occur without the use of redevelopment.

(F) In furtherance of the Redevelopment Plan and in accordance with the Law the Agency has borrowed funds through the issuance of bonds. In issuing these Bonds the Agency executed Bond Indentures. These Bond Indentures commit the Agency to a variety of actions to maintain the Bonds in good standing. To satisfy these obligations the Agency must commence and continue to completion with all practical dispatch the Redevelopment Projects which will be accomplished and completed in a sound and economical manner in conformity with the Redevelopment Plan and the CRL. Likewise the Agency has committed to pay and discharge or cause to be paid and discharged all governmental charges imposed upon the Agency or upon its revenues when the same shall become due. Failure of the Agency to satisfy its covenants and

obligations under the Indentures qualifies as a default that can result in the acceleration of the Bonds Indenture.

(G) In addition to borrowing funds through the sale of Bonds the Agency pursuant to the Law and Redevelopment Plan has borrowed funds from the City, collectively the "City Loans." Pursuant to the terms of these City Loans all borrowed funds must be repaid to the City with interest.

(H) The Agency has insufficient liquid assets to timely repay the debt it owes to the City. The Agency wishes to avoid a default in its obligations, giving rise to potential legal or monetary claims and a possible acceleration of its outstanding Bonds. A failure to make the required payment could irreparably injure the Agency by interfering with its mission to proceed expeditiously with the Redevelopment Plan in an economic manner.

(I) Rather than defaulting under its obligations to the City and jeopardizing the success of the Redevelopment Plan the Agency has identified a method for paying its debt to the City avoiding a default under the Bond Indentures and continuing its mission to advance the Redevelopment Plan. Specifically, the Agency will convey certain real property as more particularly described in this Agreement to the City in exchange for a release of a portion of the debt it owes to the City. In turn the City, by cooperative agreement, would commit to use and develop the conveyed Property consistent with the Redevelopment Plan, including where applicable the continuance of a ground lease. The City would also commit, by cooperative agreement, to work with the Agency to facilitate dispositions of all or part of the Property leading to new redevelopment projects on the Property in furtherance of the Redevelopment Plan. In this way the Agency would discharge its debt to the City while achieving its redevelopment goals. The described transaction would occur pursuant to the terms of this Agreement including all exhibits thereto and has been approved in compliance with all existing legal requirements of the CRL and the State Government Code.

(J) Like the Agency the City wishes to promote redevelopment within the community and to advance the City Council adopted Redevelopment Plan. While the City has an entitlement to cash payments for the discharge of the loans it has extended to the Agency, the City is prepared to accept payment through the conveyance of real property if the exchange will commit the Agency to continue its efforts to redevelop the Property, including dispositions of the Property to third parties which are in furtherance of the Redevelopment Plan. On this basis and this basis alone the City is prepared to proceed with this Agreement.

(K) The City and the Agency have executed that certain Cooperation Agreement dated as of March 4, 2011, through which the Agency agreed to make payments to the City for the costs of City actions and loans, as allowed by Section 33445 of the Health and Safety Code, including the acquisition of land required for public improvements. In reliance on that contractual commitment the City is proceeding with this Agreement and acquisition of the real properties for which the Agency is entitled to reimbursement.

(L) Upon and subject to the terms and conditions set forth in this Agreement Seller desires to sell and Buyer desires to purchase the following real properties (collectively "the Property"):

(a) the fee interest in the real property described on Exhibit A hereto, together with all rights privileges and easements appurtenant thereto or used in connection therewith, including without limitation all minerals oil gas and other hydrocarbon substances thereon all development rights, air rights, water rights, and all of Seller's right, title and interest in and to any streets alleys easements rights of way, public ways, or other rights appurtenant adjacent or connected thereto or used in connection therewith.

(b) Seller interest, if any, in all buildings, improvements, structures and fixtures included or located on or in the Property.

(c) all tangible personal property equipment and supplies collectively the Personal Property owned by Seller and located on or about the Property or the Improvements or attached thereto or used exclusively in connection with the use operation maintenance or repair.

(d) all other intangible property collectively the Intangible Property owned by Seller and used exclusively in connection with the Property or Improvements, including without limitation building specific trademarks and trade names, transferable licenses, architectural site landscaping, or other permits, development rights, applications, approvals, permits, authorizations and other entitlements transferable, guarantees and warranties covering the Property and/or Improvements, all of Seller's contract rights including without limitation rights under any consulting architectural or engineering contracts, and contracts rights under any service contracts, books, records, reports, test results, environmental assessments, as built plans, specifications, and other similar documents and materials relating to the use, operation, maintenance or repair of the Property or the construction or fabrication thereof and all transferable utility contracts.

NOW THEREFORE in consideration of the foregoing Recitals which are incorporated herein by this reference the mutual covenants contained in this Agreement and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller (collectively the "Parties") hereby agree as follows:

Section 1. Purchase and Sale of the Property. Subject to the terms and conditions set forth below the Seller agrees to sell and the Buyer agrees to purchase the Property as defined above in Recital L. The Property consists of multiple real properties (collectively the "Land"). The address for each parcel comprising the Land and the portion of the Purchase Price as defined below attributable to each parcel comprising the Land is set forth on Exhibit A1.

Section 2. Execution of Grant Deeds. Pursuant to the Parties agreement on March 1, 2011, transfer Deeds have been prepared for execution by the Parties, to be executed and recorded with payment of the purchase price.

Section 3. Purchase Price. The purchase price for the Property shall be the equal to the appraised value of the Property, determined by the appraisal firm of Bartholomew and Associates ("the purchase price"). The total purchase price is on Exhibit A1, attached hereto.

Section 4. Payment of Purchase Price. The Purchase Price shall be paid by the Buyer upon execution and delivery to Buyer's City Clerk of the executed Grant Deeds.

Section 5. Inspection/Condition. Buyer has fully inspected the Land, and consents to its condition. Buyer has all documentation for the legally required disclosures for the Land.

Section 6. ASSIGNMENT. The Buyer may transfer its rights under this Agreement to any person or entity ("the Assignee") without the approval or consent of the Seller. Possession of the Property shall be delivered to the Buyer or the Assignee as applicable upon recordation of the Grant Deeds.

Section 7. Representations and Warranties of the Seller. The Seller hereby represents and warrants the matters set forth below to be true to the best of the Seller's knowledge as of the date hereof and as of the Closing Date Such representations shall survive the closing and conveyance of title to the Property. If requested by the Buyer prior to the Closing Date the Seller shall deliver to the Buyer a certificate dated as of the Closing Date signed by the Seller certifying that the representations and warranty are true to the best of the Seller's knowledge as of the Closing Date:

a. The Seller has the legal power right and authority to enter into this Agreement and the instruments and documents referenced herein and to consummate the transaction contemplated hereby The individuals executing this Agreement and the instruments referenced herein on behalf of the Seller hereby represents and warrants that they have the power right and authority to bind Seller;

b. Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby shall result in a breach of or constitute a default under any agreement instrument or other obligation to which the Seller is a party or by which the Seller or the Property may be bound;

c. There is no pending or threatened condemnation or similar proceeding affecting the Property or any portion thereof nor does the Seller have any knowledge that any such action is contemplated;

d. There will be no management agreements contracts, warranties,

guaranties, bonds, or other agreements which will affect or will be obligations of the Buyer of the Property which cannot be terminated on thirty 30 days prior notice, excluding the existing Ground Lease currently in existence.

e. Seller acknowledges that in acquiring the Property it incurred certain relocation obligations to the then existing tenants of the Property, and in accordance with all applicable Federal or State relocation laws Seller at its sole expense will provide all relocation services and payments that may be owed to any Displaced Person in accordance with any applicable Federal or State relocation laws. If Seller fails to provide for required relocation services or to make required relocation payments to a Displaced Person the City may assume that function and apply any such incurred costs or expenses as a set off against the obligations owed to City by CDA.

f. The Seller has no knowledge except as otherwise disclosed in writing of the existence or prior existence in on or under the Property of any hazardous substance nor the existence of or prior existence of any above or below ground storage tank. The Seller has no knowledge that any generation transportation storage or discharge of any hazardous substance in on or under the Property has not been in compliance with all applicable laws. For purposes of this Agreement the term hazardous substance includes but is not limited to substances defined as hazardous substances, hazardous materials or toxic substances in the Comprehensive Environmental Response Compensation and Liability Act of 1980 as amended 42 USC Sections 9601 et seq., the Resource Conservation and Recovery Act 42 USC 6901, the Hazardous Materials Transportation Act 49 USC 1801, et seq., the substances defined as hazardous wastes in California Health and Safety Code 25117 or as hazardous substances in California Health and Safety Code 25316 and the chemicals known to cause cancer or reproductive toxicity as published in the Safe Drinking Water and Toxic Enforcement Act of 1986 California Health and Safety Code 255249 et seq. and in the regulations adopted and publications promulgated under each of the aforesaid laws.

g. The Seller is not a foreign person under Section 1445 of the Internal Revenue Code.

h. During the term of this Agreement the Seller shall have a continuing duty to notify Buyer of any material facts in Seller's knowledge which would render any of the representations set forth above false. Such duty shall not, however, abrogate nor limit the Buyer's independent obligation to perform its own investigation into the Property.

Section 8. Representations and Warranties of Buyer The Buyer hereby represents and warrants the matters set forth below to be true to the best of Buyer's knowledge as of the date hereof, and as of the Closing Date. Such representations shall survive the closing and conveyance of title to the Property. Buyer certifies that the below representations and warranty are true to the best of the Buyer's knowledge as of the Closing Date:

a. All resolutions adopted by Buyer for purposes of approving this Agreement were duly adopted;

b. Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby shall result in a breach of or constitute a default under any agreement to which the Buyer is a party or by which the Buyer may be bound.

Section 9. Indemnification.

a. Upon demand by the Buyer the Seller hereby agrees to defend with counsel reasonably selected by the Buyer indemnify and hold the Buyer harmless from and against any and all claims, liens, demands, losses, damages liabilities, fines, penalties, charges, administrative and judicial proceedings, and orders and all costs incurred in connection therewith, including without limitation actual attorneys fees and costs of experts and consultants arising from any obligation of the Seller not expressly assumed by the Buyer related to the ownership or operation of the Property prior to the Close of Escrow. This includes personal injury or property damage relating to the Property which occurred prior to the date of the Close of Escrow, and not caused by the acts or omissions of the Buyer or Buyer's agents, employees, or invitees; and the breach of any of the Seller representations made hereunder. The indemnity contained in this Section 11a shall survive the termination of this Agreement

b. The Buyer hereby agrees to defend indemnify and hold the Seller harmless from and against any and all claims, liens, demands, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, and all costs incurred in connection therewith including, without limitation actual attorneys fees and costs of experts and consultants arising from any obligation of the Buyer not expressly assumed by the Seller, related to the ownership or operation of the Property after the Close of Escrow. This includes personal injury or property damage relating to the Property which occurred after the date of Close of Escrow, not caused by the acts or omissions of Seller or Seller's agents, and the breach of any of Buyer's representations made hereunder. The indemnity contained in this Section 11b shall survive the termination of this Agreement.

Section 10. Hazardous Materials Indemnification

a. In the event of any Seller misrepresentation including omissions regarding hazardous or toxic materials or conditions on the Land the Seller shall indemnify hold harmless and defend with counsel as reasonably selected by the Buyer the Buyer the Buyer's officers, employees and agents, any successors to the Buyer's interests in the chain of title to the Property or any portion thereof and such successors directors officers employees or agents (collectively "the Indemnitees") against any and all claims and causes of action arising from any dispute including but not limited to a lawsuit an administrative proceeding arbitration or an enforcement action of any kind, and any and all damages, direct or consequential costs, losses, injuries, fines, penalties, liens, encumbrances, charges, liabilities, demands, judgments, remedial action requirements, obligations, and all costs and expenses incurred in connection therewith including but not limited to attorneys fees and costs imposed upon or accruing

against the Indemnitees as a result of investigatory or remedial action required by any public entity or agency having jurisdiction in connection with the hazardous or toxic materials, or conditions on the Land that were the subject of the misrepresentation or as damages to third persons for personal injury or property damage arising from the hazardous or toxic materials or conditions on the Land that were the subject of the misrepresentation.

b. The provisions of this Section 12 shall survive termination of this Agreement and the Closing.

Section 11. Buyer's Remedies.

In the event of a breach of this Agreement by the Seller the Buyer may pursue any and all remedies at law and equity including specific performance.

Section 12. Closing

a. Subject to the other provisions of this Agreement, escrow shall close on March 15, 2011, after the public hearing on this agreement, or as soon thereafter as possible. Seller's and Buyer's officers and representatives are authorized to execute any documents necessary to complete the transfer of the Land to the City of Winters, including lease assignments. All existing agreements involving the Land shall be pro-rated as of the date of deed recording.

Section 13. Title Insurance

Title insurance acquisition and cost shall be the sole responsibility of the Seller.

Section 14. Obligations Under the Cooperation Agreement.

The Parties acknowledge that the City and Agency have executed that certain Cooperation Agreement on March 4, 2011, through which the Agency agreed to make payments to the City for certain public improvements and facilities as allowed by Section 33445 of the Health and Safety Code, including the acquisition of land. In reliance on that contractual commitment the City is proceeding with this Agreement and the acquisition of the Property for which the City is entitled to reimbursement. Prior to and after the Close of Escrow the Seller hereby covenants and represents that it will perform all obligations owed pursuant to such Agreement.

Section 15. No Broker.

Buyer represents to the Seller that it has not engaged or used the services of any person firm or corporation that may claim a broker Agency or finder's fee upon execution of this Agreement. The Seller represents to the Buyer that it has not been represented by engaged or used the services of any person firm or corporation that may claim a broker Agency or finder's fee upon execution of this Agreement. The Buyer and the Seller each reciprocally as an Indemnitor agree to indemnify and hold the other as Indemnitee harmless from all expense loss damage and claims including the Indemnitee's attorney's fees if necessary arising out the Indemnitor's breach of the foregoing representation.

**Section 16. Redevelopment Use Cooperation and Disposition
Process for Proposed Redevelopment**

The City hereby covenants that following the Close of Escrow it will use the Property in a manner that is consistent with the Redevelopment Plan. Nothing in this Agreement shall limit the City's discretion in complying with all applicable requirements of CEQA.

Section 17. General Provisions.

a. Headings. The title and headings of the various sections hereof are intended as a means of reference and are not intended to place any construction on the provisions hereof.

b. Invalidity. If any provision of this Agreement shall be found by a court of competent jurisdiction to be invalid or unenforceable the remaining provisions shall not be affected thereby and every provision hereof shall be valid and enforceable to the fullest extent permitted by law.

c. Attorney's Fees. In the event of any litigation between the Parties hereto to enforce or interpret any of the provisions of this Agreement the prevailing party therein shall be entitled to recover from the unsuccessful party all costs and expenses including reasonable attorney's fees all of which may be included as part of the judgment rendered in such litigation.

d. Entire Agreement This Agreement supersedes all prior negotiations and agreements between the Parties and is intended by the Parties as a final expression of their agreement and may not be contradicted by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement constitute the final and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial proceedings involving this Agreement The Parties have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party including but not limited to Civil Code Section 1654 as may be amended from time to time shall not apply to this Agreement No provision of this Agreement may be amended except by an agreement in writing signed by the Parties hereto or their respective successors in interest. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in Yolo County, California.

e. Successors. This Agreement shall be binding upon and inure to the benefit of the heirs executors administrators successors and assigns of the Parties hereto.

f. Time of the Essence. Time is of the essence in this Agreement.

g. Cooperation of Parties The Buyer and the Seller shall during the Escrow period execute any and all other documents reasonably necessary or appropriate to close the purchase and sale pursuant to the terms of this Agreement.

h. Counterparts - Multiple Originals. This Agreement may be executed in counterparts and multiple originals each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date, March 15, 2011.

BUYER - CITY OF WINTERS, a General Law City and municipal Corporation

By: _____
W. Keith Fridae, Mayor

Attest: _____
Nanci G. Mills, City Clerk

SELLER - COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF WINTERS, a public body corporate and politic,

By: _____
Cecilia Aguiar-Curry, Chair

Attest:

By _____
Nanci G. Mills, CDA Secretary

APPROVED AS TO FORM:

John C. Wallace, Winters City Attorney

John C. Wallace, CDA Counsel

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

- 1) 318 Railroad Avenue (APN # 003 204 005) – current building tenant is JJ's Saloon
- 2) 314 Railroad Avenue (APN # 003 204 006) – current building tenant is Cody's Restaurant
- 3) 23 Main Street (APN # 003 204 012) – undeveloped lot
- 4) 110 East Baker Street (APN # 003 370 038 – 99 year ground lease (CDA owns the land) to Bruin Orchards LLC (CHOC) who constructed the Winters Village apartments (affordable multi-family).
- 5) Grant Avenue and East Street (APN #s 003 370 028, 003 370 029, & 003 370 030) – undeveloped parcels currently referred to as "Grant Avenue Commercial
- 6) 311 First Street (APN # 003 204 002) – lot that is improved with an unoccupied steel building

EXHIBIT A1

Purchase Price (Reduction in Debt Obligations owed to City by CDA)

- 1) 318 Railroad Avenue (APN # 003 204 005) – current building tenant is JJ's Saloon \$ [REDACTED]
- 2) 314 Railroad Avenue (APN # 003 204 006) – current building tenant is Cody's Restaurant \$ [REDACTED]
- 3) 23 Main Street (APN # 003 204 012) – undeveloped lot \$ [REDACTED]
- 4) 110 East Baker Street (APN # 003 370 038 – 99 year ground lease (CDA owns the land) to Bruin Orchards LLC (CHOC) who constructed the Winters Village apartments (affordable multi-family). \$ [REDACTED]
- 5) Grant Avenue and East Street (APN #s 003 370 028, 003 370 029, & 003 370 030) – undeveloped parcels currently referred to as "Grant Avenue Commercial" \$ [REDACTED]
- 6) 311 First Street (APN # 003 204 002) – lot that is improved with an unoccupied steel building \$ [REDACTED]

DELEGATION AND CONVEYANCE AGREEMENT

This DELEGATION AND CONVEYANCE AGREEMENT (this "Agreement"), dated as of March 15, 2011 (the "Effective Date") is entered into by and between the WINTERS COMMUNITY DEVELOPMENT AGENCY, a public body, corporate and politic (the "Agency"), and the CITY OF WINTERS, a municipal corporation (the "City").

RECITALS

A. Pursuant to the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.) (the "Redevelopment Law"), the Agency is undertaking a program for the redevelopment of blighted areas in the City.

B. A redevelopment plan (the "Redevelopment Plan") for a redevelopment project designated as the City of Winters Community Development Project Area (the "Project Area") has been duly approved and adopted by the City Council of the City.

C. Pursuant to Section 33205 of the Redevelopment Law, a redevelopment agency is authorized to delegate to a community any of the powers or functions of the agency with respect to the planning or undertaking of a redevelopment project in the area in which such community is authorized to act, and such community is authorized to carry out or perform such powers or functions for the redevelopment agency.

D. Pursuant to Section 33220(g) of the Redevelopment Law, any public entity, for the purpose of aiding and co-operating in the planning, undertaking, construction, or operation of redevelopment projects located within the area in which such public entity is authorized to act, may, with or without consideration, acquire land in a project area from a redevelopment agency for redevelopment in accordance with the redevelopment plan for such project area.

E. Pursuant to Section 33220(e) of the Redevelopment Law, a redevelopment agency may enter into agreements with any public entity respecting any action to be taken pursuant to any of the powers granted by the Redevelopment Law or any other law (and such agreement may extend over any period, notwithstanding any law to the contrary).

F. Pursuant to Section 33430 of the Redevelopment Law, a redevelopment agency may, within the survey area or for purposes of redevelopment, sell, transfer, assign or otherwise dispose of any real or personal property or any interest in property.

G. The Agency owns the fee interest in each of the real properties described in Exhibit A attached hereto and incorporated herein by reference (each individually, a "Property"; and collectively, the "Properties").

H. The City desires to aid, and cooperate with, the Agency in the planning, undertaking, construction and operation of redevelopment projects, and in that regard the Agency has determined to convey the Properties to the City and to delegate to the City the powers and functions of the Agency with respect to the planning and undertaking of redevelopment projects in accordance with the Redevelopment Plan, and the City has determined to accept the conveyance of the Properties and the Agency's delegation of its powers and functions.

NOW, THEREFORE, in reliance upon the foregoing Recitals, in consideration of the mutual covenants in this Agreement, the parties hereto agree as follows:

Section 1. Conveyance of Properties. The Agency shall convey all of its right, title and interest in and to the Properties to the City. The City shall accept such conveyance. The Agency shall execute and deliver a Quitclaim Deed or Quitclaim Deeds, substantially in the form attached hereto as Exhibit B, evidencing the conveyance of the Properties. The City shall execute the Certificate of Acceptance(s) attached to the Quitclaim Deed(s), evidencing the City's acceptance of the conveyance.

Section 2. Delegation of Redevelopment Functions and Powers. The Agency hereby delegates to the City all of the Agency's functions and powers conferred by law with respect to the planning and undertaking of redevelopment projects with respect to the Properties (including but not limited to, planning, development, re-planning, redesign, clearance, reconstruction, or rehabilitation, or any combination thereof, of the Properties; developing building sites on the Properties; providing residential, commercial, industrial, public, or other structures or spaces on the Properties or with respect to the Properties; altering, improving, modernizing, reconstructing, or rehabilitating, or any combination of these, of existing structures on the Properties; providing for open-space types of use on the Properties or with respect to the Properties; continuing existing buildings or uses on the Properties; selling or leasing the Properties or any improvements thereon; insuring the Properties and any improvements thereon; and renting, maintaining, managing, operating, and repairing the Properties and any improvements thereon).

The City hereby accepts this delegation and agrees to undertake the redevelopment of the Properties in a manner consistent with all applicable laws and the Redevelopment Plan (as they may be amended hereafter from time to time). It is hereby acknowledged and agreed that, upon acceptance of this delegation, so long as the City is not in violation of the law or the Redevelopment Plan, the City shall have absolute discretion regarding the exercise by the City of the functions and powers delegated to it pursuant to this Agreement, including, without limitation, the determination of specific actions to be undertaken by the City with respect to the redevelopment of the Properties, and the manner and timing of undertaking such actions. Prior to commencement of work on any redevelopment project, all necessary environmental review required by the California Environmental Quality Act ("CEQA") shall be completed. This Agreement in no way limits the discretion of the Planning Commission of the City, the Agency Board or the City Council of the City in completing environmental review of such projects.

Section 3. Payments by the Agency.

(a) The Agency and the City agree that the Agency shall bear, and reimburse the City for, all costs of the acquisition, condition, use, possession, ownership, operation, maintenance, and redevelopment of the Properties by the City pursuant to this Agreement (including, without limitation, costs incurred by the City in the performance of any contractual or other obligations either imposed by operation of law or expressly or impliedly assumed by the City and arising from (i) the acceptance of the delegation of the functions and powers of the Agency hereunder, or (ii) the ownership, use or possession of the Properties) and the costs, if any, incurred by the City in connection with the enforcement of this Agreement. To the extent

that the City incurs any such costs, the City may advance its own funds to pay for such costs, and from time to time submit invoices (including itemized statements) showing the costs due to be paid by the Agency. Such amounts may include progress payments.

(b) The Agency shall pay to the City all amounts due hereunder within a reasonable time after the submission of each statement to the Agency pursuant to Section 3(a).

(c) Notwithstanding the foregoing, to the extent that another agreement entered into by the Agency and the City also provides for the reimbursement by the Agency of certain costs incurred with respect to the redevelopment of a Property, the City may elect to receive reimbursement for such costs under either this Agreement or the other agreement.

(d) For any and all amounts due to the City under this Agreement, the Agency shall make such payments from (i) tax increment generated in the Project Area and eligible to be allocated to the Agency pursuant to the Redevelopment Law, or to any successor agency or entity of the Agency and/or any entity established by law to expend tax increment or pay indebtedness of the Agency; (ii) available proceeds of tax allocation bonds or other obligations of the Agency; (iii) available proceeds from loans or other obligations which constitute indebtedness of the Agency repayable from tax increment (as described in the foregoing clause (i)); or (iv) any other available funds of the Agency. Amounts not paid by the Agency to the City within 30 days of demand therefor pursuant to this Agreement shall bear interest at the rate then paid to the City on its funds invested in the Local Agency Investment Fund ("LAIF"), plus one and one-half percent per annum from the date of such demand to the date of repayment. In any event, all amounts due hereunder shall be due and payable to the City by the date established in the Redevelopment Plan (as it exists as of the date of this Agreement) the repayment of indebtedness with respect to the Project Area.

(e) Proceeds from the sale or lease of the Properties, if any, received by the City shall be retained by the City and applied by the City to pay for, or reimburse the City for, the costs incurred by the City pursuant to this Agreement, as described in paragraph (a) of this Section 3, and/or, at the discretion of the City to repay existing indebtedness of the Agency to the City.

(f) The payment obligations of the Agency under this Agreement (including without limitation, reimbursements to the City with respect to the redevelopment of each Property or in connection with enforcement of this Agreement, or payments relating to the Agency's indemnification obligations contained herein) shall constitute an indebtedness of the Agency for the purpose of carrying out the Redevelopment Plan for the Project Area. The parties acknowledge and agree that the Agency's obligation to pay to or for the benefit of the City all amounts due hereunder, shall, without the necessity of further action by the Agency or the City, be junior and subordinate to all other obligations or indebtedness heretofore or hereafter voluntarily incurred by the Agency, including bonds or loans secured by a pledge of tax increment revenues derived from the Project Area, and to all pre-existing statutory obligations of the Agency pursuant to Section 33607.5 33607.7 or 33676 of the Redevelopment Law (or successor statutes).

Section 4. Nondiscrimination. The City covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through them, 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 California 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 California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the City, or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.

All deeds, leases or contracts entered into with respect to each Property shall contain or be subject to substantially the following nondiscrimination/nonsegregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, 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 California 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 California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the Grantee himself or herself, or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph."

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California

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 California Government Code, in the leasing, subleasing, transferring, use or occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee 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, lessees, sublessees, subtenants or vendees in the premises herein leased.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph."

(c) In contracts: "The contracting party or parties hereby covenant by and for himself or herself and their respective successors and assigns, 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 California 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 California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the contracting party or parties, any subcontracting party or parties, or their respective assigns or transferees, establish or permit any such practice or practices of discrimination or segregation.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph."

Section 5. Indemnification.

(a) The Agency agrees, to the fullest extent permitted by law but subject to Section 5(b) below, to indemnify, defend and hold harmless the City and its council members, officers, employees and agents from and against any and all losses, claims, damages, liabilities, penalties, fines, forfeitures or expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees), of every kind, character and nature whatsoever, including, but not limited to, those arising out of, resulting from or in any way connected with (a) the acquisition, condition, ownership, use, possession or redevelopment of the Properties or any part thereof; (b) the implementation of the Redevelopment Plan related to such redevelopment of the Properties; (c) any other action taken by the City in the exercise of the functions and powers delegated to it by the Agency under this Agreement or to carry out the purpose of this Agreement; (d) any breach or default by the Agency hereunder; (e) any of the Agency's activities on the Properties (or the activities of the Agency's agents, employees, lessees, representatives, licensees, guests, invitees, contractors, subcontractors, or independent

contractors on the Properties), regardless of whether such losses and liabilities shall accrue or are discovered before or after termination or expiration of this Agreement; and (f) the presence or clean-up of hazardous substances on, in or under the Properties. The Agency further agrees, to the fullest extent permitted by law, to pay or to reimburse the City and its council members, officers, employees and agents for any and all costs, reasonable attorney's fees, liabilities or expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, expenses or actions.

The Agency shall defend, at its expense, including attorney's fees, the City and its council members, officers, employees and agents in any legal action based upon such alleged acts or omissions. The City may in its discretion participate in the defense of any such legal action.

The Agency's indemnity obligations contained in this Section 4(a) shall survive the termination or expiration of this Agreement.

(b) In contemplation of the provisions of California Government Code Section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Government Code Section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve the above-stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, cost or expenses that may be incurred by such other party solely by reason of Government Code Section 895.2.

Section 6. Default.

(a) If either party fails to perform or adequately perform an obligation required by this Agreement within thirty (30) calendar days of receiving written notice from the non-defaulting party, the party failing to perform or adequately perform shall be in default hereunder. All notices of defaults shall clearly indicate a notice of default under this Agreement.

(b) In the event of default, the non-defaulting party will have all the rights and remedies available to it at law or in equity to enforce the provisions of this Agreement, including without limitation, the right to sue for damages for breach of contract. The rights and remedies of the non-defaulting party enumerated in this paragraph are cumulative and shall not limit the non-defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of the Agreement or hereinafter enacted or established, that may be available to the non-defaulting party against the defaulting party.

(c) Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its rights to institute and maintain any actions or

proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. The acceptance by a party of less than the full amount due from the other party shall not constitute a waiver of such party's right to demand and receive the full amount due, unless such party executes a specific accord and satisfaction.

Section 7. Nonliability of Officials and Employees. No Agency member, Councilmember, and no official, agent, or employee of the Agency or the City shall be personally liable to the other parties, or any successor in interest, in the event of any default or breach by the Agency or the City, or for any amount which may become due to the City or Agency, or successor thereto, or on any obligations under the terms of this Agreement.

Section 8. Law Governing. This Agreement is made in the State of California under the constitution and laws of the State of California, and is to be so construed.

Section 9. Severability. Each and every provision of this Agreement is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected hereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 10. Entire Agreement, Waivers and Amendments. This Agreement, together with all attachments and exhibits hereto, constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the subject matter hereof. No subsequent agreement, representation or promise made by either party hereto, or by or to any employee, officer, agent or representative of either party, shall be of any effect unless it is in writing and executed by the party to be bound thereby. No person is authorized to make, and by execution hereof the City and the Agency acknowledge that no person has made, any representation, warranty, guaranty or promise except as set forth herein; and no agreement, statement, representation or promise made by any such person which is not contained herein shall be valid or binding on the City or the Agency.

Section 11. Future Cooperation. The City and the Agency agree to take all appropriate actions and execute and, if appropriate, record any documents which may reasonably be necessary or convenient to implement the intent of this Agreement.

Section 12. Survival. The provisions hereof shall not terminate but rather shall survive any conveyance hereunder.

Section 13. Binding on Successors. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding on the parties hereto and their successors and assigns.

Section 14. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of, and shall be binding upon, the parties and their respective

successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

Section 15. Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**WINTERS COMMUNITY DEVELOPMENT
AGENCY**

By _____
Chairperson

ATTEST:

Secretary

CITY OF WINTERS

By _____
Mayor

ATTEST:

City Clerk

EXHIBIT A

LEGAL DESCRIPTION

- 1) 318 Railroad Avenue (APN # 003 204 005) – current building tenant is JJ's Saloon
- 2) 314 Railroad Avenue (APN # 003 204 006) – current building tenant is Cody's Restaurant
- 3) 23 Main Street (APN # 003 204 012) – undeveloped lot
- 4) 110 East Baker Street (APN # 003 370 038 – 99 year ground lease (CDA owns the land) to Bruin Orchards LLC (CHOC) who constructed the Winters Village apartments (affordable multi-family).
- 5) Grant Avenue and East Street (APN #s 003 370 028, 003 370 029, & 003 370 030) – undeveloped parcels currently referred to as "Grant Avenue Commercial
- 6) 311 First Street (APN # 003 204 002) – lot that is improved with an unoccupied steel building

EXHIBIT B
FORM OF QUITCLAIM

(attached hereto)

Exhibit B-1

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Winters Community Development Agency
318 First Street
Winters, California 95694
Attn.: Executive Director

APN: _____

[SPACE ABOVE FOR RECORDER'S USE ONLY]

QUITCLAIM DEED

This transfer is exempt from Documentary Transfer Tax pursuant to Revenue & Taxation Code Section 11922, and exempt from Recording Fees pursuant to California Government Code Section 6103.

FOR A VALUABLE CONSIDERATION, receipt and sufficiency of which are hereby acknowledged, the **WINTERS COMMUNITY DEVELOPMENT AGENCY**, a public body, corporate and politic, does hereby REMISE, RELEASE AND FOREVER QUITCLAIM to the **CITY OF WINTERS**, a municipal corporation ("City"), all of its right, title and interest in, under and to that certain real property located in the County of Yolo, State of California, more particularly described on Exhibit A attached hereto, and all improvements and fixtures located thereon.

IN WITNESS WHEREOF, the undersigned has executed this Quitclaim Deed as of the date set forth below.

Dated: _____, 20__

**WINTERS COMMUNITY DEVELOPMENT
AGENCY**, a public body, corporate and politic

By: _____
Name: _____
Title: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF YOLO)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

SEAL:

**Exhibit A
to Quitclaim Deed**

LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN IS SITUATED IN THE CITY OF WINTERS, STATE OF CALIFORNIA, COUNTY OF YOLO, DESCRIBED AS FOLLOWS:

- 1) 318 Railroad Avenue (APN # 003 204 005) – current building tenant is JJ's Saloon
- 2) 314 Railroad Avenue (APN # 003 204 006) – current building tenant is Cody's Restaurant
- 3) 23 Main Street (APN # 003 204 012) – undeveloped lot
- 4) 110 East Baker Street (APN # 003 370 038 – 99 year ground lease (CDA owns the land) to Bruin Orchards LLC (CHOC) who constructed the Winters Village apartments (affordable multi-family).
- 5) Grant Avenue and East Street (APN #s 003 370 028, 003 370 029, & 003 370 030) – undeveloped parcels currently referred to as "Grant Avenue Commercial"
- 6) 311 First Street (APN # 003 204 002) -- lot that is improved with an unoccupied steel building

CERTIFICATE OF ACCEPTANCE
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed to the City of Winters by that certain Quitclaim Deed dated March 15, 2011, executed by the Winters Community Development Agency is hereby accepted by the undersigned office on behalf of the City of Winters pursuant to the authority conferred by the City of Winters at the City Council meeting held on March 15, 2011, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2011

CITY OF WINTERS,
a municipal corporation

By: _____
Name: W. Keith Fridae
Title: Mayor

Attest:

Nanci G. Mills, Winters City Clerk



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members

DATE: March 15, 2011

FROM: John W. Donlevy, Jr., City Manager *JD*

SUBJECT: Resolution No. 2011-21 A Resolution of the City Council of the City of Winters authorizing execution of a Cooperation Agreement for Payment of Posts Incurred by the City Associated with Certain Agency-funded Capital Improvement and Affordable Housing projects.

RECOMMENDATION: That the City Council receive the report and approve Resolution 2011-21 A Resolution of the City Council of the City of Winters authorizing execution of a Cooperation Agreement for Payment of Posts Incurred by the City Associated with Certain Agency-funded Capital Improvement and Affordable Housing projects.

BACKGROUND: The City of Winters and the CDA have historically utilized the budget process, Capital Improvement Plan, and other specific Agency agreements including Disposition and Development Agreements (DDA) for affordable housing and other projects, and planning tools including the Downtown Master Plan, in order to prioritize, create, fund and ultimately construct projects consistent with the goals and objectives of the Winters Community Development Project Implementation Plan (2009-2013).

The Winters Community Development Agency Project Area Plan was created to eliminate blight and blighting influences within the City and Project Area, as set forth in the Plan.

The action is deemed necessary because within the Project Area there presently exists an inadequate circulation system; mixed and shifting land uses; inappropriate and fragmented parcelization; physical deterioration of property; and inadequate public improvements, including needed flood control and storm drainage facilities, recreation improvements, traffic signalization and calming, street reconstruction, curb, gutter and sidewalk construction, parking facilities, street lighting and municipal services facilities—all of which inhibit proper and desirable development of the Project Area.

In order to achieve these goals, the CDA has identified objectives that are designed to alleviate blighting conditions in the project area:

- To provide a stable, diversified and stronger economic base for the Project Area and Community.
- To provide safer, more efficient, and economical movement of persons and goods within the Project Area and community.
- To conserve and improve existing public facilities and to provide such new facilities as needed for the improvement of the Project Area.
- To enhance the physical environment of the Project Area and to emphasize its favorable environmental characteristics.
- To maximize opportunities for the revitalization, expansion and development of commercial and industrial uses within the Project Area.
- To improve and increase the community's supply of affordable housing in a manner consistent with the Housing Element of the General Plan and the policies of the Community Redevelopment Law.
- To accomplish these goals with minimum displacement of any property owner, resident or business person who may wish to remain within the Project Area.

CDA Programs

To achieve these goals and objectives, the CDA has identified current redevelopment projects and activities in the project area for the five-year period of the Winters Community Development Agency Project Implementation Plan (2009-2013). The programs and projects fall under the following categories:

- Public infrastructure;
- Public facilities;
- Economic development;
- Project area planning; and
- Property disposition and development.

The City and CDA have worked tirelessly and cooperatively on development of certain public improvements and projects in the Project Area since the inception of the Winters Community Development Agency. Nearly \$10 million in CDA bond proceeds and net tax increment revenues have resulted in public improvements, affordable housing and other projects including:

- Downtown Parking Lot;
- Railroad Trestle Bridge Rehabilitation;
- Downtown Streetscape Improvements Phase I;
- Winters Community Library;
- Main Street Village Parking Easement;
- Façade Improvement projects
- Lease Assistance program
- Visitors Center
- Amphitheater

- Patio Cover at Community Center
- Rotary Park improvements
- Tennis Courts
- Bobbie Greenwood Swim Center
- Little League lights
- Public Safety Facility
- Grant Avenue Commercial project
- Rominger School softball field
- Property purchases at 311 First Street, 23 Main Street, 314 and 318 Railroad Avenue
- Winters Village I and II;
- Winters Village Land Acquisition;
- Almondwood Apartments;
- Cottage Circle Affordable Housing;
- Down Payment Assistance;
- First Time Homebuyer Program

The action before the City Council and CDA Board is to adopt the Cooperative Agreement in order to formalize certain funding obligations of projects in order to contractually obligate CDA funding sources or clarify obligations in instances where a contract may already exist and amplification is prudent.

Section 33445 Findings:

Community Redevelopment Law, California Health and Safety Code Section 33445, allows an Agency, with the consent of the City, to pay all or a portion of the cost of land and the cost of construction of any building, facility, structure, or improvements that are publically owned and located within a project area if the City Council makes specified findings. Details related to the findings are provided for each project in Exhibit X to the Agreement. The required findings are outlined below:

1. The project improvements benefit the Project Area by eliminating blight or assisting with the provision of affordable housing.
 - a. All of the projects are located within the Project Area and will provide benefits that lead to new jobs, an enhanced tax base, the elimination of blight or the creation of affordable housing.
2. No other reasonable means of funding is available for the projects.
 - a. The City and State do not have the resources to fund the projects, and staff is not aware of any grant or private source of funding.
3. The projects are consistent with the implementation plan pursuant to Section 33490.
 - a. All of the projects are consistent with the goals identified in the Winters Community Development Agency Project Implementation Plan (2009-2013).

FISCAL IMPACT: The adoption of the Cooperation Agreement for Payment of Costs Incurred by the City Associated with Certain Agency-Funded Capital Improvement and

Affordable Housing Projects (the "Agreement") is intended to contractually obligate and protect the existing funds of the City of Winters Community Development Agency in addition to future net tax increment funds that were anticipated and are necessary in order to carry out certain projects. The total cost of the projects contained within the Agreement is estimated at \$14,273,250. This action involves adoption of resolutions making required findings and approval of the Agreement to memorialize a governmental funding mechanism for various public improvements, but does not commit the City or CDA to the development of any specific public improvement.

ATTACHMENTS:

Resolution No. 2011-21

Cooperation Agreement

RESOLUTION NO. 2011 - 21

A RESOLUTION OF THE WINTERS CITY COUNCIL AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSING PROJECTS.

WHEREAS, the City Council of the City of Winters (the "City Council") activated the Winters Community Development Agency through the adoption of Ordinance No. 90-06 and on July 20, 1992, with the adoption of Ordinance No. 92-08 approved a redevelopment plan (the "Redevelopment Plan") and designated the Winters Community Development Project Area (the "Project Area") which resulted in the allocation of taxes from the Project Area to the Winters Community Development Agency (the "Agency") for purposes of redevelopment. On October 4, 1994, pursuant to Ordinance No. 94-11 the Redevelopment Plan was amended and restated to bring the Redevelopment Plan into conformance with the Community Redevelopment Law Reform Act of 1993 (A.B. 1290); and

WHEREAS, the intent of the Redevelopment Plan is in part, to provide for the construction and installation of necessary public infrastructure and facilities and to facilitate the repair, restoration and/or replacement of existing public facilities and to perform specific actions necessary to promote the redevelopment and the economic revitalization of the Project Area; and to increase, improve and preserve the community's supply of low and moderate income housing, some of which may be located or implemented outside the Project Area; and to take all other necessary actions to implement the Redevelopment Plan for the Project Area and to expend tax increment to accomplish the goals and objectives of the respective redevelopment projects; and

WHEREAS, the Agency has adopted its Five-Year Implementation Plan for the Project Area, as may be amended from time to time (the "Implementation Plans") with established goals to support affordable housing, economic development, community revitalization, commercial revitalization, and institutional revitalization. To implement the programs and activities associated with each goal, the Agency has made redevelopment fund commitments based on estimated available tax increment revenue and debt financing structures; and

WHEREAS, the City Council wishes to cooperate with the Agency to bring about the redevelopment of the Project Area and accomplish various tasks set forth in the Redevelopment Plan and the Implementation Plan; and

WHEREAS, pursuant to Section 33220 of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) (the "CRL"), any public body may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects; and

WHEREAS, the Agency and the City have prepared a Cooperation Agreement (the "Agreement") to provide for implementation of certain projects set forth in the "Winters Community Development Agency Project Summary Profile" attached to the Agreement as Exhibit A (the "Projects"), and to make payments by the Agency to the City as necessary to reimburse the City for the cost to the City of performing its obligations there under, subject to all

of the terms and conditions of the Agreement (which Agreement and all exhibits are incorporated herein by reference as Attachment No. 1); and

WHEREAS, the programs and activities associated with the Projects include, but are not limited to, acquisition and disposition of property, development of design criteria, design, planning, preparation of construction bid documents, financial analysis, financing and new construction or rehabilitation. To carry out the Projects in accordance with the objectives and purposes of the Redevelopment Plan for the Project Area and the Implementation Plan, the Agency desires assistance and cooperation in the implementation and completion of the Projects. The City wishes to enter into the Agreement with the Agency to aid the Agency and cooperate with the Agency to expeditiously implement the Projects in accordance with the Redevelopment Plan for the Project Area and the Implementation Plan and undertake and complete all actions necessary or appropriate to ensure that the objectives of the Redevelopment Plan for the Project Area and the Implementation Plan are fulfilled within the time effectiveness of the Project Area; and

WHEREAS, in considering the Agency's desire to ensure timely implementation and completion of the Projects, the Agency wishes to enter into the Agreement with the City for the pledge of net available tax increment to finance the Projects. The purpose of the Agreement is to facilitate the implementation of the Projects and to provide funding necessary to effectuate the completion of the Projects with and available bond proceeds or available net available tax increment in this current fiscal year and forthcoming fiscal years; and

WHEREAS, net available tax increment is defined as any tax increment, net of existing debt service payments, and existing contractual obligations received by the Agency or any lawful successor of the Agency and/or to any of the powers and rights of the Agency pursuant to any applicable constitutional provision, statute or other provision of law now existing or adopted in the future. The pledge of net available tax increment will constitute obligations to make payments authorized and incurred pursuant to Sections 33445 and 33445.1 of the CRL and other applicable statutes. The obligations set forth in the Agreement will be contractual obligations that, if breached, will subject the Agency to damages and other liabilities or remedies; and

WHEREAS, by approving and entering into the Agreement, the Agency will approve the pledge of net available tax increment from the Project Area to pay for the Projects; and

WHEREAS, the obligations of the Agency under the Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the Redevelopment Plan for the Project Area; and

WHEREAS, it is in the best interests of the City and for the common benefit of residents, employees, business tenants and property owners within the Project Area and the City as a whole for the Projects to be developed and constructed; and

WHEREAS, the Agency's low and moderate income housing fund for any portion of the Projects located outside of the Project Area are in accordance with Section 33334.2 of the CRL because the use of such funds will be of benefit to the Project Area; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE THE CITY OF WINTERS CITY COUNCIL DEOES HEREBY RESOLVE, as follows:

Section 1. The City has received and heard all oral and written objections to the proposed payments by the Agency to the City for the Projects as described in the Agreement, and to other matters pertaining to this transaction, and all such oral and written objections are hereby overruled.

Section 2. The City hereby finds and determines that the foregoing recitals are true and correct and are incorporated herein by reference.

Section 3. Based on the evidence in the record, the City hereby finds and determines, with respect to the Projects that are publicly owned and are located inside or contiguous to the respective project area as identified in Exhibit A attached to the Agreement, that: (a) Said Projects and the programs and activities associated therewith are of benefit to the respective Project Area by helping to eliminate blight within the project area or providing housing for low- or moderate income persons; and (b) No other reasonable means of financing said Projects and the programs and activities associated therewith are available to the community; and (c) The payment of funds by the Agency to the City for the costs related to said Projects and the programs and activities associated therewith is consistent with the Implementation Plan adopted pursuant to Section 33490 of the CRL.

Section 4. Based on the evidence in the record, the City hereby finds and determines, with respect to the use of low- and moderate income funds for the Projects located outside of the Project Areas that such use will be of benefit to the Project Areas in accordance with Section 33334.2 of the CRL.

Section 5. The City hereby consents to accept the payments by Agency to City.

Section 6. The Agreement in substantially the form presented to the City is hereby approved, a copy of which is on file with the City Clerk.

Section 7. The City Manager, or designee, is hereby authorized to execute the Agreement on behalf of the City, together with such non-substantive changes and amendments as may be approved by the City Manager and City Attorney.

Section 8. The City Manager, or designee, is hereby authorized, on behalf of the City, to sign all documents necessary and appropriate to carry out and implement the Agreement, and to administer the Agency's obligations, responsibilities and duties to be performed under the Agreement.

Section 9. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED THIS 15th DAY OF March, 2011, BY THE FOLLOWING
VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

Keith W. Fridae, MAYOR

ATTEST:

Nanci G. Mills, CITY CLERK

COOPERATION AGREEMENT FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSING PROJECTS

THIS COOPERATION AGREEMENT FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSING PROJECTS (the "Agreement") is entered into this 4th day of March, 2011, by and between the CITY OF WINTERS (the "City") and the WINTERS COMMUNITY DEVELOPMENT AGENCY (the "Agency"), with reference to the following facts:

RECITALS

- A. The Agency has approved a redevelopment plan (the "Redevelopment Plan" for the Winters Community Development Project Area, which results in the allocation of taxes from the Project Area to the Agency for purposes of redevelopment.
- B. The City Council of the City of Winters (the "City Council") activated the Winters Community Development Agency through the adoption of Ordinance No. 90-06 and on July 20, 1992, with the adoption of Ordinance No. 92-08 approved the Redevelopment Plan and designated the Winters Community Development Project Area (the "Project Area"). On October 4, 1994, pursuant to Ordinance No. 94-11 the Redevelopment Plan was amended and restated to bring the Redevelopment Plan into conformance with the Community Redevelopment Law Reform Act of 1993 (A.B. 1290). The adoption of the Redevelopment Plan has resulted, and will continue to result, in the allocation to the Agency of certain property-based taxes generated from the Project Area (the "tax increment") in accordance with California Community Development Law, set forth at California Health and Safety Code Sections 33000 et seq. (the "CRL"). The Agency has used, and will continue to use, tax increment for the purpose of "redevelopment" as defined in the CRL.
- C. The intent of the Redevelopment Plan is, in part, to provide for the construction and installation of necessary public infrastructure and facilities and to facilitate the repair, restoration and/or replacement of existing public facilities and to perform specific actions necessary to promote the redevelopment and the economic revitalization of the Project Area; and to increase, improve and preserve the community's supply of low and moderate income housing, some of which may be located or implemented outside of the Project Area; and to take all other necessary actions to implement the Redevelopment Plan for the Project Area and to expend tax increment to accomplish the goals and objectives of the Redevelopment Plan.
- D. The Agency has adopted its Five-Year Implementation Plan for the Project Area (the "Plan") with established goals to support affordable housing, economic development, community revitalization, commercial revitalization, and institutional revitalization. To implement the programs and activities associated with each goal, the Agency has made redevelopment fund commitments based on estimated available tax increment revenue and debt financing structures.

- E. Pursuant to Health & Safety Code Section 33220, any public body, including the City, may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects. Collectively, the projects associated with this Agreement are listed in the attached Exhibit A, which exhibit is incorporated herein by this reference, (the "Projects").

The programs and activities associated with the Projects include, but are not limited to, administration, acquisition and disposition of property, development of design criteria, design, planning, feasibility studies, permitting, preparation of construction bid documents, financial and economic analysis, financing, new construction, rehabilitation of existing improvements and structures, remediation of hazardous materials, elimination or removal of blighting conditions, and monitoring and enforcement of affordable housing covenants and other requirements pursuant to applicable law. To carry out the Projects in accordance with the objectives and purposes of the Redevelopment Plan for the Project Area and the Plan, the Agency desires assistance and cooperation in the implementation and completion of the Projects.

The City agrees to aid the Agency and cooperate with the Agency to expeditiously implement the Projects in accordance with the Redevelopment Plan for the Project Area and the Plan and to undertake and complete all actions necessary or appropriate to ensure that the objectives of the Redevelopment Plan for the Project Area and the Plan are fulfilled within the time effectiveness of the Project Area.

- F. In considering the Agency's desire to ensure timely implementation and completion of the Projects, the Agency wishes to enter into this Agreement with the City for the pledge of net available tax increment to finance the Projects. The purpose of this Agreement is to facilitate the implementation of the Projects and to provide funding necessary to effectuate the completion of the Projects with any existing bond proceeds or net available tax increment in this current fiscal year and forthcoming fiscal years.
- G. Net available tax increment is defined as any tax increment, net of existing debt service payments, and existing contractual obligations received by the Agency or any lawful successor of the Agency and/or to any of the powers and rights of the Agency pursuant to any applicable constitutional provision, statute or other provision of law now existing or adopted in the future. The pledge of net available tax increment will constitute obligations to make payments authorized and incurred pursuant to Health and Safety Code Section 33445 and other applicable statutes. The obligations set forth in this Agreement will be contractual obligations that, if breached, will subject the Agency to damages and other liabilities or remedies.
- H. The City Council (the "Council") and the Agency by resolution have each found that the use of Agency redevelopment funding for the Projects is in accordance with Sections 33445 and 33445.1 of the California Community Redevelopment Law (Health & Safety Code Section 33000 et seq.) ("CRL") and all other applicable laws. The said Council and Agency resolutions are each based on the authority of the Agency, with the consent of the Council, to pay all or part of the cost of the installation and construction of any building,

facility, structure, or other improvements which are publicly owned either within or outside of a project area, if the Council makes certain determinations.

- I. By approving and entering into this Agreement, the Agency has approved the pledge of net available tax increment from the Project Area to pay for the Projects.
- J. The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the Redevelopment Plan for the Project Area.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1.0 INCORPORATION OF RECITALS

The recitals above are an integral part of this Agreement and set forth the intentions of the parties and the premises on which the parties have decided to enter into this Agreement and are hereby incorporated by reference.

2.0 PROJECTS

The Projects are those projects, including capital improvement projects ("Capital Improvements"), which are listed in the "Winters Community Development Agency Project Summary Profile" which is attached hereto as Exhibit A. These Projects are all consistent with the Implementation Plan as updated and amended and the City's Public Facilities Financing Plan pursuant to AB 1290.

3.0 AGENCY REIMBURSEMENT OF CITY COSTS

The Agency agrees to pay to the City an amount equal to the cost to the City to carry out the Projects ("City Costs") including, without limitation, all costs incurred by the City for the planning, financing, development, permitting, design, site testing, bidding, construction and construction management of the Capital Improvements.

4.0 INDEBTEDNESS OF AGENCY

4.1 Agency's Obligations are Debt of Agency. The Agency's obligations under this Agreement including, without limitation, the Agency's obligation to make the payments to the City required by this Agreement, shall constitute an indebtedness of the Agency for the purpose of carrying out the redevelopment of the Project Area and are obligations to make payments authorized and incurred pursuant to Section 33445 and other applicable statutes.

The obligations of the Agency set forth in this Agreement are contractual obligations that, if breached, will subject the Agency to damages and other liabilities or remedies.

4.2 Source of Funds. The obligations of Agency under this Agreement shall be payable out of any existing bond proceeds or net available tax increments, as defined in the above recitals and/or as defined or provided for in any applicable constitutional provision, statute or other provision of law now existing or adopted in the future, levied by or for the benefit of taxing agencies in the Project Area, and allocated to the Agency and/or any lawful successor entity of the Agency and/or any entity established by law to carry out any of the redevelopment plan for the Project Area and/or expend tax increment or pay indebtedness of the Agency to be repaid with tax increment, pursuant to CRL Section 33670, et seq., or any applicable constitutional provision, statute or other provision of law now existing or adopted in the future.

4.3 Subordination of Debt to Existing Bonds. The indebtedness of Agency under this Agreement shall be subordinate to the rights of the holder or holders of any existing bonds, notes or other instruments of indebtedness (all referred to herein as "indebtedness") of the Agency incurred or issued to finance the Project Area including, without limitation, any pledge of tax increment revenues from the Project Area to pay any portion of the principal (and otherwise comply with the obligations and covenants) of any bond or bonds issued or sold by Agency with respect to the Project Area.

5.0 PAYMENTS TO CITY

5.1 Payment Schedule. All payments due to be made by the Agency to the City under this Agreement shall be made by the Agency in accordance with the "Payment Schedule" provided within Exhibit B. All payments shall be necessary to pay the City for the costs incurred by the City of performing its obligations hereunder, whether paid in advance or in arrears.

5.2 Quarterly Report. City shall provide Agency with a quarterly report outlining (i) City costs for Projects undertaken during the prior quarter for which City should be reimbursed; (ii) Project costs projected to be incurred in the next quarter; (iii) a reconciliation of all City costs for the Project to date, showing additional amounts due to City and any overage payments which City shall deduct from sums due. Quarterly reports shall be accompanied by evidence reasonably satisfactory to the Agency's Executive Director that the City has progressed in the development and construction of any Projects for which payment is made by the Agency commensurate with such payments and has incurred costs or obligations to make payments equal to or greater than such amount. Additionally, advances may be paid in accordance with projected expenditures provided that there shall be on-going reconciliation each quarter. Cost accounting shall be kept separate for each Project.

6.0 CITY OBLIGATION FOR USE OF FUNDS

The City shall accept any funds offered by the Agency pursuant to this Agreement and shall devote those funds to completion of the Projects by (i) reimbursing the City or using such funds to make City expenditures to perform the work required to carry out and complete the Projects; (ii) utilizing such funds to pay debt service on bonds or other indebtedness or obligations that the City has or will incur for such purposes; and/or (iii) paying such funds into a special fund of the

City to be held and expended only for the purpose of satisfying the obligations of the City hereunder.

7.0 TIMELY PERFORMANCE

The City shall timely complete the work required for each Project.

8.0 COMPLIANCE WITH LAW

The City shall carry out the Projects hereunder in accordance with the applicable provisions of federal, state and local laws, including the obligation to comply with environmental laws such as CEQA.

9.0 DELEGATION OF AUTHORITY

Agency hereby appoints City to act as its agent in carrying out the Agency's duties hereunder, to the full extent permitted by the CRL. The City is required to fulfill these obligations in accordance with the intent and purposes of the CRL, to the same extent as if the Agency were performing such duties. In addition, City shall be deemed to be the successor agency to the Agency under the CRL. It is the responsibility of City to pay all development and construction costs in connection with the Projects, which costs shall be reimbursed from funds paid to the City by the Agency under this Agreement.

10.0 LIABILITY AND INDEMNIFICATION

In contemplation of the provisions of California Government Code Section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Government Code Section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve the above-stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, cost or expenses that may be incurred by such other party solely by reason of Government Code Section 895.2.

11.0 ENFORCEMENT

11.1 Notice. If either party fails to perform or adequately perform an obligation required by this Agreement within thirty (30) calendar days of receiving written notice from the non-defaulting party, the party failing to perform shall be in default hereunder. All notices of defaults shall clearly indicate a notice of default under this Agreement.

11.2 Remedies. In the event of default, the non-defaulting party will have all the rights and remedies available to it at law or in equity to enforce the provisions of this contract, including without limitation the right to sue for damages for breach of contract. The rights and remedies of the non-defaulting party enumerated in this paragraph are cumulative and shall not limit the non-defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of the Agreement or hereinafter enacted or established, that may be available to the non-defaulting party against the defaulting party.

11.3 Choice Law/Venue. This Agreement is made in the State of California under the constitution and laws of the State of California, and is to be so construed. Legal actions must be instituted and maintained in the Superior Court of the County of Yolo State of California, in any other appropriate court in that county, or in the Federal District Court in the Central District of California.

11.4 Waiver. No delay or omission in the exercise of any right or remedy by on-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement

12.0 MISCELLANEOUS

12.1 Integration. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement.

12.2 No Third Party Beneficiary. This Agreement is intended solely for the benefit of the City and the Agency. Notwithstanding any reference in this Agreement to persons or entities other than the City and the Agency, there shall be no third party beneficiaries under this Agreement.

12.3 Amendment. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

12.4 Severability. If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

12.5 Binding on Successors. This Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the parties, whether by agreement or operation of law.

12.6 Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

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

CITY OF WINTERS

Keith W. Fridae, Mayor

ATTEST

Nanci G. Mills, City Clerk

John W. Donlevy, Jr., City Manager

WINTERS COMMUNITY DEVELOPMENT AGENCY

Cecilia M. Aguiar-Curry- Chairperson

ATTEST

Nanci G. Mills, Community Development Agency Secretary

APPROVED AS TO FORM:

John C. Wallace, City Attorney and Agency Counsel

Winters Community Development Agency Project Summary Profile

Project#	Project Title	Cost
1	New Joint Police/Fire Station(Complete Project in process)	\$ 8,500,000
2	Community Center Rehabilitation	\$ 750,000
3	Blue Oak Park Restrooms	\$ 70,500
4	City Park Improvements	\$ 127,500
5	Valley Oak Park Improvments	\$ 71,250
6	Widen Railroad Ave County Rd 32A to Grant Ave	\$ 1,233,000
7	Widen Grant Avenue Dry Creek to W Main	\$ 634,500
8	Downtown Streetscape Phase II	\$ 250,000
9	Baker Street Infrastructure Improvements (Grant Ave Property)	\$ 750,000
10	Traffic Signal at Grant and East Main St	\$ 119,500
11	Water Main Improvements- Main Street	\$ 1,472,000
12	Water Main Improvments East St to Well #2	\$ 76,000
13	Water Main Improvements-Edwards Street	\$ 836,000
14	Water Main Improvements- Fourth Street	\$ 304,000
15	Sewer Lines Railroad -Coutny Rd 22 to Anderson	\$ 252,000
16	Sewer Lines Taylor Street	\$ 77,000
17	Neighborhood Stabilisation Program	\$ 1,500,000
18	Housing Rehabilitation Program	\$ 200,000
19	First time Homebuyer Services	\$ 50,000
20	Affordable Multi Family New Construction Program	\$ 1,000,000
21	Business Promotion	\$ 100,000
Total Projects		\$ 18,373,250



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members

DATE: March 15, 2011

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

SUBJECT: Adoption of Resolution No. 2011-19, A Resolution of the City Council of the City of Winters Authorizing the Execution of a Cooperation Agreement for Advance and Reimbursement of Administrative and Overhead Expenses.

RECOMMENDATION: That the City Council receive the report and approve Resolution No. 2011-19, A Resolution of the City Council of the City of Winters Authorizing the Execution of a Cooperation Agreement for Advance and Reimbursement of Administrative and Overhead Expenses.

BACKGROUND: The Winters Community Development Agency (CDA) has historically relied on the City for office space, equipment, supplies, insurance, staff resources, and other services in order to carry out the purposes of the Winters Community Development Project Area Plan. The CDA has historically paid its pro rata share of the aforementioned expenses through the annual budget process in conjunction with the City. This Agreement would memorialize and contractually obligate the CDA to reimburse the City for such expenses consistent with the terms of each adopted budget.

It is recommended the City and the CDA enter into an agreement to formalize certain existing obligations the CDA has to the City for City costs associated with administering and staffing the CDA related activities. The intent of the agreement is to make a best effort to contractually obligate the tax increment that currently is used to pay for these items consistent with terms outlined in the adopted budget for any given year.

A Cooperative Agreement for Advance and Reimbursement of Administrative and Overhead Expenses (the Agreement) has been prepared to contractually obligate the CDA to pay the City of Winters for costs incurred by the City on the CDA's behalf that are necessary to administer projects and programs that have been developed since the inception of the CDA, or are necessary to carry out the activities outlined in the Winters community Development Project

Area Plan, Winters Community Development Project Implementation Plan (2009-2013), and other contractual obligations such as but not limited to Disposition & Development Agreements. The CDA is carrying out the redevelopment plan for the project area, and, in connection therewith, is utilizing the staff and other resources of the City. The City Manager of the City serves as Executive Director of the CDA and staff of the City Manager's office, Community Development, Finance, Public Works and other departments of the City devote substantial time to Economic Development and Redevelopment related activities.

The Agreement memorializes obligations of the CDA to the City based on the allocation of funds as adopted in the biennial 2010-11 and 2011-12 budget. The Agreement provides for an annual accounting of staff time spent by City staff on CDA projects and the use by the CDA of all office space, equipment supplies, insurance, and other City services and facilities used in connection with time spent on the foregoing, with a separate accounting of the foregoing on matters for or related to the production, improvement and preservation of affordable housing. Thus, the obligation of the CDA shall be determined on an annual basis depending on the work load of City staff and use of City resources by CDA related activities.

In order to memorialize the arrangement between the City and the CDA with respect to the costs incurred by the City with respect to the administration of economic development and redevelopment activities, and in order to maintain and administer existing contractual obligations of the CDA, it is recommended this Agreement be adopted.

FISCAL IMPACT: The cost of administrative and overhead expenses rendered by the City on behalf of the CDA are currently budgeted in Fund 701 and Fund 711 of the adopted biennial 2010-2011 and 2011-2-12 budget. The current method of these cost allocations is based on estimated costs and a prorated percentage share of expenses, operational costs, and staff time. For fiscal year 2010-11, administrative expenses budgeted in the Agency fund (Fund 701) total approximately \$336,907. In the housing fund (Fund 711), the total amount budgeted for such costs and expenses is approximately 285,238.

The proposed cooperative agreement will stipulate the accountings of the value of staff resources, office space, equipment, supplies, insurance and other services and facilities plus an amount for planning and administrative expenses for both the CDA plan implementation and the moneys in the CDA low and moderate income housing fund and its repayment in accordance with the terms of the agreement.

ATTACHMENTS:
Resolution No. 2011-19
Cooperation Agreement

RESOLUTION NO. 2011 - 19

A RESOLUTION OF THE CITY OF WINTERS AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES

WHEREAS, pursuant to the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.), the City of Winters (the "City") has undertaken a program for the redevelopment of blighted areas in the City and in that regard has approved and adopted a redevelopment plan for the project area, and has established a low and moderate income Housing fund to be used for the purposes of increasing, improving and preserving the City's supply of affordable housing; and

WHEREAS, the Winters Community Development Agency (the "Agency") is carrying out the redevelopment plan for the project area, and, in that connection, is utilizing the staff and other resources of the City. The Agency is carrying out the redevelopment plan for the project area, and, in connection therewith, is utilizing the staff and other resources of the City. The City Manager of the City serves as Executive Director of the Agency and the staff of the Economic Development, Community Development, Finance, Public Works and other Departments of the City devote substantial time to Economic Development and Redevelopment related activities; and

WHEREAS, by providing and making available to the Agency the staff and other resources of the City, and by providing and making available to the Agency office space, equipment, supplies, insurance and other City services and facilities, the City has advanced and will continue to advance the cost of the foregoing to the Agency; and

WHEREAS, the City and the Agency desire to enter into an agreement to acknowledge the foregoing recitals and to memorialize an appropriate method of reimbursement of such advances and/or reimbursements by the Agency to the City.

NOW, THEREFORE, BE IT RESOLVED that the City shall make available to the Agency its staff resources, office space, equipment, supplies, insurance and other services and facilities. The Agency shall have access to the services and facilities of the City.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Manager is hereby authorized to take all actions necessary to interpret, execute and implement the Cooperative Agreement for Advance and Reimbursement of Administrative and Overhead Expenses.

PASSED AND ADOPTED at a special meeting of the City of Winters Council held on Monday, the 4th of March 2011, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

WITNESS my hand and the seal of the City of Winters this 15th of March, 2011.

Nanci G. Mills, City Clerk

**COOPERATIVE AGREEMENT FOR ADVANCE AND REIMBURSEMENT
OF ADMINISTRATIVE AND OVERHEAD EXPENSES**

THIS AGREEMENT is made as of the 4th day of March, 2011, by and between the City of Winters (the "City") and the Winters Community Development Agency (the Agency").

RECITALS

A. Pursuant to the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.), the City has undertaken a program for the redevelopment of blighted areas in the City and in that regard has approved and adopted a redevelopment plan for the Winters Redevelopment Project and has established a low and moderate income housing fund to be used for the purposes of increasing, improving and preserving the City's supply of affordable housing.

B. The Agency is carrying out the goals and activities for the project area as defined within the Amended and Restated Redevelopment Plan for the Winters Redevelopment Project, and, in that capacity, is utilizing the staff and other resources of the City. The City Manager of the City serves as Executive Director of the Agency and the staff of the Economic Development, Community Development, Finance, Public Works and other Departments of the City devote substantial time gathering information relating to the project area, conferring with developers and potential developers of land within the project area, conferring with public officials and other governmental agencies regarding the redevelopment of the project area, business recruitment and retention efforts, marketing, other general economic development activities, and undertaking planning and administrative activities in connection with the production, improvement and preservation of affordable housing.

C. The Agency has issued its tax allocation obligations to finance various public improvements.

D. By providing and making available to the Agency the staff and other resources of the City, and by providing and making available to the Agency office space, equipment, supplies, insurance and other City services and facilities, the City has advanced and will continue to advance the costs of the foregoing to the Agency.

E. The City and the Agency desire to enter into this Agreement to acknowledge the foregoing recitals and to provide for an appropriate method of reimbursement of such advances by the Agency to the City.

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

Section 1. The City shall make available to the Agency its staff resources, office space, equipment, supplies, insurance and other services and facilities. The Agency shall have access to the services and facilities of the departments, commissions, and offices of the City.

Section 2. The value of the staff resources, office space, equipment, supplies, insurance and other services and facilities, which, for purposes of this Agreement shall be (i) \$336,907 per each fiscal year plus \$285,238 for planning and administrative expenses in connection with the expenditure of moneys in the Agency's low and moderate income housing fund or (ii) such other amount as may be determined by the City Manager pursuant to Section 4 hereof, shall constitute a loan for the administrative expenses and overhead of the Agency. including the planning and

administrative expenses of the Agency in connection with the expenditure of moneys in the Agency's low and moderate income housing fund, to be repaid in accordance with this Agreement.

Section 3. Direct and indirect costs for the Community Development Agency will be allotted utilizing the City of Winters cost allocation plan for personnel, equipment, supplies, insurances and other services to the Community Development Agency. Allocation will be made on a monthly basis, including costs for planning and administrative expenses of the Agency in connections with the expenditures of moneys in the Agency's low and moderate income housing fund. Prior to July 1st of each year, as part of the budget preparation process, the cost allocation plan will be reviewed and updated as necessary.

Section 4. Based on the City of Winters Cost Allocation Plan, the City Manager will allocate costs of personnel, equipment, supplies, insurance and other services to the Community Development Agency. Additionally, the Community Development Agency will be allocated a share of the liability for the unfunded retirement costs for those personnel involved in the carrying out the functions of the Community Development Agency. This will include a separate allocation of the share of the liability for the unfunded retirements costs for those involved in the planning and administrative expenses of the Agency in connections with the expenditures of moneys in the Agency's low and moderate income housing fund.

Section 5. The Agency shall pay to the City, upon demand, the time charges and the fair rental value of office space, equipment, supplies, insurance and other City services and facilities used during such fiscal year, the value of which is set forth in Section 2 hereof. The Agency shall pay such time charges and fair rental value from any funds of the Agency lawfully available therefor, except that time charges and the fair rental value related to the production, improvement and preservation of affordable housing shall be paid from moneys in the Agency's low and moderate income housing fund if such planning and administrative expenses are necessary for the production, improvement or preservation of affordable housing and are authorized pursuant to Health and Safety Code Section 33334.3 to be paid from moneys in the Agency's low and moderate income housing fund; provided, however, that the foregoing obligation of the Agency shall be subordinate to any bonds, notes or other obligations of the Agency.

Section 6. Upon request of the Executive Director, the City shall advance moneys to the Agency from time to time for the purpose of paying legal, consulting, auditing, and other fees, costs and expenses necessary, desirable or appropriate in connection with the redevelopment activities of the Agency. The Agency shall repay such moneys upon demand by the City.

Section 7. Amounts not paid by the Agency to the City upon demand therefor pursuant to this Agreement shall bear interest at the rate of 10 percent per annum from the date of such demand.

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

CITY OF WINTERS

ATTEST

Nanci Mills, City Clerk

John W. Donlevy, Jr., City Manager

WINTERS COMMUNITY DEVELOPMENT AGENCY

ATTEST

Nanci Mills, Secretary

Cecilia Aguiar-Curry, Chair

APPROVED AS TO FORM:

John Wallace, City Attorney and Agency Counsel



COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT

TO: Honorable Chairman and Board of Directors
DATE: March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Dan Maguire, Housing Manager *DM*
Shelly Gunby, Director of Financial Management *Shelly*
SUBJECT: City/Community Development Agency Purchase and Sale Agreement

RECOMMENDATION:

1. That the City Council and The Community Development Agency hold a Joint Public Hearing regarding Approval of a Community Development Agency Sale and City of Winters Purchase Agreement for Real Property as follows:
 - a. 318 Railroad Ave (APN#003-204-005)
 - b. 314 Railroad Ave (APN#003-204-006)
 - c. 23 Main Street (APN#003-204-012)
 - d. 110 East Baker Street (APN#003-370-038) Land only
 - e. Grant Avenue Commercial Property (APN#'s 003-370-028, 003-3740-029 and 003-370-030)
 - f. 311 First Street (APN#003-204-002)
2. Approve the Purchase and Sale Agreement and Joint Escrow Instructions for the above reference Properties to the City of Winters, and Delegate Redevelopment functions and Powers to the City of Winters with respect to the planning and undertaking of redevelopment projects with respect to the Properties.
3. Approve Delegation and Conveyance Agreement for the above referenced Properties.

BACKGROUND:

On March 1, 2011 the Board of Directors adopted Resolution 2011-16 Approving a Purchase and Sale Agreement with the City of Winters Agency with respect to the properties listed above.

This Resolution laid out the findings for the transfer of the properties listed above to the City of Winters in consideration of the debt owed the City of Winters by the Winters Community Development Agency, and authorized staff to have Bartholomew and Associates have all the properties appraised to determine fair market value, and further authorized the Executive Director to open an escrow and obtain preliminary title reports.

Staff has undertaken all the activities approved by Resolution 2011-16.

Information regarding the fair market value of the properties will be submitted under separate cover, as it is not available at the time this staff report was due. Once the fair market value of the property has been determined, staff will return to the City Council with an updated payment schedule for all debts remaining once the fair market value of the properties transferred to the City from the Agency has been used to calculate the amount of debt repaid by the Agency to the City as a result of the transfer.

The Purchase and Sale Agreement between the City of Winters and the Winters Community Development Agency sells the referenced property to the City of Winters in exchange for a reduction in the debt the Agency owes the City of Winters, and, in concert with the Cooperation Agreements approved on March 4, 2011, authorizes the City to carry out the development and disposition of these properties. There are addition redevelopment projects included in the Cooperation Agreements and all projects were included as Exhibit A with the Cooperation Agreements.

The Delegation and Conveyance Agreement conveys the properties to the City of Winters, and specifically delegates the Agency's functions and powers to the City of Winters in respect to the planning and undertaking of redevelopment projects with respect to the conveyed properties only.

Staff feels that approving both agreements is a prudent and conservative course to take given the number of unknowns that face redevelopment agencies in the near future.

FISCAL IMPACT:

Reduction in the amount of funds due from the Community Development Agency to the City of Winters as a result of the purchase of the property from the Community Development Agency.

ATTACHMENTS:

Purchase and Sale Agreement and Joint Escrow Instructions
Delegation and Conveyance Agreement

PURCHASE AND SALE AGREEMENT (PSA) AND JOINT ESCROW INSTRUCTIONS

This Purchase and Sale Agreement and Joint Escrow Instructions Agreement is made as of March 15, 2011, the Effective Date by and between the Community Development Agency (CDA) of the City of Winters, a public body corporate and politic, "the Seller" or "the CDA" and the City of Winters, a general law city, "the Buyer" or "the City" with reference to the following facts and purposes.

RECITALS

(A) The Agency is organized under Part 17 of Division 24 of the California Health and Safety Code and pursuant thereto is authorized to exercise all of the rights and powers of a community redevelopment agency under the Community Redevelopment Law, "the CRL", the Law commencing with Section 33000 of the California Health and Safety Code.

(B) Foremost among the Agency responsibilities is implementation of the Redevelopment Plan for the Winters Community Development Redevelopment Project Area. The Redevelopment Plan in accordance with existing law seeks to remediate blight within the Project Area and to promote economic revitalization.

(C) The Agency wishes to proceed in its efforts to implement the Redevelopment Plan and to further the objectives of the plan in a manner that is expeditious, fiscally sound and lawful.

(D) The City of Winters is a General Law municipal corporation, organized and operating in accordance with the Government Code of the State of California. Like the Agency the City seeks to remediate blight within the Project Area and to promote economic revitalization.

(E) The Winters City Council by ordinance adopted the Redevelopment Plan and has periodically updated that plan. In adopting the plan the Winters City Council determined that as of that date substantial and pervasive blight remained in the Project Area. The City Council in accordance with the Law determined that the use of redevelopment was necessary to effectively rehabilitate the Project Area and that success in this effort would not occur without the use of redevelopment.

(F) In furtherance of the Redevelopment Plan and in accordance with the Law the Agency has borrowed funds through the issuance of bonds. In issuing these Bonds the Agency executed Bond Indentures. These Bond Indentures commit the Agency to a variety of actions to maintain the Bonds in good standing. To satisfy these obligations the Agency must commence and continue to completion with all practical dispatch the Redevelopment Projects which will be accomplished and completed in a sound and economical manner in conformity with the Redevelopment Plan and the CRL. Likewise the Agency has committed to pay and discharge or cause to be paid and discharged all governmental charges imposed upon the Agency or upon its revenues when the same shall become due. Failure of the Agency to satisfy its covenants and

obligations under the Indentures qualifies as a default that can result in the acceleration of the Bonds Indenture.

(G) In addition to borrowing funds through the sale of Bonds the Agency pursuant to the Law and Redevelopment Plan has borrowed funds from the City, collectively the "City Loans." Pursuant to the terms of these City Loans all borrowed funds must be repaid to the City with interest.

(H) The Agency has insufficient liquid assets to timely repay the debt it owes to the City. The Agency wishes to avoid a default in its obligations, giving rise to potential legal or monetary claims and a possible acceleration of its outstanding Bonds. A failure to make the required payment could irreparably injure the Agency by interfering with its mission to proceed expeditiously with the Redevelopment Plan in an economic manner.

(I) Rather than defaulting under its obligations to the City and jeopardizing the success of the Redevelopment Plan the Agency has identified a method for paying its debt to the City avoiding a default under the Bond Indentures and continuing its mission to advance the Redevelopment Plan. Specifically, the Agency will convey certain real property as more particularly described in this Agreement to the City in exchange for a release of a portion of the debt it owes to the City. In turn the City, by cooperative agreement, would commit to use and develop the conveyed Property consistent with the Redevelopment Plan, including where applicable the continuance of a ground lease. The City would also commit, by cooperative agreement, to work with the Agency to facilitate dispositions of all or part of the Property leading to new redevelopment projects on the Property in furtherance of the Redevelopment Plan. In this way the Agency would discharge its debt to the City while achieving its redevelopment goals. The described transaction would occur pursuant to the terms of this Agreement including all exhibits thereto and has been approved in compliance with all existing legal requirements of the CRL and the State Government Code.

(J) Like the Agency the City wishes to promote redevelopment within the community and to advance the City Council adopted Redevelopment Plan. While the City has an entitlement to cash payments for the discharge of the loans it has extended to the Agency, the City is prepared to accept payment through the conveyance of real property if the exchange will commit the Agency to continue its efforts to redevelop the Property, including dispositions of the Property to third parties which are in furtherance of the Redevelopment Plan. On this basis and this basis alone the City is prepared to proceed with this Agreement.

(K) The City and the Agency have executed that certain Cooperation Agreement dated as of March 4, 2011, through which the Agency agreed to make payments to the City for the costs of City actions and loans, as allowed by Section 33445 of the Health and Safety Code, including the acquisition of land required for public improvements. In reliance on that contractual commitment the City is proceeding with this Agreement and acquisition of the real properties for which the Agency is entitled to reimbursement.

(L) Upon and subject to the terms and conditions set forth in this Agreement Seller desires to sell and Buyer desires to purchase the following real properties (collectively "the Property"):

(a) the fee interest in the real property described on Exhibit A hereto, together with all rights privileges and easements appurtenant thereto or used in connection therewith, including without limitation all minerals oil gas and other hydrocarbon substances thereon all development rights, air rights, water rights, and all of Seller's right, title and interest in and to any streets alleys easements rights of way, public ways, or other rights appurtenant adjacent or connected thereto or used in connection therewith.

(b) Seller interest, if any, in all buildings, improvements, structures and fixtures included or located on or in the Property.

(c) all tangible personal property equipment and supplies collectively the Personal Property owned by Seller and located on or about the Property or the Improvements or attached thereto or used exclusively in connection with the use operation maintenance or repair.

(d) all other intangible property collectively the Intangible Property owned by Seller and used exclusively in connection with the Property or Improvements, including without limitation building specific trademarks and trade names, transferable licenses, architectural site landscaping, or other permits, development rights, applications, approvals, permits, authorizations and other entitlements transferable, guarantees and warranties covering the Property and/or Improvements, all of Seller's contract rights including without limitation rights under any consulting architectural or engineering contracts, and contracts rights under any service contracts, books, records, reports, test results, environmental assessments, as built plans, specifications, and other similar documents and materials relating to the use, operation, maintenance or repair of the Property or the construction or fabrication thereof and all transferable utility contracts.

NOW THEREFORE in consideration of the foregoing Recitals which are incorporated herein by this reference the mutual covenants contained in this Agreement and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller (collectively the "Parties") hereby agree as follows:

Section 1. Purchase and Sale of the Property. Subject to the terms and conditions set forth below the Seller agrees to sell and the Buyer agrees to purchase the Property as defined above in Recital L. The Property consists of multiple real properties (collectively the "Land"). The address for each parcel comprising the Land and the portion of the Purchase Price as defined below attributable to each parcel comprising the Land is set forth on Exhibit A1.

Section 2. Execution of Grant Deeds. Pursuant to the Parties agreement on March 1, 2011, transfer Deeds have been prepared for execution by the Parties, to be executed and recorded with payment of the purchase price.

Section 3. Purchase Price. The purchase price for the Property shall be the equal to the appraised value of the Property, determined by the appraisal firm of Bartholomew and Associates ("the purchase price"). The total purchase price is on Exhibit A1, attached hereto.

Section 4. Payment of Purchase Price. The Purchase Price shall be paid by the Buyer upon execution and delivery to Buyer's City Clerk of the executed Grant Deeds.

Section 5. Inspection/Condition. Buyer has fully inspected the Land, and consents to its condition. Buyer has all documentation for the legally required disclosures for the Land.

Section 6. ASSIGNMENT. The Buyer may transfer its rights under this Agreement to any person or entity ("the Assignee") without the approval or consent of the Seller. Possession of the Property shall be delivered to the Buyer or the Assignee as applicable upon recordation of the Grant Deeds.

Section 7. Representations and Warranties of the Seller. The Seller hereby represents and warrants the matters set forth below to be true to the best of the Seller's knowledge as of the date hereof and as of the Closing Date Such representations shall survive the closing and conveyance of title to the Property. If requested by the Buyer prior to the Closing Date the Seller shall deliver to the Buyer a certificate dated as of the Closing Date signed by the Seller certifying that the representations and warranty are true to the best of the Seller's knowledge as of the Closing Date:

a. The Seller has the legal power right and authority to enter into this Agreement and the instruments and documents referenced herein and to consummate the transaction contemplated hereby The individuals executing this Agreement and the instruments referenced herein on behalf of the Seller hereby represents and warrants that they have the power right and authority to bind Seller;

b. Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby shall result in a breach of or constitute a default under any agreement instrument or other obligation to which the Seller is a party or by which the Seller or the Property may be bound;

c. There is no pending or threatened condemnation or similar proceeding affecting the Property or any portion thereof nor does the Seller have any knowledge that any such action is contemplated;

d. There will be no management agreements contracts, warranties,

guaranties, bonds, or other agreements which will affect or will be obligations of the Buyer of the Property which cannot be terminated on thirty 30 days prior notice, excluding the existing Ground Lease currently in existence.

e. Seller acknowledges that in acquiring the Property it incurred certain relocation obligations to the then existing tenants of the Property, and in accordance with all applicable Federal or State relocation laws Seller at its sole expense will provide all relocation services and payments that may be owed to any Displaced Person in accordance with any applicable Federal or State relocation laws. If Seller fails to provide for required relocation services or to make required relocation payments to a Displaced Person the City may assume that function and apply any such incurred costs or expenses as a set off against the obligations owed to City by CDA.

f. The Seller has no knowledge except as otherwise disclosed in writing of the existence or prior existence in on or under the Property of any hazardous substance nor the existence of or prior existence of any above or below ground storage tank. The Seller has no knowledge that any generation transportation storage or discharge of any hazardous substance in on or under the Property has not been in compliance with all applicable laws. For purposes of this Agreement the term hazardous substance includes but is not limited to substances defined as hazardous substances, hazardous materials or toxic substances in the Comprehensive Environmental Response Compensation and Liability Act of 1980 as amended 42 USC Sections 9601 et seq., the Resource Conservation and Recovery Act 42 USC 6901, the Hazardous Materials Transportation Act 49 USC 1801, et seq., the substances defined as hazardous wastes in California Health and Safety Code 25117 or as hazardous substances in California Health and Safety Code 25316 and the chemicals known to cause cancer or reproductive toxicity as published in the Safe Drinking Water and Toxic Enforcement Act of 1986 California Health and Safety Code 255249 et seq. and in the regulations adopted and publications promulgated under each of the aforesaid laws.

g. The Seller is not a foreign person under Section 1445 of the Internal Revenue Code.

h. During the term of this Agreement the Seller shall have a continuing duty to notify Buyer of any material facts in Seller's knowledge which would render any of the representations set forth above false. Such duty shall not, however, abrogate nor limit the Buyer's independent obligation to perform its own investigation into the Property.

Section 8. Representations and Warranties of Buyer The Buyer hereby represents and warrants the matters set forth below to be true to the best of Buyer's knowledge as of the date hereof, and as of the Closing Date. Such representations shall survive the closing and conveyance of title to the Property. Buyer certifies that the below representations and warranty are true to the best of the Buyer's knowledge as of the Closing Date:

a. All resolutions adopted by Buyer for purposes of approving this Agreement were duly adopted:

b. Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby shall result in a breach of or constitute a default under any agreement to which the Buyer is a party or by which the Buyer may be bound.

Section 9. Indemnification.

a. Upon demand by the Buyer the Seller hereby agrees to defend with counsel reasonably selected by the Buyer indemnify and hold the Buyer harmless from and against any and all claims, liens, demands, losses, damages liabilities, fines, penalties, charges, administrative and judicial proceedings, and orders and all costs incurred in connection therewith, including without limitation actual attorneys fees and costs of experts and consultants arising from any obligation of the Seller not expressly assumed by the Buyer related to the ownership or operation of the Property prior to the Close of Escrow. This includes personal injury or property damage relating to the Property which occurred prior to the date of the Close of Escrow, and not caused by the acts or omissions of the Buyer or Buyer's agents, employees, or invitees; and the breach of any of the Seller representations made hereunder. The indemnity contained in this Section 11a shall survive the termination of this Agreement

b. The Buyer hereby agrees to defend indemnify and hold the Seller harmless from and against any and all claims, liens, demands, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, and all costs incurred in connection therewith including, without limitation actual attorneys fees and costs of experts and consultants arising from any obligation of the Buyer not expressly assumed by the Seller, related to the ownership or operation of the Property after the Close of Escrow. This includes personal injury or property damage relating to the Property which occurred after the date of Close of Escrow, not caused by the acts or omissions of Seller or Seller's agents, and the breach of any of Buyer's representations made hereunder. The indemnity contained in this Section 11b shall survive the termination of this Agreement.

Section 10. Hazardous Materials Indemnification

a. In the event of any Seller misrepresentation including omissions regarding hazardous or toxic materials or conditions on the Land the Seller shall indemnify hold harmless and defend with counsel as reasonably selected by the Buyer the Buyer the Buyer's officers, employees and agents, any successors to the Buyer's interests in the chain of title to the Property or any portion thereof and such successors directors officers employees or agents (collectively "the Indemnitees") against any and all claims and causes of action arising from any dispute including but not limited to a lawsuit an administrative proceeding arbitration or an enforcement action of any kind, and any and all damages, direct or consequential costs, losses, injuries, fines, penalties, liens, encumbrances, charges, liabilities, demands, judgments, remedial action requirements, obligations, and all costs and expenses incurred in connection therewith including but not limited to attorneys fees and costs imposed upon or accruing

against the Indemnitees as a result of investigatory or remedial action required by any public entity or agency having jurisdiction in connection with the hazardous or toxic materials, or conditions on the Land that were the subject of the misrepresentation or as damages to third persons for personal injury or property damage arising from the hazardous or toxic materials or conditions on the Land that were the subject of the misrepresentation.

b. The provisions of this Section 12 shall survive termination of this Agreement and the Closing.

Section 11. Buyer's Remedies.

In the event of a breach of this Agreement by the Seller the Buyer may pursue any and all remedies at law and equity including specific performance.

Section 12. Closing

a. Subject to the other provisions of this Agreement, escrow shall close on March 15, 2011, after the public hearing on this agreement, or as soon thereafter as possible. Seller's and Buyer's officers and representatives are authorized to execute any documents necessary to complete the transfer of the Land to the City of Winters, including lease assignments. All existing agreements involving the Land shall be pro-rated as of the date of deed recording.

Section 13. Title Insurance

Title insurance acquisition and cost shall be the sole responsibility of the Seller.

Section 14. Obligations Under the Cooperation Agreement.

The Parties acknowledge that the City and Agency have executed that certain Cooperation Agreement on March 4, 2011, through which the Agency agreed to make payments to the City for certain public improvements and facilities as allowed by Section 33445 of the Health and Safety Code, including the acquisition of land. In reliance on that contractual commitment the City is proceeding with this Agreement and the acquisition of the Property for which the City is entitled to reimbursement. Prior to and after the Close of Escrow the Seller hereby covenants and represents that it will perform all obligations owed pursuant to such Agreement.

Section 15. No Broker.

Buyer represents to the Seller that it has not engaged or used the services of any person firm or corporation that may claim a broker Agency or finder's fee upon execution of this Agreement. The Seller represents to the Buyer that it has not been represented by engaged or used the services of any person firm or corporation that may claim a broker Agency or finder's fee upon execution of this Agreement. The Buyer and the Seller each reciprocally as an Indemnitor agree to indemnify and hold the other as Indemnitee harmless from all expense loss damage and claims including the Indemnitee's attorney's fees if necessary arising out the Indemnitor's breach of the foregoing representation.

**Section 16. Redevelopment Use Cooperation and Disposition
Process for Proposed Redevelopment**

The City hereby covenants that following the Close of Escrow it will use the Property in a manner that is consistent with the Redevelopment Plan. Nothing in this Agreement shall limit the City's discretion in complying with all applicable requirements of CEQA.

Section 17. General Provisions.

a. **Headings.** The title and headings of the various sections hereof are intended as a means of reference and are not intended to place any construction on the provisions hereof.

b. **Invalidity.** If any provision of this Agreement shall be found by a court of competent jurisdiction to be invalid or unenforceable the remaining provisions shall not be affected thereby and every provision hereof shall be valid and enforceable to the fullest extent permitted by law.

c. **Attorney's Fees.** In the event of any litigation between the Parties hereto to enforce or interpret any of the provisions of this Agreement the prevailing party therein shall be entitled to recover from the unsuccessful party all costs and expenses including reasonable attorney's fees all of which may be included as part of the judgment rendered in such litigation.

d. **Entire Agreement** This Agreement supersedes all prior negotiations and agreements between the Parties and is intended by the Parties as a final expression of their agreement and may not be contradicted by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement constitute the final and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial proceedings involving this Agreement The Parties have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party including but not limited to Civil Code Section 1654 as may be amended from time to time shall not apply to this Agreement No provision of this Agreement may be amended except by an agreement in writing signed by the Parties hereto or their respective successors in interest. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in Yolo County, California.

e. **Successors.** This Agreement shall be binding upon and inure to the benefit of the heirs executors administrators successors and assigns of the Parties hereto.

f. **Time of the Essence.** Time is of the essence in this Agreement.

g. **Cooperation of Parties** The Buyer and the Seller shall during the Escrow period execute any and all other documents reasonably necessary or appropriate to close the purchase and sale pursuant to the terms of this Agreement.

h. **Counterparts - Multiple Originals.** This Agreement may be executed in counterparts and multiple originals each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date, March 15, 2011.

BUYER - CITY OF WINTERS, a General Law City and municipal Corporation

By: _____
W. Keith Fridae, Mayor

Attest: _____
Nanci G. Mills, City Clerk

SELLER - COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF WINTERS, a public body corporate and politic,

By: _____
Cecilia Aguiar-Curry, Chair

Attest:

By _____
Nanci G. Mills, CDA Secretary

APPROVED AS TO FORM:

John C. Wallace, Winters City Attorney

John C. Wallace, CDA Counsel

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

- 1) 318 Railroad Avenue (APN # 003 204 005) – current building tenant is JJ's Saloon
- 2) 314 Railroad Avenue (APN # 003 204 006) – current building tenant is Cody's Restaurant
- 3) 23 Main Street (APN # 003 204 012) – undeveloped lot
- 4) 110 East Baker Street (APN # 003 370 038 – 99 year ground lease (CDA owns the land) to Bruin Orchards LLC (CHOC) who constructed the Winters Village apartments (affordable multi-family).
- 5) Grant Avenue and East Street (APN #s 003 370 028, 003 370 029, & 003 370 030) – undeveloped parcels currently referred to as "Grant Avenue Commercial
- 6) 311 First Street (APN # 003 204 002) – lot that is improved with an unoccupied steel building

EXHIBIT A1

Purchase Price (Reduction in Debt Obligations owed to City by CDA)

- 1) 318 Railroad Avenue (APN # 003 204 005) – current building tenant is JJ's Saloon \$ [REDACTED]
- 2) 314 Railroad Avenue (APN # 003 204 006) – current building tenant is Cody's Restaurant \$ [REDACTED]
- 3) 23 Main Street (APN # 003 204 012) – undeveloped lot \$ [REDACTED]
- 4) 110 East Baker Street (APN # 003 370 038 – 99 year ground lease (CDA owns the land) to Bruin Orchards LLC (CHOC) who constructed the Winters Village apartments (affordable multi-family). \$ [REDACTED]
- 5) Grant Avenue and East Street (APN #s 003 370 028, 003 370 029, & 003 370 030) – undeveloped parcels currently referred to as "Grant Avenue Commercial" - \$ [REDACTED]
- 6) 311 First Street (APN # 003 204 002) – lot that is improved with an unoccupied steel building \$ [REDACTED]

DELEGATION AND CONVEYANCE AGREEMENT

This DELEGATION AND CONVEYANCE AGREEMENT (this "Agreement"), dated as of March 15, 2011 (the "Effective Date") is entered into by and between the WINTERS COMMUNITY DEVELOPMENT AGENCY, a public body, corporate and politic (the "Agency"), and the CITY OF WINTERS, a municipal corporation (the "City").

RECITALS

A. Pursuant to the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.) (the "Redevelopment Law"), the Agency is undertaking a program for the redevelopment of blighted areas in the City.

B. A redevelopment plan (the "Redevelopment Plan") for a redevelopment project designated as the City of Winters Community Development Project Area (the "Project Area") has been duly approved and adopted by the City Council of the City.

C. Pursuant to Section 33205 of the Redevelopment Law, a redevelopment agency is authorized to delegate to a community any of the powers or functions of the agency with respect to the planning or undertaking of a redevelopment project in the area in which such community is authorized to act, and such community is authorized to carry out or perform such powers or functions for the redevelopment agency.

D. Pursuant to Section 33220(g) of the Redevelopment Law, any public entity, for the purpose of aiding and co-operating in the planning, undertaking, construction, or operation of redevelopment projects located within the area in which such public entity is authorized to act, may, with or without consideration, acquire land in a project area from a redevelopment agency for redevelopment in accordance with the redevelopment plan for such project area.

E. Pursuant to Section 33220(e) of the Redevelopment Law, a redevelopment agency may enter into agreements with any public entity respecting any action to be taken pursuant to any of the powers granted by the Redevelopment Law or any other law (and such agreement may extend over any period, notwithstanding any law to the contrary).

F. Pursuant to Section 33430 of the Redevelopment Law, a redevelopment agency may, within the survey area or for purposes of redevelopment, sell, transfer, assign or otherwise dispose of any real or personal property or any interest in property.

G. The Agency owns the fee interest in each of the real properties described in Exhibit A attached hereto and incorporated herein by reference (each individually, a "Property"; and collectively, the "Properties").

H. The City desires to aid, and cooperate with, the Agency in the planning, undertaking, construction and operation of redevelopment projects, and in that regard the Agency has determined to convey the Properties to the City and to delegate to the City the powers and functions of the Agency with respect to the planning and undertaking of redevelopment projects in accordance with the Redevelopment Plan, and the City has determined to accept the conveyance of the Properties and the Agency's delegation of its powers and functions.

NOW, THEREFORE, in reliance upon the foregoing Recitals, in consideration of the mutual covenants in this Agreement, the parties hereto agree as follows:

Section 1. Conveyance of Properties. The Agency shall convey all of its right, title and interest in and to the Properties to the City. The City shall accept such conveyance. The Agency shall execute and deliver a Quitclaim Deed or Quitclaim Deeds, substantially in the form attached hereto as Exhibit B, evidencing the conveyance of the Properties. The City shall execute the Certificate of Acceptance(s) attached to the Quitclaim Deed(s), evidencing the City's acceptance of the conveyance.

Section 2. Delegation of Redevelopment Functions and Powers. The Agency hereby delegates to the City all of the Agency's functions and powers conferred by law with respect to the planning and undertaking of redevelopment projects with respect to the Properties (including but not limited to, planning, development, re-planning, redesign, clearance, reconstruction, or rehabilitation, or any combination thereof, of the Properties; developing building sites on the Properties; providing residential, commercial, industrial, public, or other structures or spaces on the Properties or with respect to the Properties; altering, improving, modernizing, reconstructing, or rehabilitating, or any combination of these, of existing structures on the Properties; providing for open-space types of use on the Properties or with respect to the Properties; continuing existing buildings or uses on the Properties; selling or leasing the Properties or any improvements thereon; insuring the Properties and any improvements thereon; and renting, maintaining, managing, operating, and repairing the Properties and any improvements thereon).

The City hereby accepts this delegation and agrees to undertake the redevelopment of the Properties in a manner consistent with all applicable laws and the Redevelopment Plan (as they may be amended hereafter from time to time). It is hereby acknowledged and agreed that, upon acceptance of this delegation, so long as the City is not in violation of the law or the Redevelopment Plan, the City shall have absolute discretion regarding the exercise by the City of the functions and powers delegated to it pursuant to this Agreement, including, without limitation, the determination of specific actions to be undertaken by the City with respect to the redevelopment of the Properties, and the manner and timing of undertaking such actions. Prior to commencement of work on any redevelopment project, all necessary environmental review required by the California Environmental Quality Act ("CEQA") shall be completed. This Agreement in no way limits the discretion of the Planning Commission of the City, the Agency Board or the City Council of the City in completing environmental review of such projects.

Section 3. Payments by the Agency.

(a) The Agency and the City agree that the Agency shall bear, and reimburse the City for, all costs of the acquisition, condition, use, possession, ownership, operation, maintenance, and redevelopment of the Properties by the City pursuant to this Agreement (including, without limitation, costs incurred by the City in the performance of any contractual or other obligations either imposed by operation of law or expressly or impliedly assumed by the City and arising from (i) the acceptance of the delegation of the functions and powers of the Agency hereunder, or (ii) the ownership, use or possession of the Properties) and the costs, if any, incurred by the City in connection with the enforcement of this Agreement. To the extent

that the City incurs any such costs, the City may advance its own funds to pay for such costs, and from time to time submit invoices (including itemized statements) showing the costs due to be paid by the Agency. Such amounts may include progress payments.

(b) The Agency shall pay to the City all amounts due hereunder within a reasonable time after the submission of each statement to the Agency pursuant to Section 3(a).

(c) Notwithstanding the foregoing, to the extent that another agreement entered into by the Agency and the City also provides for the reimbursement by the Agency of certain costs incurred with respect to the redevelopment of a Property, the City may elect to receive reimbursement for such costs under either this Agreement or the other agreement.

(d) For any and all amounts due to the City under this Agreement, the Agency shall make such payments from (i) tax increment generated in the Project Area and eligible to be allocated to the Agency pursuant to the Redevelopment Law, or to any successor agency or entity of the Agency and/or any entity established by law to expend tax increment or pay indebtedness of the Agency; (ii) available proceeds of tax allocation bonds or other obligations of the Agency; (iii) available proceeds from loans or other obligations which constitute indebtedness of the Agency repayable from tax increment (as described in the foregoing clause (i)); or (iv) any other available funds of the Agency. Amounts not paid by the Agency to the City within 30 days of demand therefor pursuant to this Agreement shall bear interest at the rate then paid to the City on its funds invested in the Local Agency Investment Fund ("LAIF"), plus one and one-half percent per annum from the date of such demand to the date of repayment. In any event, all amounts due hereunder shall be due and payable to the City by the date established in the Redevelopment Plan (as it exists as of the date of this Agreement) the repayment of indebtedness with respect to the Project Area.

(e) Proceeds from the sale or lease of the Properties, if any, received by the City shall be retained by the City and applied by the City to pay for, or reimburse the City for, the costs incurred by the City pursuant to this Agreement, as described in paragraph (a) of this Section 3, and/or, at the discretion of the City to repay existing indebtedness of the Agency to the City.

(f) The payment obligations of the Agency under this Agreement (including without limitation, reimbursements to the City with respect to the redevelopment of each Property or in connection with enforcement of this Agreement, or payments relating to the Agency's indemnification obligations contained herein) shall constitute an indebtedness of the Agency for the purpose of carrying out the Redevelopment Plan for the Project Area. The parties acknowledge and agree that the Agency's obligation to pay to or for the benefit of the City all amounts due hereunder, shall, without the necessity of further action by the Agency or the City, be junior and subordinate to all other obligations or indebtedness heretofore or hereafter voluntarily incurred by the Agency, including bonds or loans secured by a pledge of tax increment revenues derived from the Project Area, and to all pre-existing statutory obligations of the Agency pursuant to Section 33607.5 33607.7 or 33676 of the Redevelopment Law (or successor statutes).

Section 4. Nondiscrimination. The City covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through them, 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 California 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 California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the City, or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.

All deeds, leases or contracts entered into with respect to each Property shall contain or be subject to substantially the following nondiscrimination/nonsegregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, 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 California 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 California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the Grantee himself or herself, or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph."

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California

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 California Government Code, in the leasing, subleasing, transferring, use or occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee 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, lessees, sublessees, subtenants or vendees in the premises herein leased.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph."

(c) In contracts: "The contracting party or parties hereby covenant by and for himself or herself and their respective successors and assigns, 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 California 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 California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the contracting party or parties, any subcontracting party or parties, or their respective assigns or transferees, establish or permit any such practice or practices of discrimination or segregation.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph."

Section 5. Indemnification.

(a) The Agency agrees, to the fullest extent permitted by law but subject to Section 5(b) below, to indemnify, defend and hold harmless the City and its council members, officers, employees and agents from and against any and all losses, claims, damages, liabilities, penalties, fines, forfeitures or expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees), of every kind, character and nature whatsoever, including, but not limited to, those arising out of, resulting from or in any way connected with (a) the acquisition, condition, ownership, use, possession or redevelopment of the Properties or any part thereof; (b) the implementation of the Redevelopment Plan related to such redevelopment of the Properties; (c) any other action taken by the City in the exercise of the functions and powers delegated to it by the Agency under this Agreement or to carry out the purpose of this Agreement; (d) any breach or default by the Agency hereunder; (e) any of the Agency's activities on the Properties (or the activities of the Agency's agents, employees, lessees, representatives, licensees, guests, invitees, contractors, subcontractors, or independent

contractors on the Properties), regardless of whether such losses and liabilities shall accrue or are discovered before or after termination or expiration of this Agreement; and (f) the presence or clean-up of hazardous substances on, in or under the Properties. The Agency further agrees, to the fullest extent permitted by law, to pay or to reimburse the City and its council members, officers, employees and agents for any and all costs, reasonable attorney's fees, liabilities or expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, expenses or actions.

The Agency shall defend, at its expense, including attorney's fees, the City and its council members, officers, employees and agents in any legal action based upon such alleged acts or omissions. The City may in its discretion participate in the defense of any such legal action.

The Agency's indemnity obligations contained in this Section 4(a) shall survive the termination or expiration of this Agreement.

(b) In contemplation of the provisions of California Government Code Section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Government Code Section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve the above-stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, cost or expenses that may be incurred by such other party solely by reason of Government Code Section 895.2.

Section 6. Default.

(a) If either party fails to perform or adequately perform an obligation required by this Agreement within thirty (30) calendar days of receiving written notice from the non-defaulting party, the party failing to perform or adequately perform shall be in default hereunder. All notices of defaults shall clearly indicate a notice of default under this Agreement.

(b) In the event of default, the non-defaulting party will have all the rights and remedies available to it at law or in equity to enforce the provisions of this Agreement, including without limitation, the right to sue for damages for breach of contract. The rights and remedies of the non-defaulting party enumerated in this paragraph are cumulative and shall not limit the non-defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of the Agreement or hereinafter enacted or established, that may be available to the non-defaulting party against the defaulting party.

(c) Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its rights to institute and maintain any actions or

proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. The acceptance by a party of less than the full amount due from the other party shall not constitute a waiver of such party's right to demand and receive the full amount due, unless such party executes a specific accord and satisfaction.

Section 7. Nonliability of Officials and Employees. No Agency member, Councilmember, and no official, agent, or employee of the Agency or the City shall be personally liable to the other parties, or any successor in interest, in the event of any default or breach by the Agency or the City, or for any amount which may become due to the City or Agency, or successor thereto, or on any obligations under the terms of this Agreement.

Section 8. Law Governing. This Agreement is made in the State of California under the constitution and laws of the State of California, and is to be so construed.

Section 9. Severability. Each and every provision of this Agreement is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected hereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 10. Entire Agreement, Waivers and Amendments. This Agreement, together with all attachments and exhibits hereto, constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the subject matter hereof. No subsequent agreement, representation or promise made by either party hereto, or by or to any employee, officer, agent or representative of either party, shall be of any effect unless it is in writing and executed by the party to be bound thereby. No person is authorized to make, and by execution hereof the City and the Agency acknowledge that no person has made, any representation, warranty, guaranty or promise except as set forth herein; and no agreement, statement, representation or promise made by any such person which is not contained herein shall be valid or binding on the City or the Agency.

Section 11. Future Cooperation. The City and the Agency agree to take all appropriate actions and execute and, if appropriate, record any documents which may reasonably be necessary or convenient to implement the intent of this Agreement.

Section 12. Survival. The provisions hereof shall not terminate but rather shall survive any conveyance hereunder.

Section 13. Binding on Successors. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding on the parties hereto and their successors and assigns.

Section 14. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of, and shall be binding upon, the parties and their respective

successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

Section 15. Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**WINTERS COMMUNITY DEVELOPMENT
AGENCY**

By _____
Chairperson

ATTEST:

Secretary

CITY OF WINTERS

By _____
Mayor

ATTEST:

City Clerk

EXHIBIT A
LEGAL DESCRIPTION

- 1) 318 Railroad Avenue (APN # 003 204 005) – current building tenant is JJ's Saloon
- 2) 314 Railroad Avenue (APN # 003 204 006) – current building tenant is Cody's Restaurant
- 3) 23 Main Street (APN # 003 204 012) – undeveloped lot
- 4) 110 East Baker Street (APN # 003 370 038 – 99 year ground lease (CDA owns the land) to Bruin Orchards LLC (CHOC) who constructed the Winters Village apartments (affordable multi-family).
- 5) Grant Avenue and East Street (APN #s 003 370 028, 003 370 029, & 003 370 030) – undeveloped parcels currently referred to as "Grant Avenue Commercial
- 6) 311 First Street (APN # 003 204 002) – lot that is improved with an unoccupied steel building

EXHIBIT B
FORM OF QUITCLAIM

(attached hereto)

Exhibit B-1

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Winters Community Development Agency
318 First Street
Winters, California 95694
Attn.: Executive Director

APN: _____

[SPACE ABOVE FOR RECORDER'S USE ONLY]

QUITCLAIM DEED

This transfer is exempt from Documentary Transfer Tax pursuant to Revenue & Taxation Code Section 11922, and exempt from Recording Fees pursuant to California Government Code Section 6103.

FOR A VALUABLE CONSIDERATION, receipt and sufficiency of which are hereby acknowledged, the **WINTERS COMMUNITY DEVELOPMENT AGENCY**, a public body, corporate and politic, does hereby **REMISE, RELEASE AND FOREVER QUITCLAIM** to the **CITY OF WINTERS**, a municipal corporation ("City"), all of its right, title and interest in, under and to that certain real property located in the County of Yolo, State of California, more particularly described on Exhibit A attached hereto, and all improvements and fixtures located thereon.

IN WITNESS WHEREOF, the undersigned has executed this Quitclaim Deed as of the date set forth below.

Dated: _____, 20__

**WINTERS COMMUNITY DEVELOPMENT
AGENCY**, a public body, corporate and politic

By: _____
Name: _____
Title: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF YOLO)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

SEAL:

Exhibit A
to Quitclaim Deed

LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN IS SITUATED IN THE CITY OF WINTERS, STATE OF CALIFORNIA, COUNTY OF YOLO, DESCRIBED AS FOLLOWS:

- 1) 318 Railroad Avenue (APN # 003 204 005) – current building tenant is JJ's Saloon
- 2) 314 Railroad Avenue (APN # 003 204 006) – current building tenant is Cody's Restaurant
- 3) 23 Main Street (APN # 003 204 012) – undeveloped lot
- 4) 110 East Baker Street (APN # 003 370 038 – 99 year ground lease (CIDA owns the land) to Bruin Orchards LLC (CHOC) who constructed the Winters Village apartments (affordable multi-family).
- 5) Grant Avenue and East Street (APN #s 003 370 028, 003 370 029, & 003 370 030) – undeveloped parcels currently referred to as "Grant Avenue Commercial
- 6) 311 First Street (APN # 003 204 002) – lot that is improved with an unoccupied steel building

CERTIFICATE OF ACCEPTANCE
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed to the City of Winters by that certain Quitclaim Deed dated March 15, 2011, executed by the Winters Community Development Agency is hereby accepted by the undersigned office on behalf of the City of Winters pursuant to the authority conferred by the City of Winters at the City Council meeting held on March 15, 2011, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2011

CITY OF WINTERS,
a municipal corporation

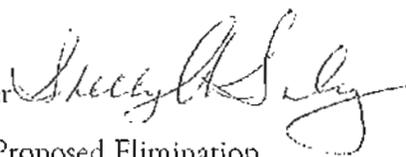
By: _____,
Name: W. Keith Fridae
Title: Mayor

Attest:

Nanci G. Millis, Winters City Clerk



COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT

TO: Honorable Chair and Boardmembers
DATE: March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager/Executive Director 
FROM: Shelly A. Gunby, Director of Financial Management/Treasurer 
SUBJECT: Authorization for Legal Fees for Possible Litigation related to Proposed Elimination of Redevelopment Agencies.

RECOMMENDATION:

Staff recommends that the Community Development Agency Board authorize the Executive Director of the Community Development Agency to provide funding as requested by the League of California Cities (LCC) and the California Redevelopment Association (CRA).

BACKGROUND:

Governor Jerry Brown has proposed that all Redevelopment Agencies within the State of California be eliminated as part of his budgeted presented to the Legislature on January 10, 2011. The League of California Cities and the California Redevelopment Association both view this proposal as a violation of the California State Constitution.

On Monday March 7, the League of California Cities held a special board meeting and voted to authorize the League to be a named plaintiff in any litigation challenging the constitutionality of the legislation. Staff understands that the League and the California Redevelopment Association will be requesting assistance in funding the litigation. At this time, the understanding is that the Redevelopment Agencies will be asked for funding based on the size of the agency.

When funding was requested for the litigation for the Supplemental Education Revenue Augmentation Fund (SERAF), the City of Winters Community Development Agency contributed \$2,500 as our share of the costs.

Based on the 2007 tax increment information used to calculate the SERAF payments, the Winters Community Development Agency's tax increment is .0475% of the total tax increment collected

by Redevelopment Agencies throughout the State of California. Staff will report back to the Board on the amount requested for the cost of litigation when the request is received by either the League of California Cities or the California Redevelopment Association.

FISCAL IMPACT:

Increased costs for Legal Fees out of tax increment fund.



COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT

TO: Honorable Chair and CDA Board Members

DATE: March 15, 2011

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

SUBJECT: Resolution No. 2011-22, A Resolution of the Winters Community Development Agency authorizing execution of a Cooperation Agreement for Payment of Costs Incurred by the City Associated with Certain Agency-funded Capital Improvement and Affordable Housing projects.

RECOMMENDATION: That the Winters Community Development Agency Board receive the report and approve Resolution No. 2011-22, A Resolution of the Winters Community Development Agency authorizing execution of a Cooperation Agreement for Payment of Posts Incurred by the City Associated with Certain Agency-funded Capital Improvement and Affordable Housing projects.

BACKGROUND: The Winters Community Development Agency (CDA) and the City of Winters have historically utilized the budget process, Capital Improvement Plan, and other specific Agency agreements including Disposition and Development Agreements (DDA) for affordable housing and other projects, and planning tools including the Downtown Master Plan, in order to prioritize, create, fund and ultimately construct projects consistent with the goals and objectives of the Winters Community Development Project Implementation Plan (2009-2013).

The Winters Community Development Agency Project Area Plan was created to eliminate blight and blighting influences within the City and Project Area, as set forth in the Plan.

The action is deemed necessary because within the Project Area there presently exists an inadequate circulation system; mixed and shifting land uses; inappropriate and fragmented parcelization; physical deterioration of property; and inadequate public improvements, including needed flood control and storm drainage facilities, recreation improvements, traffic signalization and calming, street reconstruction, curb, gutter and sidewalk construction, parking facilities, street lighting and municipal services facilities—all of which inhibit proper and

desirable development of the Project Area.

In order to achieve these goals, the CDA has identified objectives that are designed to alleviate blighting conditions in the project area:

- To provide a stable, diversified and stronger economic base for the Project Area and Community.
- To provide safer, more efficient, and economical movement of persons and goods within the Project Area and community.
- To conserve and improve existing public facilities and to provide such new facilities as needed for the improvement of the Project Area.
- To enhance the physical environment of the Project Area and to emphasize its favorable environmental characteristics.
- To maximize opportunities for the revitalization, expansion and development of commercial and industrial uses within the Project Area.
- To improve and increase the community's supply of affordable housing in a manner consistent with the Housing Element of the General Plan and the policies of the Community Redevelopment Law.
- To accomplish these goals with minimum displacement of any property owner, resident or business person who may wish to remain within the Project Area.

CDA Programs

To achieve these goals and objectives, the CDA has identified current redevelopment projects and activities in the project area for the five-year period of the Winters Community Development Agency Project Implementation Plan (2009-2013). The programs and projects fall under the following categories:

- Public infrastructure;
- Public facilities;
- Economic development;
- Project area planning; and
- Property disposition and development.

The City and CDA have worked tirelessly and cooperatively on development of certain public improvements and projects in the Project Area since the inception of the Winters Community Development Agency. Nearly \$10 million in CDA bond proceeds and net tax increment revenues have resulted in public improvements, affordable housing and other projects including:

- Downtown Parking Lot;
- Railroad Trestle Bridge Rehabilitation;
- Downtown Streetscape Improvements Phase I;
- Winters Community Library;
- Main Street Village Parking Easement;
- Façade Improvement projects
- Lease Assistance program
- Visitors Center

- Amphitheater
- Patio Cover at Community Center
- Rotary Park improvements
- Tennis Courts
- Bobbie Greenwood Swim Center
- Little League lights
- Public Safety Facility
- Grant Avenue Commercial project
- Rominger School softball field
- Property purchases at 311 First Street, 23 Main Street, 314 and 318 Railroad Avenue
- Winters Village I and II;
- Winters Village Land Acquisition;
- Almondwood Apartments;
- Cottage Circle Affordable Housing;
- Down Payment Assistance;
- First Time Homebuyer Program

The action before the CDA Board and City Council is to adopt the Cooperative Agreement in order to formalize certain funding obligations of projects in order to contractually obligate CDA funding sources or clarify obligations in instances where a contract may already exist and amplification is prudent.

Section 33445 Findings:

Community Redevelopment Law, California Health and Safety Code Section 33445, allows an Agency, with the consent of the City, to pay all or a portion of the cost of land and the cost of construction of any building, facility, structure, or improvements that are publically owned and located within a project area if the City Council makes specified findings. Details related to the findings are provided for each project in Exhibit X to the Agreement. The required findings are outlined below:

1. The project improvements benefit the Project Area by eliminating blight or assisting with the provision of affordable housing.
 - a. All of the projects are located within the Project Area and will provide benefits that lead to new jobs, an enhanced tax base, the elimination of blight or the creation of affordable housing.
2. No other reasonable means of funding is available for the projects.
 - a. The City and State do not have the resources to fund the projects, and staff is not aware of any grant or private source of funding.
3. The projects are consistent with the implementation plan pursuant to Section 33490.
 - a. All of the projects are consistent with the goals identified in the Winters Community Development Agency Project Implementation Plan (2009-2013).

FISCAL IMPACT: The adoption of the Cooperation Agreement for Payment of Costs

Incurring by the City Associated with Certain Agency-Funded Capital Improvement and Affordable Housing Projects (the "Agreement") is intended to contractually obligate and protect the existing funds of the City of Winters Community Development Agency in addition to future net tax increment funds that were anticipated and are necessary in order to carry out certain projects. The total cost of the projects contained within the Agreement is estimated at \$14,273,250. This action involves adoption of resolutions making required findings and approval of the Agreement to memorialize a governmental funding mechanism for various public improvements, but does not commit the City or CDA to the development of any specific public improvement.

ATTACHMENTS:

Resolution No. 2011-22

Cooperation Agreement

RESOLUTION NO. 2011 - 22

**A RESOLUTION OF THE WINTERS COMMUNITY DEVELOPMENT AGENCY
AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT
FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH
CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND
AFFORDABLE HOUSING PROJECTS**

WHEREAS, the City Council of the City of Winters (the "City Council") activated the Winters Community Development Agency through the adoption of Ordinance No. 90-06 and on July 20, 1992, with the adoption of Ordinance No. 92-08 approved a redevelopment plan (the "Redevelopment Plan") and designated the Winters Community Development Project Area (the "Project Area") which resulted in the allocation of taxes from the Project Area to the Winters Community Development Agency (the "Agency") for purposes of redevelopment. On October 4, 1994, pursuant to Ordinance No. 94-11 the Redevelopment Plan was amended and restated to bring the Redevelopment Plan into conformance with the Community Redevelopment Law Reform Act of 1993 (A.B. 1290); and

WHEREAS, the intent of the Redevelopment Plan is, in part, to provide for the construction and installation of necessary public infrastructure and facilities and to facilitate the repair, restoration and/or replacement of existing public facilities and to perform specific actions necessary to promote the redevelopment and the economic revitalization of the Project Area; and to increase, improve and preserve the community's supply of low and moderate income housing, some of which may be located or implemented outside the Project Area; and to take all other necessary actions to implement the Redevelopment Plan for the Project Area and to expend tax increment to accomplish the goals and objectives of the respective redevelopment projects; and

WHEREAS, the Agency has adopted its Five-Year Implementation Plan for the Project Area, as may be amended from time to time (the "Implementation Plans) with established goals to support affordable housing, economic development, community revitalization, commercial revitalization, and institutional revitalization. To implement the programs and activities associated with each goal, the Agency has made redevelopment fund commitments based on estimated available tax increment revenue and debt financing structures; and

WHEREAS, the Agency and the City of Winters (the "City") wish to cooperate with one another to bring about the redevelopment of the Project Area and accomplish various tasks set forth in the Redevelopment Plan and the Implementation Plan; and

WHEREAS, pursuant to Section 33220 of the California Community Redevelopment Law (Health and Safety Code Section 33000, et seq.) (the "CRL"), any public body, including the City, may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects; and

WHEREAS, the Agency and the City have prepared a Cooperation Agreement (the "Agreement") to provide for implementation of certain projects set forth in the "Winters Community Development Agency Project Summary Profile" attached thereto as Exhibit A (the

“Projects”), and to make payments by the Agency to the City in conformance with the City’s Cost Allocation Plan and as otherwise necessary to reimburse the City for the costs incurred by the City in performing its obligations thereunder, subject to all of the terms and conditions of the Agreement; and

WHEREAS, the programs and activities associated with the Projects include, but are not limited to, acquisition and disposition of property, development of design criteria, design, planning, preparation of construction bid documents, financial analysis, financing and new construction or rehabilitation. To carry out the Projects in accordance with the objectives and purposes of the Redevelopment Plan for the Project Area and the Implementation Plan, the Agency desires assistance and cooperation in the implementation and completion of the Projects. The City wishes to enter into the Agreement with the Agency to aid the Agency and cooperate with the Agency to expeditiously implement the Projects in accordance with the Redevelopment Plan for the Project Area and the Implementation Plan and undertake and complete all actions necessary or appropriate to ensure that the objectives of the Redevelopment Plan for the Project Area and the Implementation Plan are fulfilled within the time effectiveness of the Project Area; and

WHEREAS, in considering the Agency’s desire to ensure timely implementation and completion of the Projects, the Agency wishes to enter into the Agreement with the City for the pledge of net available tax increment to finance the Projects. The purpose of the Agreement is to facilitate the implementation of the Projects and to provide funding necessary to effectuate the completion of the Projects with and available bond proceeds or available net available tax increment in this current fiscal year and forthcoming fiscal years; and

WHEREAS, net available tax increment is defined as any tax increment, net of existing debt service payments, and existing contractual obligations received by the Agency or any lawful successor of the Agency and/or to any of the powers and rights of the Agency pursuant to any applicable constitutional provision, statute or other provision of law now existing or adopted in the future. The pledge of net available tax increment will constitute obligations to make payments authorized and incurred pursuant to Sections 33445 and 33445.1 of the CRL and other applicable statutes. The obligations set forth in the Agreement will be contractual obligations that, if breached, will subject the Agency to damages and other liabilities or remedies; and

WHEREAS, by approving and entering into the Agreement, the Agency will approve the pledge of net available tax increment from the Project Area to pay for the Projects; and

WHEREAS, the obligations of the Agency under the Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the Redevelopment Plan for the Project Area; and

WHEREAS, it is in the best interests of the City and for the common benefit of residents, employees, business tenants and property owners within the Project Area and the City as a whole for the Projects to be developed and constructed; and

WHEREAS, the Agency's use of low and moderate income housing fund for any portion of the Projects located outside of the Project Area are in accordance with Section 33334.2 of the CRL because the use of such funds will be of benefit to the Project Area; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred,

NOW, THEREFORE THE WINTERS COMMUNITY DEVELOPMENT AGENCY DOES HEREBY RESOLVE, as follows:

Section 1. The Agency has received and heard all oral and written objections to the proposed payments by the Agency to the City for the Projects as described in the Agreement, and to other matters pertaining to this transaction, and all such oral and written objections are hereby overruled.

Section 2. The Agency hereby finds and determines that the foregoing recitals are true and correct and incorporated herein by this reference.

Section 3. Based on the evidence in the record, the Agency hereby finds and determines, with respect to the Projects that are publicly owned and are located inside the project area as identified in Exhibit A attached to the Agreement, that:

(a) Said Projects and the programs and activities associated therewith are of benefit to the respective Project Area by helping to eliminate blight within the project area or providing housing for low- or moderate income persons; and

(b) No other reasonable means of financing said Projects and the programs and activities associated therewith are available to the community; and

(c) The payment of funds by the Agency for the costs related to said Projects and the programs and activities associated therewith is consistent with the Implementation Plan adopted pursuant to Section 33490 of the CRL.

Section 4. Based on the evidence in the record, the Agency hereby finds and determines, with respect to the use of low- and moderate income funds for any Projects which may be located outside of the Project Areas that such use will be of benefit to the Project Areas in accordance with Section 33334.2 of the CRL.

Section 5. The Agency hereby consents to the payment by Agency to City in accordance with the Cost Allocation Plan.

Section 6. The Agreement in substantially the form presented to the Agency is hereby approved, a copy of which is on file with the Secretary of the Agency.

Section 7. The Agency Chairman, or designee, is hereby authorized to execute the Agreement on behalf of the Agency, together with such non-substantive changes and amendments as may be approved by the Agency Executive Director and Agency Counsel.

Section 8. The Agency Executive Director, or designee, is hereby authorized, on behalf of the Agency, to sign all documents necessary and appropriate to carry out and implement the Agreement, and to administer the Agency's obligations, responsibilities and duties to be performed under the Agreement.

Section 9. In the event the Agency desires to issue bonds, notes, or other instruments of indebtedness of the Agency to carry out redevelopment projects, then any indebtedness of the Agency to the City, including any interest accrued thereon, shall be deemed not to be a first pledge of tax increment allocations received by the Agency pursuant to Section 33670 of the CRL; and any indebtedness of the Agency to the City, including any interest accrued thereon, shall be subordinate to any pledge of tax increments to bondholders or the holders of other such instruments of indebtedness.

Section 10. This Resolution shall take effect immediately upon its adoption.

DULY AND REGULARLY ADOPTED this 15th day of March, 2011 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

APPROVED:

Cecilia M. Aguiar-Curry, Chair
Community Development Agency

ATTEST:

Nanci G. Mills, Secretary
Community Development Agency

COOPERATION AGREEMENT FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSING PROJECTS

THIS COOPERATION AGREEMENT FOR PAYMENT OF COSTS INCURRED BY THE CITY ASSOCIATED WITH CERTAIN AGENCY-FUNDED CAPITAL IMPROVEMENT AND AFFORDABLE HOUSING PROJECTS (the "Agreement") is entered into this 4th day of March, 2011, by and between the CITY OF WINTERS (the "City") and the WINTERS COMMUNITY DEVELOPMENT AGENCY (the "Agency"), with reference to the following facts:

RECITALS

- A. The Agency has approved a redevelopment plan (the "Redevelopment Plan" for the Winters Community Development Project Area, which results in the allocation of taxes from the Project Area to the Agency for purposes of redevelopment.
- B. The City Council of the City of Winters (the "City Council") activated the Winters Community Development Agency through the adoption of Ordinance No. 90-06 and on July 20, 1992, with the adoption of Ordinance No. 92-08 approved the Redevelopment Plan and designated the Winters Community Development Project Area (the "Project Area"). On October 4, 1994, pursuant to Ordinance No. 94-11 the Redevelopment Plan was amended and restated to bring the Redevelopment Plan into conformance with the Community Redevelopment Law Reform Act of 1993 (A.B. 1290). The adoption of the Redevelopment Plan has resulted, and will continue to result, in the allocation to the Agency of certain property-based taxes generated from the Project Area (the "tax increment") in accordance with California Community Development Law, set forth at California Health and Safety Code Sections 33000 et seq. (the "CRL"). The Agency has used, and will continue to use, tax increment for the purpose of "redevelopment" as defined in the CRL.
- C. The intent of the Redevelopment Plan is, in part, to provide for the construction and installation of necessary public infrastructure and facilities and to facilitate the repair, restoration and/or replacement of existing public facilities and to perform specific actions necessary to promote the redevelopment and the economic revitalization of the Project Area; and to increase, improve and preserve the community's supply of low and moderate income housing, some of which may be located or implemented outside of the Project Area; and to take all other necessary actions to implement the Redevelopment Plan for the Project Area and to expend tax increment to accomplish the goals and objectives of the Redevelopment Plan.
- D. The Agency has adopted its Five-Year Implementation Plan for the Project Area (the "Plan") with established goals to support affordable housing, economic development, community revitalization, commercial revitalization, and institutional revitalization. To implement the programs and activities associated with each goal, the Agency has made redevelopment fund commitments based on estimated available tax increment revenue and debt financing structures.

- E. Pursuant to Health & Safety Code Section 33220, any public body, including the City, may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects. Collectively, the projects associated with this Agreement are listed in the attached Exhibit A, which exhibit is incorporated herein by this reference, (the "Projects").

The programs and activities associated with the Projects include, but are not limited to, administration, acquisition and disposition of property, development of design criteria, design, planning, feasibility studies, permitting, preparation of construction bid documents, financial and economic analysis, financing, new construction, rehabilitation of existing improvements and structures, remediation of hazardous materials, elimination or removal of blighting conditions, and monitoring and enforcement of affordable housing covenants and other requirements pursuant to applicable law. To carry out the Projects in accordance with the objectives and purposes of the Redevelopment Plan for the Project Area and the Plan, the Agency desires assistance and cooperation in the implementation and completion of the Projects.

The City agrees to aid the Agency and cooperate with the Agency to expeditiously implement the Projects in accordance with the Redevelopment Plan for the Project Area and the Plan and to undertake and complete all actions necessary or appropriate to ensure that the objectives of the Redevelopment Plan for the Project Area and the Plan are fulfilled within the time effectiveness of the Project Area.

- F. In considering the Agency's desire to ensure timely implementation and completion of the Projects, the Agency wishes to enter into this Agreement with the City for the pledge of net available tax increment to finance the Projects. The purpose of this Agreement is to facilitate the implementation of the Projects and to provide funding necessary to effectuate the completion of the Projects with any existing bond proceeds or net available tax increment in this current fiscal year and forthcoming fiscal years.
- G. Net available tax increment is defined as any tax increment, net of existing debt service payments, and existing contractual obligations received by the Agency or any lawful successor of the Agency and/or to any of the powers and rights of the Agency pursuant to any applicable constitutional provision, statute or other provision of law now existing or adopted in the future. The pledge of net available tax increment will constitute obligations to make payments authorized and incurred pursuant to Health and Safety Code Section 33445 and other applicable statutes. The obligations set forth in this Agreement will be contractual obligations that, if breached, will subject the Agency to damages and other liabilities or remedies.
- H. The City Council (the "Council") and the Agency by resolution have each found that the use of Agency redevelopment funding for the Projects is in accordance with Sections 33445 and 33445.1 of the California Community Redevelopment Law (Health & Safety Code Section 33000 et seq.) ("CRL") and all other applicable laws. The said Council and Agency resolutions are each based on the authority of the Agency, with the consent of the Council, to pay all or part of the cost of the installation and construction of any building,

facility, structure, or other improvements which are publicly owned either within or outside of a project area, if the Council makes certain determinations.

1. By approving and entering into this Agreement, the Agency has approved the pledge of net available tax increment from the Project Area to pay for the Projects.
- J. The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the Redevelopment Plan for the Project Area.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1.0 INCORPORATION OF RECITALS

The recitals above are an integral part of this Agreement and set forth the intentions of the parties and the premises on which the parties have decided to enter into this Agreement and are hereby incorporated by reference.

2.0 PROJECTS

The Projects are those projects, including capital improvement projects ("Capital Improvements"), which are listed in the "Winters Community Development Agency Project Summary Profile" which is attached hereto as Exhibit A. These Projects are all consistent with the Implementation Plan as updated and amended and the City's Public Facilities Financing Plan pursuant to AB 1290.

3.0 AGENCY REIMBURSEMENT OF CITY COSTS

The Agency agrees to pay to the City an amount equal to the cost to the City to carry out the Projects ("City Costs") including, without limitation, all costs incurred by the City for the planning, financing, development, permitting, design, site testing, bidding, construction and construction management of the Capital Improvements.

4.0 INDEBTEDNESS OF AGENCY

4.1 Agency's Obligations are Debt of Agency. The Agency's obligations under this Agreement including, without limitation, the Agency's obligation to make the payments to the City required by this Agreement, shall constitute an indebtedness of the Agency for the purpose of carrying out the redevelopment of the Project Area and are obligations to make payments authorized and incurred pursuant to Section 33445 and other applicable statutes.

The obligations of the Agency set forth in this Agreement are contractual obligations that, if breached, will subject the Agency to damages and other liabilities or remedies.

4.2 Source of Funds. The obligations of Agency under this Agreement shall be payable out of any existing bond proceeds or net available tax increments, as defined in the above recitals

and/or as defined or provided for in any applicable constitutional provision, statute or other provision of law now existing or adopted in the future, levied by or for the benefit of taxing agencies in the Project Area, and allocated to the Agency and/or any lawful successor entity of the Agency and/or any entity established by law to carry out any of the redevelopment plan for the Project Area and/or expend tax increment or pay indebtedness of the Agency to be repaid with tax increment, pursuant to CRL Section 33670, et seq., or any applicable constitutional provision, statute or other provision of law now existing or adopted in the future.

4.3 Subordination of Debt to Existing Bonds. The indebtedness of Agency under this Agreement shall be subordinate to the rights of the holder or holders of any existing bonds, notes or other instruments of indebtedness (all referred to herein as "indebtedness") of the Agency incurred or issued to finance the Project Area including, without limitation, any pledge of tax increment revenues from the Project Area to pay any portion of the principal (and otherwise comply with the obligations and covenants) of any bond or bonds issued or sold by Agency with respect to the Project Area.

5.0 PAYMENTS TO CITY

5.1 Payment Schedule. All payments due to be made by the Agency to the City under this Agreement shall be made by the Agency in accordance with the "Payment Schedule" provided within Exhibit B. All payments shall be necessary to pay the City for the costs incurred by the City of performing its obligations hereunder, whether paid in advance or in arrears.

5.2 Quarterly Report. City shall provide Agency with a quarterly report outlining (i) City costs for Projects undertaken during the prior quarter for which City should be reimbursed; (ii) Project costs projected to be incurred in the next quarter; (iii) a reconciliation of all City costs for the Project to date, showing additional amounts due to City and any overage payments which City shall deduct from sums due. Quarterly reports shall be accompanied by evidence reasonably satisfactory to the Agency's Executive Director that the City has progressed in the development and construction of any Projects for which payment is made by the Agency commensurate with such payments and has incurred costs or obligations to make payments equal to or greater than such amount. Additionally, advances may be paid in accordance with projected expenditures provided that there shall be on-going reconciliation each quarter. Cost accounting shall be kept separate for each Project.

6.0 CITY OBLIGATION FOR USE OF FUNDS

The City shall accept any funds offered by the Agency pursuant to this Agreement and shall devote those funds to completion of the Projects by (i) reimbursing the City or using such funds to make City expenditures to perform the work required to carry out and complete the Projects; (ii) utilizing such funds to pay debt service on bonds or other indebtedness or obligations that the City has or will incur for such purposes; and/or (iii) paying such funds into a special fund of the City to be held and expended only for the purpose of satisfying the obligations of the City hereunder.

7.0 TIMELY PERFORMANCE

The City shall timely complete the work required for each Project.

8.0 COMPLIANCE WITH LAW

The City shall carry out the Projects hereunder in accordance with the applicable provisions of federal, state and local laws, including the obligation to comply with environmental laws such as CEQA.

9.0 DELEGATION OF AUTHORITY

Agency hereby appoints City to act as its agent in carrying out the Agency's duties hereunder, to the full extent permitted by the CRL. The City is required to fulfill these obligations in accordance with the intent and purposes of the CRL, to the same extent as if the Agency were performing such duties. In addition, City shall be deemed to be the successor agency to the Agency under the CRL. It is the responsibility of City to pay all development and construction costs in connection with the Projects, which costs shall be reimbursed from funds paid to the City by the Agency under this Agreement.

10.0 LIABILITY AND INDEMNIFICATION

In contemplation of the provisions of California Government Code Section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Government Code Section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve the above-stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, cost or expenses that may be incurred by such other party solely by reason of Government Code Section 895.2.

11.0 ENFORCEMENT

11.1 Notice. If either party fails to perform or adequately perform an obligation required by this Agreement within thirty (30) calendar days of receiving written notice from the non-defaulting party, the party failing to perform shall be in default hereunder. All notices of defaults shall clearly indicate a notice of default under this Agreement.

11.2 Remedies. In the event of default, the non-defaulting party will have all the rights and remedies available to it at law or in equity to enforce the provisions of this contract, including without limitation the right to sue for damages for breach of contract. The rights and remedies of

the non-defaulting party enumerated in this paragraph are cumulative and shall not limit the non-defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of the Agreement or hereinafter enacted or established, that may be available to the non-defaulting party against the defaulting party.

11.3 Choice Law/Venue. This Agreement is made in the State of California under the constitution and laws of the State of California, and is to be so construed. Legal actions must be instituted and maintained in the Superior Court of the County of Yolo State of California, in any other appropriate court in that county, or in the Federal District Court in the Central District of California.

11.4 Waiver. No delay or omission in the exercise of any right or remedy by on-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement

12.0 MISCELLANEOUS

12.1 Integration. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement.

12.2 No Third Party Beneficiary. This Agreement is intended solely for the benefit of the City and the Agency. Notwithstanding any reference in this Agreement to persons or entities other than the City and the Agency, there shall be no third party beneficiaries under this Agreement.

12.3 Amendment. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

12.4 Severability. If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

12.5 Binding on Successors. This Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the parties, whether by agreement or operation of law.

12.6 Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is

formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

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

CITY OF WINTERS

Keith W. Fridae, Mayor

ATTEST

Nanci G. Mills, City Clerk

John W. Donlevy, Jr., City Manager

WINTERS COMMUNITY DEVELOPMENT AGENCY

Cecilia M. Aguiar-Curry, Chairperson

ATTEST

Nanci G. Mills, Community Development Agency Secretary

APPROVED AS TO FORM:

John C. Wallace, City Attorney and Agency Counsel

Winters Community Development Agency Project Summary Profile

Project#	Project Title	Cost
1	New Joint Police/Fire Station(Complete Project in process)	\$ 8,500,000
2	Community Center Rehabilitation	\$ 750,000
3	Blue Oak Park Restrooms	\$ 70,500
4	City Park Improvements	\$ 127,500
5	Valley Oak Park Improvments	\$ 71,250
6	Widen Railroad Ave County Rd 32A to Grant Ave	\$ 1,233,000
7	Widen Grant Avenue Dry Creek to W Main	\$ 634,500
8	Downtown Streetscape Phase II	\$ 250,000
9	Baker Street Infrastructure Improvements (Grant Ave Property)	\$ 750,000
10	Traffic Signal at Grant and East Main St	\$ 119,500
11	Water Main Improvements- Main Street	\$ 1,472,000
12	Water Main Improvments East St to Well #2	\$ 76,000
13	Water Main Improvements-Edwards Street	\$ 836,000
14	Water Main Improvements- Fourth Street	\$ 304,000
15	Sewer Lines Railroad -Coutny Rd 22 to Anderson	\$ 252,000
16	Sewer Lines Taylor Street	\$ 77,000
17	Neighborhood Stabilisation Program	\$ 1,500,000
18	Housing Rehabilitation Program	\$ 200,000
19	First time Homebuyer Services	\$ 50,000
20	Affordable Multi Family New Construction Program	\$ 1,000,000
21	Business Promotion	\$ 100,000
Total Projects		\$ 18,373,250



STAFF REPORT

TO: Honorable Chair and CDA Board

DATE: March 15, 2011

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

SUBJECT: Adoption of Resolution No. 2011-20, A Resolution of the Winters Community Development Agency Authorizing the Execution of a Cooperation Agreement for Advance and Reimbursement of Administrative and Overhead Expenses.

RECOMMENDATION: That the Winters Community Development Agency Board receive the report and approve Resolution No. 2011-20, A Resolution of the Winters Community Development Agency Board Authorizing the Execution of a Cooperation Agreement for Advance and Reimbursement of Administrative and Overhead Expenses.

BACKGROUND: The Winters Community Development Agency (CDA) has historically relied on the City for office space, equipment, supplies, insurance, staff resources, and other services in order to carry out the purposes of the Winters Community Development Project Area Plan. The CDA has historically paid its pro rata share of the aforementioned expenses through the annual budget process in conjunction with the City. This Agreement would memorialize and contractually obligate the CDA to reimburse the City for such expenses consistent with the terms of each adopted budget.

It is recommended the CDA and City enter into an agreement to formalize certain existing obligations the CDA has to the City for City costs associated with administering and staffing the CDA related activities. The intent of the agreement is to make a best effort to contractually obligate the tax increment that currently is used to pay for these items consistent with terms outlined in the adopted budget for any given year.

A Cooperative Agreement for Advance and Reimbursement of Administrative and Overhead Expenses (the Agreement) has been prepared to contractually obligate the CDA to pay the City of Winters for costs incurred by the City on the CDA's behalf that are necessary to administer projects and programs that have been developed since the inception of the CDA, or are necessary to carry out the activities outlined in the Winters community Development Project

Area Plan, Winters Community Development Project Implementation Plan (2009-2013), and other contractual obligations such as but not limited to Disposition & Development Agreements. The CDA is carrying out the redevelopment plan for the project area, and, in connection therewith, is utilizing the staff and other resources of the City. The City Manager of the City serves as Executive Director of the CDA and staff of the City Manager's office, Community Development, Finance, Public Works and other departments of the City devote substantial time to Economic Development and Redevelopment related activities.

The Agreement memorializes obligations of the CDA to the City based on the allocation of funds as adopted in the biennial 2010-11 and 2011-12 budget. The Agreement provides for an annual accounting of staff time spent by City staff on CDA projects and the use by the CDA of all office space, equipment supplies, insurance, and other City services and facilities used in connection with time spent on the foregoing, with a separate accounting of the foregoing on matters for or related to the production, improvement and preservation of affordable housing. Thus, the obligation of the CDA shall be determined on an annual basis depending on the work load of City staff and use of City resources by CDA related activities.

In order to memorialize the arrangement between the CDA and the City with respect to the costs incurred by the City with respect to the administration of economic development and redevelopment activities, and in order to maintain and administer existing contractual obligations of the CDA, it is recommended this Agreement be adopted.

FISCAL IMPACT: The cost of administrative and overhead expenses rendered by the City on behalf of the CDA are currently budgeted in Fund 701 and Fund 711 of the adopted biennial 2010-2011 and 2011-2-12 budget. The current method of these cost allocations is based on estimated costs and a prorated percentage share of expenses, operational costs, and staff time. For fiscal year 2010-11, administrative expenses budgeted in the Agency fund (Fund 701) total approximately \$336,907. In the housing fund (Fund 711), the total amount budgeted for such costs and expenses is approximately \$285,238.

The proposed cooperative agreement will stipulate the accountings of the value of staff resources, office space, equipment, supplies, insurance and other services and facilities plus an amount for planning and administrative expenses for both the CDA plan implementation and the moneys in the CDA low and moderate income housing fund and its repayment in accordance with the terms of the agreement.

ATTACHMENTS:

Resolution 2011-20

Cooperation Agreement

RESOLUTION NO. 2011 - 20

**A RESOLUTION OF THE WINTERS COMMUNITY DEVELOPEMENT AGENCY
AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT FOR
ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD
EXPENSES**

WHEREAS, pursuant to the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.), the City of Winters (the "City") has undertaken a program for the redevelopment of blighted areas in the City and in that regard has approved and adopted a redevelopment plan for the project area, and has established a low and moderate income Housing fund to be used for the purposes of increasing, improving and preserving the City's supply of affordable housing; and

WHEREAS, the Winters Community Development Agency (the "Agency") is carrying out the redevelopment plan for the project area, and, in that connection, is utilizing the staff and other resources of the City. The Agency is carrying out the redevelopment plan for the project area, and, in connection therewith, is utilizing the staff and other resources of the City. The City Manager of the City serves as Executive Director of the Agency and the staff of the Economic Development, Community Development, Finance, Public Works and other Departments of the City devote substantial time to Economic Development and Redevelopment related activities; and

WHEREAS, by providing and making available to the Agency the staff and other resources of the City, and by providing and making available to the Agency office space, equipment, supplies, insurance and other City services and facilities, the City has advanced and will continue to advance the cost of the foregoing to the Agency; and

WHEREAS, the City and the Agency desire to enter into a Cooperative Agreement for Advance and Reimbursement of Administrative and Overhead Expenses (the "Agreement") to acknowledge the foregoing recitals and to memorialize an appropriate method of reimbursement of such advances and/or reimbursements by the Agency to the City.

NOW, THEREFORE, BE IT RESOLVED that the City shall make available to the Agency its staff resources, office space, equipment, supplies, insurance and other services and facilities. The Agency shall have access to the services and facilities of the City.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Executive Director is hereby authorized to take all actions necessary to interpret, execute and implement the Cooperative Agreement for Advance and Reimbursement of Administrative and Overhead Expenses.

PASSED AND ADOPTED at a special meeting of the Winters Community Development Agency held on Monday, the 4th of March 2011, by the following vote:

AYES: BOARDMEMBERS:

NOES: BOARDMEMBERS:

ABSTAIN: BOARDMEMBERS:

ABSENT: BOARDMEMBERS:

WITNESS my hand and the seal of the City of Winters this 15th of March, 2011.

Nanci G. Mills, City Clerk

**COOPERATIVE AGREEMENT FOR ADVANCE AND REIMBURSEMENT
OF ADMINISTRATIVE AND OVERHEAD EXPENSES**

THIS AGREEMENT is made as of the 4th day of March, 2011, by and between the City of Winters (the "City") and the Winters Community Development Agency (the Agency").

RECITALS

A. Pursuant to the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.), the City has undertaken a program for the redevelopment of blighted areas in the City and in that regard has approved and adopted a redevelopment plan for the Winters Redevelopment Project and has established a low and moderate income housing fund to be used for the purposes of increasing, improving and preserving the City's supply of affordable housing.

B. The Agency is carrying out the goals and activities for the project area as defined within the Amended and Restated Redevelopment Plan for the Winters Redevelopment Project, and, in that capacity, is utilizing the staff and other resources of the City. The City Manager of the City serves as Executive Director of the Agency and the staff of the Economic Development, Community Development, Finance, Public Works and other Departments of the City devote substantial time gathering information relating to the project area, conferring with developers and potential developers of land within the project area, conferring with public officials and other governmental agencies regarding the redevelopment of the project area, business recruitment and retention efforts, marketing, other general economic development activities, and undertaking planning and administrative activities in connection with the production, improvement and preservation of affordable housing.

C. The Agency has issued its tax allocation obligations to finance various public improvements.

D. By providing and making available to the Agency the staff and other resources of the City, and by providing and making available to the Agency office space, equipment, supplies, insurance and other City services and facilities, the City has advanced and will continue to advance the costs of the foregoing to the Agency.

E. The City and the Agency desire to enter into this Agreement to acknowledge the foregoing recitals and to provide for an appropriate method of reimbursement of such advances by the Agency to the City.

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

Section 1. The City shall make available to the Agency its staff resources, office space, equipment, supplies, insurance and other services and facilities. The Agency shall have access to the services and facilities of the departments, commissions, and offices of the City.

Section 2. The value of the staff resources, office space, equipment, supplies, insurance and other services and facilities, which, for purposes of this Agreement shall be (i) \$336,907 per each fiscal year plus \$285,238 for planning and administrative expenses in connection with the expenditure of moneys in the Agency's low and moderate income housing fund or (ii) such other amount as may be determined by the City Manager pursuant to Section 4 hereof, shall constitute a loan for the administrative expenses and overhead of the Agency, including the planning and

administrative expenses of the Agency in connection with the expenditure of moneys in the Agency's low and moderate income housing fund, to be repaid in accordance with this Agreement.

Section 3. Direct and indirect costs for the Community Development Agency will be allotted utilizing the City of Winters cost allocation plan for personnel, equipment, supplies, insurances and other services to the Community Development Agency. Allocation will be made on a monthly basis, including costs for planning and administrative expenses of the Agency in connections with the expenditures of moneys in the Agency's low and moderate income housing fund. Prior to July 1st of each year, as part of the budget preparation process, the cost allocation plan will be reviewed and updated as necessary.

Section 4. Based on the City of Winters Cost Allocation Plan, the City Manager will allocate costs of personnel, equipment, supplies, insurance and other services to the Community Development Agency. Additionally, the Community Development Agency will be allocated a share of the liability for the unfunded retirement costs for those personnel involved in the carrying out the functions of the Community Development Agency. This will include a separate allocation of the share of the liability for the unfunded retirements costs for those involved in the planning and administrative expenses of the Agency in connections with the expenditures of moneys in the Agency's low and moderate income housing fund.

Section 5. The Agency shall pay to the City, upon demand, the time charges and the fair rental value of office space, equipment, supplies, insurance and other City services and facilities used during such fiscal year, the value of which is set forth in Section 2 hereof. The Agency shall pay such time charges and fair rental value from any funds of the Agency lawfully available therefor, except that time charges and the fair rental value related to the production, improvement and preservation of affordable housing shall be paid from moneys in the Agency's low and moderate income housing fund if such planning and administrative expenses are necessary for the production, improvement or preservation of affordable housing and are authorized pursuant to Health and Safety Code Section 33334.3 to be paid from moneys in the Agency's low and moderate income housing fund; provided, however, that the foregoing obligation of the Agency shall be subordinate to any bonds, notes or other obligations of the Agency.

Section 6. Upon request of the Executive Director, the City shall advance moneys to the Agency from time to time for the purpose of paying legal, consulting, auditing, and other fees, costs and expenses necessary, desirable or appropriate in connection with the redevelopment activities of the Agency. The Agency shall repay such moneys upon demand by the City.

Section 7. Amounts not paid by the Agency to the City upon demand therefor pursuant to this Agreement shall bear interest at the rate of 10 percent per annum from the date of such demand.

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

CITY OF WINTERS

ATTEST

Nanci Mills, City Clerk

John W. Donlevy, Jr., City Manager

WINNERS COMMUNITY DEVELOPMENT AGENCY

ATTEST

Nanci Mills, Secretary

Cecilia Aguiar-Curry, Chair

APPROVED AS TO FORM:

John Wallace, City Attorney and Agency Counsel



COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT

TO: Honorable Chair and Boardmembers
DATE: March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager/Executive Director
FROM: Shelly A. Gunby, Director of Financial Management/Treasurer
SUBJECT: Approve Amendment Number 3 to Rick Engineering Contract for Design of the Downtown Streetscape Phase II Project.

RECOMMENDATION:

Staff recommends that the Community Development Agency Board Approve Contract Amendment #3 for Rick Engineering for the Downtown Streetscape Phase II project and authorize the City Manager to sign the Amendment to the Contract.

BACKGROUND:

The Community Development Agency has been working on the Downtown Streetscape Improvements for 4 year now. Phase I of the project was the improvements to the intersection of Main and Railroad. This was completed in 2008 and Phase II of the improvements is scheduled for this spring (2011). A portion of this project is funded from Redevelopment Bond Proceeds, basically the design, project management and construction testing along with construction contingency is being funded by the Community Development Agency, actual construction costs are being funded by Federal and State Grants.

Governor Brown has advanced a budget plan that would discontinue redevelopment agencies as of July 1, 2011, however, our understanding of the plan at this time is that projects already in the design/construction phase would be allowed to be completed. We have spent substantial amounts (\$59,350) on design costs to date, and feel that the project is sufficiently in place to be allowed to continue. Our understanding also includes the fact that Redevelopment Agencies may not be allowed to enter into any contractual agreements or changes to contracts as of the date the Governor signs the legislation discontinuing redevelopment agencies if he is able to get a 2/3 vote of the legislature so that it may be enacted as urgency legislation and therefore effective immediately upon the Governor's signature.

The proposed amendment to the contract is for \$13,700.00 for additional services to complete the project. This includes providing consultation during the pre-bid phase to assist the Agency with utility coordination and to revise plans and specification as requested to coordinate with the utility companies. This would also responding to RFI (Request for Information) and assisting with addenda during the bid phase, review of submittals, periodic site visits, assisting with Change orders and other Post Design Services.

FISCAL IMPACT:

This Resolution will contractually obligate the Community Development Agency to pay for services rendered by Rick Engineering Company to the Community Development Agency up to the total of the amended contract of \$73,800.00



October 29, 2010
 Revised February 18, 2011

City of Winters
 Community Development Agency
 c/o Mr. Alan Mitchell
 Ponticello Enterprises
 1216 Fortna Avenue
 Woodland, CA 95776

SUBJECT: DOWNTOWN STREETSCAPE IMPROVEMENTS, PHASE 2
 PROJECT NUMBER 08-02
 (RICK ENGINEERING COMPANY JOB NUMBER 15627A)

Dear Mr. Mitchell:

The purpose of this letter is to request an amendment to our existing professional services agreement, pursuant to our telephone conversations last week. The amendment would be as follows:

1. PS&E's – Reinitiate the project and modify the plans and specifications to change "street light" references to "pedestrian light". Provide additional consultation services during the pre-bid project phase to assist the City with utility coordination and revise plans and specifications as requested to coordinate with utility company requirements.
2. Post Design Services – Bid and Construction phase scope of services were re-defined and reduced at the direction of the City of Winters with Amendment Number 2. This amendment restores this work item to a similar scope as the original contract and adds to that the preparation of record drawings. Those drawings will be based upon information marked up on the construction drawings and provided to Rick Engineering Company by the City of Winters. Scope of services will include: responding to RFI's and assisting with addenda during the bid phase; review of submittals, periodic site visits (meetings), responding to RFI's, assisting with CCO's, and preparation of record drawings during the construction phase.
3. Reimbursable Expenses – This item authorization amount scope was reduced at the direction of the City of Winters with Amendment Number 2. This amendment restores this item to its original scope and contract amount.

Our additional fee for the above-described work would be \$13,700.00. The following table provides a line item summary of the proposed revisions to the fee authorization.

Line Item Description	Current Contract Authorization	Amount Billed to Date	Current Contract Amount Remaining	Adjustment to Current Contract Authorization	Amended Contract Authorization	Amended Contract Amount Remaining
Topo Survey and Base Map	2,000.00	2,000.00	0.00	0.00	2,000.00	0.00
Design Concept Plan	4,000.00	4,000.00	0.00	0.00	4,000.00	0.00
PS & E's	52,600.00	52,600.00	0.00	7,200.00	59,800.00	7,200.00
Post Design Services	750.00	0	750.00	5,250.00	6,000.00	6,000.00
Reimbursable Expenses	750.00	750	0.00	1,250.00	2,000.00	1,250.00
Totals	\$60,100.00	\$59,350.00	\$750.00	\$13,700.00	\$73,800.00	\$14,450.00

Mr. Alan Mitchell
Revised February 18, 2011
Page 2 of 2

If you have any questions regarding this amendment, please contact me at (916) 638-8200. Thank you for requesting Rick Engineering Company to provide these services.

Sincerely,

RICK ENGINEERING COMPANY

A handwritten signature in black ink, appearing to read "Kelly L. Birkes". The signature is stylized and written over the printed name of the signatory.

Kelly L. Birkes, R.C.E. 44644
Associate Principal
Sacramento Branch Manager

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COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: March 15, 2011
THROUGH: John W. Donlevy, Jr., City Manager
FROM: John C. Wallace, City Attorney
SUBJECT: BBK Legal Services Agreement

RECOMMENDATION: Approval of the agreement and fund transfer.

BACKGROUND: The City of Winters and the CDA will need to defend the CDA from state actions to dissolve or otherwise limit the operations of the City and the CDA, and the transfer of real properties to retire debt payments owed to the City by the CDA. This agreement, and the reserve of \$60,000 in attorney's fees, will provide funding and legal services for that obligation.

FISCAL IMPACT: At most, \$60,000 in attorney's fees, payable by CDA funds.

BEST BEST & KRIEGER

ATTORNEYS AT LAW

400 Capitol Mall, Suite 1650
Sacramento, California 95814
(916) 325-4000
(916) 325-4010 Fax
BBKlaw.com

INDIAN WELLS
(760) 588-2611

IRVINE
(949) 263-2600

LOS ANGELES
(213) 617-8100

ONTARIO
(909) 588-8584

RIVERSIDE
(951) 686-1450

SAN DIEGO
(619) 525-1300

WALNUT CREEK
(925) 977-3300

Harriet A. Steiner
(916) 551-2821
harriet.steiner@bbklaw.com

March 3, 2011

John W. Donlevy, Jr.
City Manager
City of Winters
318 First Street
Winters, CA 95694

Re: Legal Services Agreement

Dear Mr. Donlevy:

We are very pleased to represent the Redevelopment Agency of the City of Winters and the City in redevelopment matters. Our fees for this work shall not exceed \$60,000 unless otherwise agreed to by the Agency and/or the City. In particular, we understand that we will provide representation to the Agency and the City related to the proposed legislation currently pending in the State legislature, and any follow up or litigation that may arise from that legislation, should it be enacted and the Agency and the City determine that it is in their interests to challenge it, as enacted. Attached to this engagement letter are our standard terms for legal services. Please review these terms as they set forth the terms of our representation. As we have discussed, my billing rate and Iris Yang's billing rate will be \$295 per hour. If I have the assistance of other attorneys or paralegals in my office, their time will be billed at their standard public agency rates.

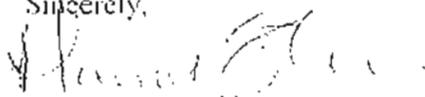
Prior to agreeing to this representation, we have reviewed our client index to determine that we do not have a conflict that would preclude our representation of the Agency or the City.

BEST BEST & KRIEGER
ATTORNEYS AT LAW

John W. Donlevy, Jr.
City of Winters
March 3, 2011
Page 2

We look forward to working with you on this matter. Please review the terms attached to this letter. If you have any questions, please let me know. The standard terms, along with the terms set forth in this letter, constitute the entire agreement for our representation, so by signing this letter you are agreeing to these terms on behalf of the Agency and the City of Winters. Please return the original letter in the enclosed envelope. You may keep the enclosed copy of this letter and the standard terms for your records.

Sincerely,



Harriet A. Steiner
of BEST BEST & KRIEGER LLP

HAS:cp
Enclosure
cc: John Wallace

The undersigned hereby approves the foregoing agreement for legal services, which includes this letter and the attached standard terms.

By: _____
Dated: _____

BEST BEST & KRIEGER LLP'S STANDARD TERMS

This statement of Standard Terms, along with the terms stated in the accompanying letter, constitutes the Agreement for Legal Services ("Agreement") between you and Best Best & Krieger LLP ("BB&K").

Effective Date

The Agreement is effective the date BB&K first performed services on your behalf. If we have performed legal services at your request while waiting for you to sign and return this Agreement, you will still be required to pay for those services even if you decide not to sign and return this Agreement.

Confidentiality and Absence of Conflicts

An attorney-client relationship requires mutual trust between the client and the attorney. It is understood that communications exclusively between counsel and the client are confidential and protected by the attorney-client privilege.

To also assure mutuality of trust, we have maintained a conflict of interest index. The California Rules of Professional Conduct defines whether a past or present relationship with any party prevents us from representing you. Similarly, your name will be included in our list of clients to ensure we comply with the Rules of Professional Conduct with respect to you.

Fees for Professional Services

Our century of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing and payment terms. Therefore, this statement is intended to explain our billing policies and procedures. You are encouraged to discuss with us any questions you have about these policies and procedures. You may direct specific questions about a bill to the attorney with whom you work or to Judy Ismael of our Accounting Department. Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between you and the firm.

Our fees for legal services are based on the total amount of time expended on all work necessary to your representation, multiplied by the hourly rate then in effect for the person doing the work. Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on your behalf. Time is accrued on an incremental basis in minimum increments of 0.1 hours. From time to time, those assigned to work on your matter may need to confer among themselves concerning your representation. When that occurs, each person will charge for the time expended in conference. It may on occasion be necessary or advisable for more than one person to attend a meeting, court hearing or other proceeding and each will charge for the time that is spent in making those appearances. We will also charge for waiting time in court and elsewhere and for all travel time both out of town and locally. Time spent on the telephone discussing your matter, including telephone calls with you, also will be billed, as well conferences with others such as investigators, consultants, or experts. Our

attorneys are currently billed at rates from \$200 to \$550 per hour, and our administrative assistants, research assistants, paralegals and law clerks are billed at rates from \$110 to \$225 per hour. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply, after advance notice to you.

Fees For Other Services, Costs and Expenses

We attempt to serve all our clients with the most effective support systems available. Miscellaneous expenses are covered by a standard administrative charge, currently set at 4%, which compensates the cost of normal photocopying, long distance telephone calls, regular mail postage, telecopy charges and other expenses as to which individual itemization is impractical. Costs specific to your matter such as investigation and filing fees, process server fees, required costs of travel, out-of-town lodging and meals, mileage at the current IRS-approved rate per mile, courier and express delivery and mail services, deposition and court reporter fees, computerized legal research, major photocopying, conference calls and staff overtime, as needed, are itemized and will appear on your monthly statement as separate items.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges, we need to have sufficient funds on hand from you to pay them when due. We will advise the client from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

Monthly Invoices and Payment

Best Best & Krieger LLP will provide you with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on your behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full amount is covered by the balance of an advance held in our trust account. If a bill is not paid within 30 days, a late charge of one percent per month on the unpaid invoice shall be added to the balance owed, commencing with the next statement and continuing until paid.

It is our policy to treat every question about a bill promptly and fairly. From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

Changes in Fee Arrangement and Budgets

It may be necessary under certain circumstances for a client to increase the size of required advances for fees after the commencement of our engagement and depending upon the scope of the work. For example, prior to a protracted trial or hearing, the firm may require a further advance payment to the firm's trust account sufficient to cover expected fees. Any such changes in fee arrangements will be discussed with you and mutually agreed in writing.

Because of the uncertainties involved, any estimates of anticipated fees that we provide at your request for budgeting purposes, or otherwise, can only be an approximation of potential fees.

Client's Duties

You agree to be truthful with us, to cooperate, to keep us informed of developments that relate to our services, to abide by this Agreement, to pay our bills on time, and to keep us advised of your current address, telephone number and your place of employment and telephone number.

You also agree to respond promptly, fully and accurately to requests for information or documents and to other requests for assistance made by BB&K.

Experts

To prepare or present your case or legal position, we may need expert witnesses, consultants, or investigators. We will select and engage them and you are responsible for their bills. When feasible, we will consult with you before completing the engagement.

Settlement

If we are hired to pursue or defend a claim on your behalf, BB&K will not settle the claim without your approval, and you have the absolute right to accept or reject any offer of settlement. We will notify you promptly of the terms of any settlement proposal that we receive on your behalf.

Disclaimer of Guaranty

BB&K can make no promises or guarantees about the outcome of this representation. Our comments about the outcome of your matter are expressions of opinion only.

Independent Contractor

BB&K shall perform all legal services requested pursuant to this Agreement as an independent contractor of you and shall remain, at all times as to you, a wholly independent contractor with only such obligations as are required under this Agreement. Neither you, nor any of your employees, shall have any control over the manner, mode or means by which BB&K, its agents, or employees, render the legal services contemplated under this Agreement, except as otherwise set forth. You shall have no voice in the selection, discharge, supervision or control of

BB&K's employees, representatives or agents, or in fixing their number, compensation or hours of service.

Insurance

We are also pleased to let you know that BB&K carries errors and omissions insurance with Lloyd's of London. After a standard deductible, this insurance provides coverage beyond what is required by the State of California.

Cessation of Representation

This Agreement and the services to rendered under it may be terminated at any time upon ten (10) days prior written notice from either party, with or without cause. In the event of such termination, BB&K shall be paid for all services authorized by you and performed up through and including the effective date of termination. "Cause" includes your failure to pay or other breach of this Agreement, refusal to cooperate with us or follow our advice on a material matter, or any fact or circumstance that would render our continuing representation unlawful or unethical.

After our services are concluded, we will, upon your request, deliver your file to you, along with any funds or property of yours in our possession.

Modification

This Agreement may be modified by subsequent agreement between you and BB&K only by a writing signed by both parties.

Entire Agreement

This statement of Standard Terms and the letter to which it is attached constitute the entire Agreement between you and BB&K. No other agreement or statement made on or before the effective date of this Agreement is binding.

Severability

If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and the rest of the Agreement will remain in effect.

Conflict Waiver

In a large firm with multiple offices representing public and private clients, actual or possible conflicts sometimes arise between existing or potential clients. We may be required to ask for a conflict waiver in that event. BB&K asks for your understanding and cooperation if we request a conflict waiver in order to undertake or continue representation of another client in a manner that will not be specifically detrimental or adverse to you in any matter in which another BB&K attorney represents you.

California Law

This Agreement is deemed to be entered into at our office in Sacramento, California and shall be interpreted according to California law, excluding its conflict of laws provisions.

Negotiated Terms

This is a negotiated agreement that can be accepted or rejected by the parties. The terms of the Agreement are not set by law. You may consult independent counsel before entering into this Agreement.

Additional Terms

The scope of BB&K's representation in this matter is fully set forth in the letter which is part of this Agreement as are any additional terms relating to this representation.

If, after initial representation, you decide to retain our services for other matters, and we agree to perform them, these Standard Terms shall apply.

BEST BEST & KRIEGER LLP