CITY OF WINTERS
california
Est. 1875

Regular Meeting and Executive Session of the
Winters City Council
City Council Chambers
318 First Street
Tuesday, January 17, 2012

Members of the City Council

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

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

6:00 p.m. - Executive Session

AGENDA

Pursuant to Government Code Section 54957.6 – Personnel Negotiations

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6:30 p.m. – Regular Meeting

AGENDA

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, December 20, 2011 (pp 1-7)
B. Green Communities Participation Agreement between the County of Yolo and the City of Winters for the Development of a Greenhouse Gas (GHG) Emissions Inventory and Energy Efficiency Chapter of a Climate Action Plan (EECAP) (pp 8-19)
C. Proclamation of the City Council of the City of Winters in Support of The 2012 Yolo County Earned Income Tax Credit (EITC) Awareness Campaign (pp 20-21)

PRESENTATIONS

DISCUSSION ITEMS

1. Putah Creek Bridge Replacement, Project No. 01-05 (pp 22-23)

2. Public Hearing, Waive Second Reading and Adoption of Ordinance 2012-01, An Ordinance of the City Council of the City of Winters,

Approving the First Amendment to the Creekside Development Agreement (pp 24-102)

3. Appointment of City Council Member to Community Choice Aggregation (CCA) Committee for Yolo County (pp 103-126)

4. Resolution 2012-02, A Resolution of the City Council of the City of Winters, Electing to Serve as the Successor Agency to the Community Development Agency of the City of Winters Pursuant to Part 1.85 of Division 24 of the California Health and Safety Code (pp 127-131)

5. Sublease at 314 Railroad Avenue, Winters (pp 132-133)

COMMUNITY DEVELOPMENT AGENCY

1. Resolution 2012-01, A Resolution of the City Council of the City of Winters, Adopting an Amended Enforceable Obligation Payment Schedule of the Winters Community Development Agency (pp 134-141)

CITY MANAGER REPORT

INFORMATION ONLY

EXECUTIVE SESSION

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the January 17, 2012 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 January 12, 2012, and made available to the public during normal business hours.

Nanci G. Mills, City Clerk

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

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Wednesday at 10:00 a.m.

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

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Minutes of the Executive Session and Regular Meeting of the Winters City Council Held on December 20, 2011

5:30 p.m. - Executive Session

AGENDA

Personnel – Management Analyst – Advice from Legal Counsel – Pursuant to Government Code Section 54956.9 (b) – EEOC Charge No. 550-2011-01815

City Attorney Wallace reported no formal action was taken in Executive Session.

6:30 p.m. – Regular Meeting

AGENDA

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

Present:	Council Members Cecilia Aguiar-Curry, Harold Anderson, Michael Martin, Tom Stone and Mayor Woody Fridae
Absent:	None
Staff:	City Manager John Donlevy, City Attorney John Wallace, City Clerk Nanci Mills, Grant Writer Dawn Van Dyke, Housing Programs Manager Dan Maguire, Police Chief Sergio Gutierrez and Administrative Assistant Tracy Jensen.

Eagle Scout Nickolas Stewart led the Pledge of Allegiance.

Approval of Agenda: City Manager Donlevy said there were no changes to the agenda. Motion by Council Member Aguiar-Curry, second by Council Member Stone to approve the agenda. Motion carried unanimously.

COUNCIL/STAFF COMMENTS: Council Member Aguiar-Curry attended a meeting at Plainfield Station on 12/19 regarding the proposed Youth Treatment Center at DQU. Approximately 50 people, mostly farmers, were in attendance. There was not much opposition other than the proposed location, which is prone to flooding. They are looking for a site within Yolo County and they would prefer the DQU site. Council Member Aguiar-Curry requested that this presentation be given at a future City Council meeting

Council Member Anderson announced a SACOG meeting to be held in Davis on January 9th, 2012 at 5:30 p.m., where SACOG is encouraging as many Yolo County electeds to attend as possible. The location of the meeting is to be announced. Council Member Anderson said this meeting will conflict with a Yolo County Transportation District meeting and he will be able to attend the SACOG meeting for only a short time. Council Member Anderson attended a Yolo County Transportation District meeting on 12/12, attended a SACOG Board meeting on 12/15, and attended a Solano County Bridge meeting today with Council Member Martin.

Council Member Stone said they are close to the final version of the Habitat Conservation Plan, which should be completed in March, 2012. Council Member Stone wished everyone a Merry Christmas, a happy holiday season and a g happy New Year.

Council Member Martin said he participated in the Food Basket drive, where 250 baskets were provided by the local churches and distributed to local families in need. Council Member Martin thanked the volunteers for their time and money and said their hard work was something to see. Their volunteerism is the true meaning of Christmas.

PUBLIC COMMENTS: None

CONSENT CALENDAR

A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, December 6, 2011
B. On-Call Contracts with Construction Testing Services (CTS) and KC Engineering for Materials Sampling and Testing and Geotechnical Engineering Services Associated with All Private Development and Public Works Construction Projects
C. Resolution 2011-56 A Resolution of the City Council of the City of Winters Accepting the Dedication of a Public Service Easement from the Roman Catholic Bishop of Sacramento, St. Anthony's Church

D. Memorandums of Understanding (MOU) and Salary Range Resolutions Staff Report
   a. Review and Adopt Resolution 2011-47, Memorandum of Understanding for the City of Winters Police Officers Association, Effective January 1, 2012
   b. Review and Adopt Resolution 2011-48, Memorandum of Understanding for the City of Winters Sergeant's Association, Effective January 1, 2012
   c. Review and Adopt Resolution 2011-49, Memorandum of Understanding for the City of Winters Miscellaneous Employees Association, Effective January 1, 2012
   d. Review and Adopt Resolution 2011-50, Memorandum of Understanding for the City of Winters Confidential Employees Association, Effective January 1, 2012
   e. Review and Adopt Resolution 2011-51, Memorandum of Understanding for the City of Winters Mid-Management Employees, Effective January 1, 2012
   f. Review and Adopt Resolution 2011-52, Memorandum of Understanding for the City of Winters Manager's Series Employees, Effective January 1, 2012
   g. Review and Adopt Resolution 2011-53, Memorandum of Understanding for the City of Winters Management (Department Head) Employees, Effective January 1, 2012
   h. Review and Adopt Resolution 2011-54, Salary Ranges for the City of Winters, Effective January 1, 2012

E. Resolution 2011-57, A Resolution of the City Council of the City of Winters, Approving the Requirements of the Reserve Police Officer Program to Include the Position of "Designated" Level I Reserve Officer within the Winters Police Department

City Manager Donlevy gave an overview. Council Member Anderson noted a typographical error on page 184 of the agenda, or page 6 of the Manager's M.O.U., and requested a correction be made to the vacation accrual from 'per month' to 'annually.' Regarding the MOU's, City Manager Donlevy confirmed that vacation is recognized as an accrued extension of compensation, sick leave is on a 'use it or lose it' basis, and there is no cash out of sick leave.

Motion by Council Member Martin, second by Council Member Aguiar-Curry to approve the consent calendar with the noted correction. Motion carried unanimously.

PRESENTATIONS

Mayor Fridae read aloud and presented a Proclamation to Nickolas Andrew Stewart for achieving the high honor of Eagle Scout. Nickolas's Eagle Scout

project was to refurbish the Baby Land Cemetery at Monument Hill Cemetery. It was also noted that Nickolas earned an excessive amount of merit badges.

DISCUSSION ITEMS

1. Public Hearing and First Amendment to the Development Agreement for Development of the Property Commonly Known as the Creekside Property between the City of Winters and Donald Miller; Making Certain Changes to the Improvements Required of the Developer; Change the Name of the Developer to the Roman Catholic Diocese of Sacramento; and to Extend the Term of the Development Agreement for an Additional Eight (8) Years

City Manager Donlevy gave an overview. Mayor Fridae asked if Level 2 or Level 3 fees would be paid to WJUSD upon the issuance of a building permit. City Manager Donlevy confirmed it would be changed to Level 2, or approximately $3.10/ft. in lieu of Level 3, approximately $6.20/ft. The City does not have the final say as the WJUSD has an agreement directly with the developer. Mayor Fridae said Council should act now to keep the development agreement alive as it is due to expire this week and asked if the developer was moving forward with this. City Manager Donlevy said no. Council Member Martin asked how the impact fees are to be spent. City Manager Donlevy said the public safety facility would be partially reimbursed, the general fund would be reimbursed for expenditures for the new library, and the Hoffman Land Company should be reimbursed for Well #7 as they paid for nearly two-thirds of it. Impact fees will also be used to fund future projects.

Mayor Fridae opened the public hearing at 7:06 p.m. and closed the public hearing at 7:06 with no public comment.

Motion by Council Member Anderson, second by Council Member Aguiar-Curry to approve the First Amendment to the previously approved Development Agreement for development of the property commonly known as the Creekside Estates Property, adopt the findings, and introduce Ordinance 2012-01, approving an Amendment to the Development Agreement for the Creekside Estates Development dated December 22, 2005, between the City of Winters and Donald Miller, to extend the term of the Development Agreement for an additional eight years, remove funding requirements for facilities that have been built, and modify language concerning park costs. Motion carried with the following vote:

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

2. Request for Authorization to Send Correspondence on Behalf of the City to Congressmen Mike Thompson and John Garamendi Requesting a Congressional Investigation into the Bid Process and Plans Involving Markley Cove Resort at Lake Berryessa

City Manager Donlevy gave an overview of the bid processes conducted by the Bureau of Reclamation (BOR). Council Member Anderson said the Mayor's signature on any correspondence sent to Congressmen Mike Thompson and John Garamendi would carry more weight. Council Members Stone and Aguiar-Curry suggested the entire Council sign the letters.

Motion by Council Member Martin, second by Council Member Stone, to send the letters to the Congressmen requesting a congressional investigation into the bid process and plans involving Markley Cove Resort at Lake Berryessa.

City Manager Donlevy said this issue is important to the community. We have an ally in Congressman Thompson but he can't fight the injustices without Council's support. Mayor Fridae suggested a meeting be scheduled with Congressman Garamendi to provide the background so that he can support these actions wholeheartedly. Council Member Aguiar-Curry asked if the City had the approval of the Board of Supervisors? Council Member Stone said involvement by the Board of Supervisors might be premature and added that Congressman Thompson needs a catalyst to begin the investigation. Council Member Martin said the Supervisors are to represent the City, which is a good thing. They should be made aware that the public is not being served.

Based on the motion by Council Member Martin and the second by Council Member Stone, Council agreed that the entire Council should sign the letters being sent to Congressmen Thompson and Garamendi. Motion carried unanimously.

3. Update and Discussion of City Property Lease – 318 Railroad Avenue, Winters, and Response to City RFP – 318 Railroad Avenue, Winters

Council Members Anderson and Stone recused themselves due to a possible conflict of interest.

Housing Programs Manager Dan Maguire gave an overview. Council Member Martin asked when the hotel RFP's are due. City Manager Donlevy said any hotel RFPs will come back before Council sometime in February. Mr. Maguire said an advantage for a majority of the proposals will be the cost of an ABC license, which is at its lowest in over a decade. Mr. Maguire also cited Council's desire to eliminate a vacant storefront. Council Member Aguiar-Curry said she

wants to see the responses to the hotel RFP before considering the lease proposals. Mr. Maguire said waiting for a resolution to the redevelopment decision would also be advantageous. Council Member Martin asked if the bathroom remodel amount of $16,000 was to come out of redevelopment funds. Mr. Maguire said this will be determined by the decision handed down by the State Supreme Court regarding redevelopment agencies.

Mayor Fridae asked if there was a second respondent to the lease proposal. Mr. Maguire said there was a second respondent, who has requested more financial support and a significant monetary contribution from the City, an amount that is substantially higher than that of the Lorenzo's lease proposal. City Attorney Wallace said Council has the right to reject all proposals. Council Member Aguiar-Curry said she would like to complete the hotel RFP process and wait for the redevelopment status before accepting the Lorenzo's lease proposal.

Mr. Maguire said the Lorenzo's are flexible, taking time to secure the liquor license and said their proposal is contingent on securing the liquor license.

The direction given to Mr. Maguire by Council is they are not willing to approve the lease proposal at this time and wants to see the outcome of the hotel RFP and the redevelopment lawsuit prior to making a decision.

Council Member Anderson returned to the dais at this time.

COMMUNITY DEVELOPMENT AGENCY

1.

CITY MANAGER REPORT: City Manager Donlevy said he is diligently watching the outcome of the redevelopment court decision. The State Supreme Court will likely wait until the 1/15/12 deadline. There are close to 3,000 people employed in redevelopment agencies across the state, who will become unemployed if the State Supreme Court rules against redevelopment agencies. Staff is currently working on another bi-annual budget, as well as project lists by department.

Council Member Aguiar-Curry said an article in the Sacramento Bee indicated the City of Winters had the 2nd highest in pay cuts, nearly 25%. Ms. Aguiar-Curry also wished her father a happy birthday.

INFORMATION ONLY: None

ADJOURNMENT: Mayor Fridae adjourned the meeting at 7:52 p.m.

Woody Fridae, MAYOR

ATTEST:

Nanci G. Mills, City Clerk

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CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members

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

DATE: Jan. 17, 2012

FROM: Dawn Van Dyke, Management Analyst

SUBJECT: Green Communities Participation Agreement between the County of Yolo and the City of Winters for the development of a Greenhouse Gas (GHG) Emissions Inventory and Energy Efficiency Chapter of a Climate Action Plan (EECAP).

RECOMMENDATION: That the City Council approve the Green Communities Participation Agreement between the County of Yolo and the City of Winters for the development of a Greenhouse Gas (GHG) Emissions Inventory and Energy Efficiency Chapter of a Climate Action Plan (EECAP).

BACKGROUND: Over the summer of 2011, staff from the Cities of Winters and Woodland, John Mott-Smith, climate change advisor for Yolo County, and representatives from PG&E met to discuss the Green Communities Program, funded by California utilities customers and administered by PG&E under the auspices of the California Public Utilities Commission. The program would allow both communities to develop a baseline Greenhouse Gas (GHG) Emissions Inventory and an Energy Efficiency Chapter of a Climate Action Plan (EECAP). The Green Communities funding agreement is between Yolo County and PG&E, however, each City will receive the services and deliverables by adopting the Participation Agreement. The GHG Inventory and EECAP will be prepared by U.C. Davis professor Dr. Deb Niemeier and associates.

The GHG Inventory will include a community-based analysis of the City's GHG emissions. According to the statement of work provided by Dr. Niemeier, the inventory will provide a baseline of energy usage and will be developed using standard practices. A forecast of business as usual GHG emissions will be prepared and the team will work with City staff to identify potential reduction targets based on current legislation.

In addition, an Energy Efficiency Chapter of a Climate Action Plan will be prepared for the City focusing on sources including lighting, hot water heating, HVAC, electric or gas powered vehicles and electronics.

Public outreach is an element of the project; the community will be given the opportunity to provide input and the City will receive funds to complete the outreach element.

It is anticipated that the work performed through the Green Communities Participation Agreement may be leveraged in a grant application to fund a complete Climate Action Plan through the Sustainable Communities grant program from the Strategic Growth Council, should the City decide to move forward with such an application in 2012.

FISCAL IMPACT: The City will receive $7,500 for public outreach.

GREEN COMMUNITIES PARTICIPATION AGREEMENT

This agreement is between the County of Yolo and the City of Winters. Through support from the Pacific Gas and Electric Company (PG&E) Green Communities Program, Yolo County and Dr. Deb Niemeier will be working directly with the City to prepare a greenhouse gas (GHG) emissions inventory and Climate Action Plan (CAP). The two documents will work to improve energy efficiency and integrate sustainability into municipal planning and operations. Green Communities is a program funded by California utility customers and administered by PG&E under the auspices of the California Public Utilities Commission.

The County of Yolo and its subcontractor Dr. Niemeier agree to provide the deliverables as described in Attachment A (Statement of Work for Woodland/Winters Climate Action Plans) and further agree to provide: (a) periodic updates and responses to questions, and (b) assistance with graphics and other materials for public meetings or presentations. The City of Winters accepts the offer from Yolo County to participate in this Green Communities initiative. By signing this form the City of Winters agrees to do the following:

1. Participate in the project per the schedule and scope described in Attachment A.

2. Provide data and copies of reports or plans as requested in order to inform development of the GHG inventory and CAP.

3. Assign a staff person to attend meetings at a maximum rate of once a month, to take a lead in responding to data or information requests, and to review deliverables.

4. Sign "Authorization to Receive Customer Information or Act on a Customer's Behalf", thereby releasing city specific electricity and natural gas consumption data from PG&E to Dr. Niemeier and Yolo County for analysis. (NOTE: Dr. Niemeier, UC Davis interns, and Yolo County will be required to sign a Non-Disclosure Agreement (NDA) prior to receiving city specific utility bill data from PG&E.)

5. Take a lead role in the public outreach process by completing a Public Outreach Plan and coordinating a minimum of two (2) workshops as described in Task 3 of Attachment A.

IN WITNESS WHEREOF, this agreement is executed by:

CITY OF WINTERS

SIGNATURE: _____ Date: _____

PRINTED NAME: _____

COUNTY OF YOLO

SIGNATURE: _____ Date: _____

PRINTED NAME: _____

ATTACHMENT A

STATFEMENT OF WORK FOR WINTERS/WINTERS CLIMATE ACTION PLANS

SUMMARY OF WORK

The cities of Winters and Winters have requested the development of a baseline Greenhouse Gas (GHG) Emissions Inventory and an Energy Efficiency Chapter of a Climate Action Plan (EECAP). The two documents will work to improve energy efficiency and integrate sustainability into municipal planning and operations.

The GHG Inventory and EECAP will be prepared by Dr. Niemeier, a professor at the University of California at Davis (UCD) and associates to be hired and paid by Dr. Niemeier under a contract between Yolo County and Dr. Niemeier. This project is funded by the Pacific Gas and Electric Company (PG&E) Green Communities program.

The GHG Inventory will be a community-based analysis of each city's GHG emissions, and include community-based emissions as well as emissions generated from municipal operations. The inventory will provide a baseline of energy usage and will be developed using standard practices. A forecast of business-as-usual GHG emissions will also be prepared. Dr. Niemeier will also work with both cities to identify potential reduction targets based on current legislation.

ENERGY EFFICIENCY CHAPTER OF A CLIMATE ACTION PLAN (EECAP)

The EECAP will focus strictly on energy-related GHG emissions sources such as lighting, hot water heating, heating and ventilation, electric or natural gas powered vehicles, and electronics. Dr. Niemeier will conduct a review of policies, ordinances, and general practices. This review will form the basis for the development of a set of potential energy reduction strategies. Dr. Niemeier will also work with each city to strategize on an implementation framework that includes a process for prioritizing and implementing GHG reduction strategies and for monitoring progress over time. The monitoring process is important for providing yearly benchmarks; it also ensures that the EECAP promotes and is in alignment with current policies and is implemented, monitored, and sustained over the long-term.

PROJECT DURATION

The project is anticipated to begin in October 2011 and to be completed no later than December 31, 2012. The tasks have been structured such that the GHG Inventory will be developed from fall 2011 through spring 2012 and the EECAP development will be conducted during spring and fall 2012. The final invoice and final report are due no later than December 31, 2012.

SCOPE OF WORK

In this section each task to be undertaken in the development of the GHG Inventory and CAP is outlined. At the end of each section, a summary of the deliverables and budget by deliverable is provided. In addition, a summary of project administration and a budget summary are provided at the end of this document.

TASK 1 - GREENHOUSE GAS INVENTORY

Task 1a. Baseline Greenhouse Gas (GHG) Emissions Inventory

A Baseline Greenhouse Gas (GHG) Emissions Inventory will be developed for each city. The respective inventories will reflect those GHG emissions generated from community-wide sources (e.g., transportation, housing, etc.) and from municipal facilities and operations.

> Community-Based GHGs: The community-based inventory will be developed according to standard practices. Data on transportation will be collected from SACOG. Data on residential and commercial entity usage will be collected using current city information and energy data provided by PG&E with augmentation as necessary.
>
> Municipal Operations: An inventory of GHGs associated with municipal operations will be developed using the ARB's Local Government Protocol (v1.1). The Municipal Operations Inventory will build upon existing GHG inventories registered with The Climate Registry (TCR).

The expectation is that city staff will assist in identifying and assembling certain data (e.g., vehicle fleet information). A draft report on the GHG baseline inventory will be prepared for each city. In addition, two (2) informational sessions will be held with city staff to outline how the inventory was collected and to walk through the process and documentation that will be needed to update the GHG inventory over time.

Task 1b. Business-As-Usual Forecast

The baseline inventory will be forecasted out to selected years. The forecast will be based on a continuation of current policies and practices. The forecast will provide a comparative basis for evaluating and prioritizing potential mitigation strategies. A draft report on each city's forecasts will be prepared and assumptions will be documented.

Task 1c. Potential Reduction Targets

An overview of the range of potential reduction targets will be prepared. Currently, reduction targets adopted by Yolo County[1] differ, for example, from those adopted by the City of West Sacramento[2]. A summary of potential targets and how each relates to state regulatory goals or policies will be prepared. This documentation will allow each city to individually reflect upon their goals and aspirations.

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[1] Yolo County goals are 1990 levels by 2020; 27% below 1990 by 2030; 53% below 1990 by 2040, and 80% below 1990 by 2050. Reductions in 2020 and 2050 are reflective of statewide goals.

[2] The City of West Sacramento has as its community-based targets 30% reduction from current BAU by 2020, and the equivalent of 80% below 1990 by 2050.

Dr. Niemeier shall provide a draft report for each city documenting the results of the Task 1a and 1b inventory efforts and a memo for Task 1c. Upon receipt, each city will have 45 days after being provided the draft reports to provide written comments and suggestions for revision. Dr. Niemeier shall submit a cover memo for the Final GHG Inventory outlining the comments received and changes made since the draft version.

Task 1, Deliverables:

Task 1a.

GHG Baseline Inventory Draft Report and Data (PDF; Excel)
Due: No later than Feb 15, 2012

GHG Baseline Inventory Final Report and Data (PDF; Excel)
Due: No later than Apr 1, 2012

Task 1b.

GHG BAU Inventory Draft Report and Data (PDF; Excel)
Due: No later than June 1, 2012

GHG BAU Inventory Final Report and Data (PDF; Excel)
Due: No later than Aug 1, 2012

Task 1c.

Potential Reduction Targets Memo
Due: No later than Dec 31, 2011

Task 1, Budget (total for both cities):

Upon Delivery of Task Item:	Budget Amount
Task 1a, Draft baseline inventory report and data	$27,750
Final baseline inventory report and data	$2,000
Task 1b, Draft BAU inventory report and data	$15,000
Final BAU inventory report and data	$2,000
Task 1c, Potential Reduction Target Memo	$5,000
Fixed Sum TOTAL	***$51,750***

TASK 2 – ENERGY EFFICIENCY CHAPTER OF THE CLIMATE ACTION PLAN (EECAP)

The EECAP will serve as the roadmap to achieving the GHG reduction goal established in Task 1. The primary content of the EECAP will consist of a suite of strategies specific to each city that can be evaluated for implementation. Each strategy will have a high level benefit cost assessment which can help guide the prioritization of implementation efforts.

Task 2a. Literature review

Concurrent with early phases of Task 1, Dr. Niemeier will conduct a literature review of EECAP GHG Reduction Plans, Sustainability Plans, or CAPs prepared by other local jurisdictions. An inventory will also be assembled of each city's local policy and regulatory documents related to

the EECAP effort (e.g., the general plan). The results of this data collection effort will be summarized in a memo containing the following components:

- A summary of the literature review comparing EECAP GHG Reduction Plans, Sustainability Plans, or CAPs prepared by other local jurisdictions. The focus of this summary will be on highlighting innovative features of plans where appropriate.
- A list of all policy and guidance documents collected for each city.
- A proposed outline for each city's EECAP.
- A summary outline of omitted non-energy sustainability sectors that will need to be addressed outside of this effort.

Task 2b. Policy Audit and Gap Analysis

The focus of this task will be to collect existing sustainability efforts within each city, including any energy efficiency projects, sustainability policies, energy conservation efforts, and educational efforts in progress or already completed. Depending on the number of individuals that need to be contacted, this effort may use an online survey or direct discussions with representatives from each City.

In addition, a review of all policy documents collected in Task 2a will be conducted with the purpose of identifying potential gaps or conflicts with existing policies. This work effort will help to identify those elements which should be addressed in the implementation strategies.

Task 2c. EECAP Strategies

As part of this task, a set of energy-related GHG reduction strategies will be prepared. Strategies can be directed at operational or behavioral changes, or focus on direct implementation efforts such as the installation of energy-saving computer software, light fixtures, or other items. The energy-related strategies identified will include the following information per strategy, at a minimum:

- Source
- Description/background
- Cost range
- Energy reduction range
- GHG Reduction range
- Implementation responsibility
- Possible funding sources

An interim memo documenting the strategies will be provided to each city for review and comment.

Task 2d. Implementation Framework

The main focus of this task is the development of an implementation framework that includes a process for prioritizing and implementing GHG reduction strategies and for monitoring progress over time. The monitoring process is important for providing yearly benchmarks to assess

progress; it also ensures that the EECAP promotes and is in alignment with current policies and is implemented, monitored, and sustained over the long-term. In addition, Dr. Niemeier will provide technical assistance in identifying priorities that are realistic and cost-effective for each City.

Task 2e. Internal Draft EECAP

The focus of this task is to prepare a draft EECAP that outlines goals and policies related to increasing energy efficiency, the associated energy/GHG reduction benefits, and costs. The EECAP should contain, at minimum, the following sections:

- Introduction
- GHG Inventory Summary
- Existing Sustainability Efforts
- Energy Reduction Strategies
- Implementation Framework

Each city will have 30 days after receiving the internal draft report to provide a consolidated set of written comments and suggestions for revision. Dr. Niemeier and her staff will hold a meeting with City staff to review the written comments and answer questions.

Task 2f. Public Draft EECAP

A Public Draft EECAP will be prepared and submitted to each City for distribution to public bodies and stakeholders. Dr. Niemeier shall submit a cover memo for the Final GHG Inventory outlining the comments received and changes made since the Internal Draft version.

It is anticipated that City staff will take the lead role in presenting the Public Draft EECAP for consideration by the public, Planning Commissions, and/or City Council. Dr. Niemeier will serve in an advisory role during this process. Specifically, she will attend workshops and public meetings to answer technical questions. City staff will prepare all staff reports, agendas, and PowerPoints necessary for the presentations.

Task 2g. Final EECAP

Dr. Niemeier will make one (1) round of minor edits in response to consideration by City Council or Planning Commission, given that this feedback is received before October 30, 3012. City staff will be responsible for adoption of the Final EECAP.

Task 2, Deliverables:

Task 2a.

A Literature review memo summarizing the following elements:

- A summary of the literature review comparing EECAPs, Sustainability Plans, or CAPs prepared by other local jurisdictions. This summary will highlight innovative features of plans where appropriate.
- A list of all policy and guidance documents collected for each city.

- A proposed outline for the EECAP.
- A discussion of omitted non-energy sustainability sectors that will need to be addressed outside of this effort.

Due: No later than Dec. 15, 2011

Task 2b.

Policy audit and gap analysis results

Due: No later than Apr. 20, 2012

Task 2c.

Potential EECAP strategy memo

Due: No later than Apr. 20, 2012

Task 2d.

An interim memo outlining the complete set of potential strategies without prioritization of specific strategies unless the respective cities have been able to clearly identify priorities. In addition, a possible implementation framework will be devised such it can serve as a framework regardless of what strategies are ultimately prioritized.

Due: No later than June. 30, 2012

Task 2e.

Internal Draft EECAP

Due: No later than Aug. 30, 2012

Task 2f.

Public Draft EECAP

Due: No later than Oct 30, 2012

Task 2g.

Final Draft EECAP

Due: No later than Dec. 30, 2012

Task 2, Budget (total budget for both cities):

Upon Delivery of Task Item:	Budget Amount
Task 2a: Lit. Review	$5,000
Task 2b: Policy Audit/Gap Analysis	$8,000
Task 2c: Potential EECAP Strategies	$18,250
Task 2d: Impl. Framework	$9,000
Task 2e: Internal Draft EECAP	$7,000
Task 2f: Public Draft EECAP	$4,000
Task 2g: Final EECAP	1,000
Fixed Sum TOTAL	***$52,250***

TASK 3 --- PUBLIC OUTREACH

Task 3a. Public Outreach Plans

Contractor shall work with the cities of Winters and Winters to prepare a Public Outreach Approach Memo outlining the following:

- Schedule –Designate the number of meetings, when each meeting will occur, and with which task/deliverable each meeting will correspond to.
- Format - Specify the format of each meeting (workshop, panel, presentation, Council meeting, etc.). If it is a workshop, describe how the public's feedback will be collected. Options include small group discussions, group discussions, and round robins.
- Purpose – Describe the purpose of each meeting, included desired outcomes of each meeting and how the information will relate back to the GHG Inventory and EECAP.
- Materials – Outline the materials that will be needed for each meeting, including any PowerPoint presentations, posters, handouts, agendas, projectors, refreshments, and electronic polling equipment.
- Roles and Responsibilities – Assign roles to staff people and subcontractors attending the meeting. Specifically, designate who will prepare or bring meeting materials, who will facilitate the meeting, and who will present information.
- Marketing – Create a plan for marketing each meeting. How will the City get the word out? Options include the City website announcements, mailers, email lists, and direct contact with stakeholders like neighborhood groups, institutional organizations, and advocacy groups. The Approach Memo shall plan for a minimum of two (2) public outreach events. Contractor shall prepare and submit a draft and final Approach Memo for each city.

Task 3b. Public Outreach

Contractor shall work with the cities of Winters and Winters to ensure public involvement in the EECAP development process according to the approach outlined in Task 3a. Contractor will coordinate at least two (2) public outreach events per jurisdiction. Contractor shall submit documentation of each outreach event to the PG&E Program Manager.

Task 3, Deliverables:

<u>Task 3a.</u>

Draft Public Outreach Approach Memos
Due: Within ten (10) weeks of Contract execution

Final Public Outreach Approach Memos
Due: Within two (2) weeks of receipt of PG&E Program Manager comments

Task 3b.

Draft Materials for each public outreach meeting, including any agendas, PowerPoints, and handouts.

Due Date: One (1) week prior to each public meeting

Task 3, Budget (total for both cities)

Upon Delivery of Task Item	Budget Amount
Task 3a: Draft Public Outreach Memos	$4,000
Final Public Outreach Memos	$1,000
Task 3b: 1st Set Draft OR Materials: Winters	$2,500
2nd Set Draft OR Mat: Winters	$2,500
1st Set Draft OR Materials: Winters	$2,500
2nd Set Draft OR Materials: Winters	$2,500
Fixed Sum Total	**$15,000**

PROJECT ADMINISTRATION AND BUDGET SUMMARY

The contract will be executed as a lump sum contract, meaning that payment is contingent upon Yolo County's receipt and approval of deliverables. All deliverables will be submitted to Yolo County in electronic format (PDF or Word document) via email, USB drive, file sharing, or CD-ROM and will be accompanied by an invoice and monthly progress report (invoice and report templates to be provided by PG&E). The budget does not account for hard copy reproduction expenses.

Upon Delivery of Task Item:	Budget Amount
Task 1 – Baseline GHG Emissions Inventory	
Task 1a: Draft baseline inventory report and data	$27,750
Final baseline inventory report and data	$2,000
Task 1b: Draft BAU inventory report and data	$15,000
Final BAU inventory report and data	$2,000
Task 1c: Potential Reduction Target Memo	$5,000
Task 1 Subtotal	***$51,750***
Task 2 – EECAP	
Task 2a: Lit. Review	$5,000
Task 2b: Policy Audit/Gap Audit	$8,000
Task 2c: Potential EECAP Strategies	$18,250
Task 2d: Impl. Framework	$9,000
Task 2e: Internal Draft EECAP	$7,000
Task 2f: Public Draft EECAP	$4,000
Task 2g: Final Draft EECAP	$1,000
Task 2 Subtotal	***$52,250***
Task 3 – Public Outreach	
Task 3a: Public outreach plans	$5,000

Task 3b: Public outreach	$10,000
Task 3 Subtotal	***$15,000***
TOTAL PROJECT COST	**$119,000**

wwcap/participationagreement8-1211

CITY OF WINTERS
california
Est. 1875

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers

DATE: January 17, 2012

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

SUBJECT: **PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS IN SUPPORT OF THE 2012 YOLO COUNTY EARNED INCOME TAX CREDIT (EITC) AWARENESS CAMPAIGN**

RECOMMENDATION: That the City Council approve a Proclamation of the City Council of the City of Winters in support of the 2012 Yolo County Earned Income Tax Credit (EITC) Awareness Campaign.

BACKGROUND: The EITC is a refundable tax credit and can be a significant financial boost for working people impacted by the struggling economy. The Internal Revenue Service reports that only four out of every five eligible wage earners claim the credit which can be as much as $5,751.

The EITC Awareness Campaign will help to bring vital resources to the Winters community so that those earning up to $49,078 can receive free tax preparation assistance and learn about the EITC which can only be claimed by filing a tax return. Volunteers are currently being recruited and trained for the IRS Volunteer Income Tax Assistance (VITA) program which will be offering tax assistance workshops throughout Yolo County in addition to one at the Winters Community Library on April 7, 2012. Last year the VITA program assisted 2,118 Yolo County families with their tax returns resulting in over $2.1 million dollars in tax refunds that in turn helped to stimulate the local economy.

The City Council's proclamation will help to educate Winters working families about the importance of the EITC, and the availability of VITA services.

FISCAL IMPACT: None by this action.

CITY OF
WINTERS
california
Est. 1875

A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS IN SUPPORT OF THE 2012 YOLO COUNTY EARNED INCOME TAX CREDIT (EITC) AWARENESS CAMPAIGN

WHEREAS, tax preparation assistance can help low-to-moderate income families, the disabled, elderly and limited English proficient take advantage of the federal tax benefits such as the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC), and receive up to $5,751 in tax refunds- a substantial financial benefit for families struggling to make ends meet, and

WHEREAS, in 2011, local non-profits, schools, churches, community health centers and numerous individuals joined the Yolo County EITC Awareness Campaign and worked across thirteen Volunteer Income Tax Assistance (VITA) sites within the county with seventy-four volunteer tax preparers to help 2,118 Yolo families claim $2,122,647 in tax refunds and credits, and

WHEREAS, recognizing the significant benefit of additional millions of dollars of tax credits to the county's low-to-moderate income workers, their families and our communities, the Internal Revenue Service is partnering with local elected officials, school districts and educational institutions, financial institutions, government agencies, committed community volunteers and non-profit groups such as the Yolo Family Resource Center, the Yolo County Department of Employment and Social Services, Catholic Charities-Holy Cross College Preparatory Academy, the California State Teachers' Retirement System, Rural Innovations and Social Economics, Inc., the Yolo County Children's Alliance and Hermanos Macehual of UC Davis to convene the 2012 EITC Awareness Campaign, a public, private and non-profit collaboration that seeks to build the assets of low-income families and individuals in Yolo County; and

WHEREAS, the 2012 Yolo County EITC Awareness Campaign's goal is to increase the claiming of EITC, CTC and other state and federal tax credits through free tax preparation assistance, as well as link low-income families and individuals to financial education, asset development and other benefit programs;

NOW, THEREFORE, BE IT PROCLAIMED that the City of Winters does hereby declare its full support for the Yolo County EITC Awareness Campaign for 2012, encourage eligible residents to claim their Earned Income Tax Credit, visit a VITA site to receive free tax preparation assistance, and call on all other cities in Yolo County to support the initiative and promote it among their residents.

Woody Fridae, Mayor	Cecilia Aguiar-Curry, Mayor Pro Tem
Harold Anderson, Councilmember	Michael Martin, Councilmember
Tom Stone, Councilmember	John W. Donlevy, Jr., City Manager

Nanci G. Mills, City Clerk

CITY OF WINTERS
california
Est. 1875

TO: Honorable Mayor and Council Members

DATE: January 17, 2012

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

FROM: Alan L. Mitchell, Assistant City Engineer

SUBJECT: Putah Creek Bridge Replacement, Project No. 01-05

RECOMMENDATION: Staff recommends Council support the original plan to construct a temporary detour bridge to be used during demolition of the existing bridge and construction of the new bridge.

BACKGROUND: On November 15, 2011, staff provided Council with an update on the project. The status of right of way acquisition, design, and utility relocation were discussed. Also discussed were the traffic direction for Wolfskill and the temporary detour bridge. This report addresses the temporary detour bridge only and provides additional information as requested by Council.

Temporary Detour Bridge

City and County staff discussed the idea of eliminating the proposed temporary detour bridge. This proposal was brought before Council for discussion. Staff felt that this was a viable option, with the idea of reducing construction time and cost. Several concerns and questions were raised at the meeting by local residents and business owners, but the majority of Council supported the idea and asked that the proposal be considered in more detail.

In order to proceed with the alternative to eliminate the temporary bridge, the following has to happen:

1) The City of Winters Council must consider and approve this alternative.
2) The County Board of Supervisors must consider and approve this alternative.
3) Caltrans would need to administratively revalidate the environmental document with a revised project description that eliminates the temp bridge and includes the detour route.

After the Council meeting, Solano County staff broached the idea with Caltrans and the County Supervisor representing the District. Staff understood there was some public concern voiced at the Council meeting. Caltrans made it clear that any public dissent would require them to formally modify the environmental document with the no temp bridge alternative, and then recirculate the environmental documents for public consumption. This would likely cause the project to lose a year, and would also reopen it up to further environmental review. The County Supervisor and has questioned the viability of this option, and also whether there could be consensus without public dissent. With the toll credit currently being available to the bridge, we want to initiate the project construction as soon as possible and not lose out on the credit. One

of the major selling-points for removal of the temp bridge was the time-savings, which would not be realized if the environmental document is opened back up.

A meeting with staff from Solano County and the City of Winters, Supervisor Vasquez, and Council Members Anderson and Martin, was held, to discuss these issues. The consensus was there is no other feasible alternative but to continue with the project, as originally considered and approved by all agencies, and build the temporary bridge. The group agreed that vetting this alternative has been beneficial so that all parties understand the traffic, cost, and schedule impacts associated with the temp. bridge, and the overall reconstruction of the Putah Creek Bridge.

ALTERNATIVES: None recommended by staff.

FISCAL IMPACT: Construction of the bridge is funded through the Federal Highway Bridge Program (HBP). The cost to construct the temp. bridge is estimated to be $800,000 - $1,000,000.

CITY OF WINTERS
California
Est. 1875

CITY COUNCIL
STAFF REPORT

TO: Mayor and City Council

DATE: January 17, 2012

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

SUBJECT: Creekside Estates Development Agreement- Amendment #1

RECOMMENDATION:

That the City Council:

1. Conduct a Public Hearing; and
2. Adopt ORDINANCE NO. 2012-01- AN ORDINANCE OF THE CITY OF WINTERS APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE CREEKSIDE ESTATES DEVELOPMENT DATED DECEMBER 22, 2005, BETWEEN THE CITY OF WINTERS AND DONALD MILLER, TO EXTEND THE TERM OF THE DEVELOPMENT AGREEMENT FOR AN ADDITIONAL EIGHT YEARS, REMOVE FUNDING REQUIREMENTS FOR FACILITIES THAT HAVE BEEN BUILT, AND MODIFY LANGUAGE CONCERNING PARK COSTS

BACKGROUND:

On December 20, 2011, the City Council conducted a public hearing and introduced Ordinance No. 2012-01 concerning a first amendment to the development agreement regarding the Creekside Estates Development. The details and supporting reports are included as attachments to this report.

DISCUSSION:

The Ordinance is now ready for consideration. The City Council is required to conduct a public hearing and then consider adoption of the Ordinance.

FISCAL IMPACT: None by this action.

ORDINANCE NO. 2012-01_

AN ORDINANCE OF THE CITY OF WINTERS APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE CREEKSIDE ESTATES DEVELOPMENT DATED DECEMBER 22, 2005, BETWEEN THE CITY OF WINTERS AND DONALD MILLER, TO EXTEND THE TERM OF THE DEVELOPMENT AGREEMENT FOR AN ADDITIONAL EIGHT YEARS, REMOVE FUNDING REQUIREMENTS FOR FACILITIES THAT HAVE BEEN BUILT, AND MODIFY LANGUAGE CONCERNING PARK COSTS

WHEREAS, the City of Winters ("City") and Donald Miller ("Miller") entered into that certain Development Agreement dated December 22, 2005 ("Development Agreement"); and

WHEREAS, the Development Agreement provides for the residential development of 41 single-family units ("Project") on 13.7 acres of certain real property in the City ("Property"); and

WHEREAS, after Miller passed away in 2007, his heirs subsequently sold the Property to the Catholic Bishop of Sacramento ("Developer"); and

WHEREAS, the Property has not been developed, and the parties now desire to extend the term of the Development Agreement for an additional eight years and to make other changes to it; and

WHEREAS, on December 14, 2011, the Winters Planning Commission conducted a public hearing pursuant to Government Code section 65867, notice of which was provided in accordance with Government Code section 65090 and 65091, at which hearing all persons wishing to testify in connection with the proposed amended Development Agreement were heard and at which the amended Development Agreement was comprehensively reviewed; and

WHEREAS, on December 20, 2011, the Winters City Council conducted a public hearing pursuant to Government Code section 65867, notice of which was provided in accordance with Government Code section 65090 and 65091, at which hearing all persons wishing to testify in connection with the proposed amendment to the Development Agreement were heard and at which the amended Development Agreement was comprehensively reviewed; and

WHEREAS, the City Council reviewed and studied the amended Development Agreement and found it complies with the California Environmental Quality Act ("CEQA").

NOW THEREFORE BE IT RESOLVED:

SECTION 1. ADOPTION OF AMENDMENT. Pursuant to California Government section 65868, the City Council hereby approves the amendment to the Development Agreement, attached hereto as **Exhibit A** ("Amendment").

SECTION 2. FINDINGS. Pursuant to Government Code section 65867.5 and based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council makes and adopts the following findings:

A. That the Amendment promotes the public health, safety, and welfare of the community because the Amendment will allow the Developer to complete the residential development that will benefit the entire community by providing additional residential units.

B. That the Amendment is consistent with the City's General Plan, as it will allow the Developer to complete the Project, which the City Council previously found to be consistent with the City's General Plan.

SECTION 3. CEQA. The City Council finds and determines that it can be seen with certainty that adoption of this Ordinance will not have a significant effect on the environment. Thus, the adoption of this Ordinance is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. Staff is directed to file a Notice of Exemption with the Yolo County Recorder's Office within five (5) working days of adoption of this Ordinance.

SECTION 4. RECORDATION. Pursuant to Government Code section 65868.5, within ten (10) days following the execution of the Amendment, the City Clerk shall record with the County of Yolo Recorder a copy of this Amendment.

SECTION 5. SEVERABILITY. If any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more of such be declared invalid or unconstitutional.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

The foregoing ordinance was introduced on December 20, 2011, and passed and adopted during a regular meeting of the City Council of the City of Winters on January 17, 2012, by the following vote to wit:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):
ABSTAIN: Council Member(s):

_____
Woody Fridae, MAYOR

ATTEST:

_____
Nanci G. Mills, CITY CLERK

EXHIBIT "A"
AMENDMENT TO THE DEVELOPMENT AGREEMENT

RECORDED AT REQUEST OF AND
WHEN RECORDED MAIL TO:

CITY OF WINTERS
318 First Street
Winters, CA 95695
Attention: City Clerk

(Space Above this Line for Recorder's Use Only)

FIRST AMENDMENT TO

DEVELOPMENT AGREEMENT BY AND BETWEEN

THE CITY OF WINTERS AND

THE CATHOLIC BISHOP OF SACRAMENTO, A CALIFORNIA CORPORATION SOLE

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (hereinafter referred to as the "First Amendment") is entered into as of December _____, 2011, by and between the CITY OF WINTERS, a municipal corporation (the "City") and the CATHOLIC BISHOP OF SACRAMENTO, A CALIFORNIA CORPORATION SOLE, a California nonprofit corporation, (the "Developer").

Recitals

A. The City previously entered into a Development Agreement with Donald Miller, who owned certain real property commonly known as the Creekside Estates Property, with Yolo County Assessor's Parcel Numbers 003-430-120 (consisting of approximately 11.0 acres) and 003-120-04 (consisting of approximately 2.75 acres) (the "Property" or "Creekside Estates Property"). The Development Agreement provides for the residential development of the Property. Any capitalized terms used but not defined in this First Amendment shall have the meanings given in the Development Agreement.

B. Donald Miller's successors subsequently transferred the Property to the Developer, who was assigned all rights and obligations under the Development Agreement as Donald Miller had.

C. In furtherance of the Project, the City and Developer desire to enter into this First Amendment to make certain changes to, and extend the term of, the Development Agreement.

D. City has given the required notice of its intention to adopt this First Amendment and has conducted public hearings thereon pursuant to Government Code section 65857. As

required by Government Code section 65867.5, City has found that the provisions of this First Amendment and its purposes are consistent with the goals, policies, standards, and land use designations specified in the City's General Plan.

E. On December 14, 2011, the City of Winters Planning Commission, the initial hearing body for purposes of Development Agreement review, recommended approval of this First Amendment. On December 20, 2011, the City of Winters City Council adopted Ordinance No. _____ approving this First Amendment and authorizing its execution.

Agreement

Section 1. Section 2.3(b) of the Development Agreement is amended to provide that the term of the Development Agreement shall be extended for an additional eight (8) years, commencing on the date written above in the introductory paragraph ("Effective Date").

Section 2. Section 2.9(d) of the Development Agreement is amended to delete the address to which notice shall be given to Developer and to replace it, as follows:

> Catholic Bishop of Sacramento, a California corporation sole
> Pastoral Center
> 2110 Broadway
> Sacramento, CA 95818
> Telephone: (916) 733-0100
> FAX (916) 733-0295

Section 3. Section 4.1(b) of the Development Agreement is amended to read as follows:

> As a condition to the approval of this Agreement by the City, Developer's predecessor presented to the City Council a fully executed agreement acceptable to the City between the Developer and the Winters Joint Unified School District ("School District"). That agreement provides, in addition to other matters as the parties agreed, that the Developer will pay to the School District, at the time of the issuance of a building permit, certain "Level 2" fees and will voluntarily pay certain "Level 3" fees, as those terms are commonly used in the K-12 education community. Should Developer and School District amend their agreement to change the amount or payment of the "Level 2" and/or "Level 3" fees, Developer shall provide a copy of such amendment to the City.

Section 4.Section 4.1(b)(1) and (2) and Section 4.1(c) are deleted from the Development Agreement.

Section 5. Section 4.2(e)(2) of the Development Agreement related to the estimated cost of park infrastructure improvements is amended to read as follows:

> 2. The estimated costs of the infrastructure improvements and development of a park (including planning, developing, and equipping the same) will be calculated by the City Engineer based on an estimated cost index of park improvements of

municipal park projects developed within the previous 24 month period.

Section 6. Section 4.2(e)(3) is deleted from the Development Agreement.

Section 7. Section 4.3 of the Development Agreement, entitled "Advance Funding of Fees for Construction of Police/Fire/Corporation Yard Facility" is deleted as the facility has been constructed.

Section 8. Section 4.4 of the Development Agreement, entitled "Payment to Library Fund" is deleted, but the Section 4.4 entitled "'Annuity in Lieu of Mello-Roos District" shall not change.

Section 9. Section 4.7 of the Development Agreement ,entitled "Urban Water Management Plan," is renumbered to be section 4.6.

Section 10. Section 4.8 of the Development Agreement, entitled "Water Well," is deleted as a well has already been constructed.

Section 11. The effective date of this First Amendment shall be the date as written above in the introductory paragraph. Except as modified and amended by this First Amendment, all other provisions of the Development Agreement shall remain unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have entered into this First Amendment as of the date first above written.

CITY:	**DEVELOPER:**
CITY OF WINTERS _____ Mayor	CATHOLIC BISHOP OF SACRAMENTO, A CALIFORNIA CORPORATION SOLE, a _ _____ By: _____ Its: _____
ATTEST: _____ City Clerk	

CITY OF
WINTERS
California
Est. 1875

CITY COUNCIL
STAFF REPORT

TO: Mayor and City Council

DATE: December 20, 2011

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

SUBJECT: Creekside Estates Development Agreement- Extension

RECOMMENDATION:

That the City Council:

1. Conduct a Public Hearing; and
2. Approve the First Amendment to the previously approved Development Agreement for development of the property commonly known as the Creekside Estates Property between the City of Winters and Donald Miller, pursuant to Government Code sections 65864 through 65869.5 in order to make certain changes to the improvements required of the developer, to change the name of the developer to "Catholic Bishop of Sacramento, a California corporation sole", and to extend the term of the Development Agreement for an additional eight years.
3. Make Findings, pursuant to Government Code section 65867.5 and based on the entire record before the City Council and all written and oral evidence presented to the City Council, makes and adopts the following findings:

    a. That the Amendment promotes the public health, safety, and welfare of the community because the Amendment will allow the Developer to complete the residential development that will benefit the entire community by providing additional residential units.

    b. That the Amendment is consistent with the City's General Plan, as it will allow the Developer to complete the Project, which the City Council previously found to be consistent with the City's General Plan.

4. The City Council finds and determines that it can be seen with certainty that adoption of the proposed Ordinance will not have a significant effect on the

environment. Thus, the adoption of Ordinance 2012-01 is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

5. Introduce Ordinance 2012-01, AN ORDINANCE OF THE CITY OF WINTERS APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE CREEKSIDE ESTATES DEVELOPMENT DATED DECEMBER 22, 2005, BETWEEN THE CITY OF WINTERS AND DONALD MILLER, TO EXTEND THE TERM OF THE DEVELOPMENT AGREEMENT FOR AN ADDITIONAL EIGHT YEARS, REMOVE FUNDING REQUIREMENTS FOR FACILITIES THAT HAVE BEEN BUILT, AND MODIFY LANGUAGE CONCERNING PARK COSTS

BACKGROUND:

In December, 2004, the City Council approved the Creekside Estates Subdivision and Development Agreement for a 13.7 acre, 41 single family unit subdivision. The details of the project and agreement are attached in the Planning Commission Staff Report included herein as Exhibit A.

Although approved, the project has not moved forward and the development agreement and entitlements are due to expire on December 22, 2011 unless an extension is approved by the City Council prior to this date.

The project was originally advanced by Donald Miller who passed away in 2007. The project was willed to heirs of Mr. Miller's Estate who subsequently sold the property and development agreement to the Catholic Bishop of Sacramento who desires to extend the agreement.

A Public Hearing was held before the Winters Planning Commission on December 14, 2011 and was unanimously recommended for approval to the City Council.

DISCUSSION:

Since 2007, the City has modified and/or extended the development agreements for nearly all of the residential subdivisions which had been approved during a three year period, including Winters Highlands, Callahan Estates and Ogando Hudson. The Creekside Estates Subdivision has basically sat dormant during the time, primarily due to the passing of Donald Miller.

Some of the key themes in the revisions and extensions to the previous development agreements have included:

- Eight Year extensions on the entitlements for the projects;
- Removal of advanced funding requirements for the public safety facility and payment requirements for the library.
- Modified language regarding park costs and infrastructure improvements to reflect

economic changes in costs for land.

Modifications have also been made related to payment schedules for permits and impact fees to reflect challenges to overall subdivision financing and the ability of developers to finance projects.

Creekside Estates Development Agreement:

Staff is recommending that the Development Agreement be amended as follows:

Section 1. Section 2.3(b) of the Development Agreement is amended to provide that the term of the Development Agreement shall be extended for an additional eight (8) years, commencing on the date written above in the introductory paragraph ("Effective Date").

This recommendation is consistent with previous extensions given to other developments. It is done to reflect the economy and the projected time period before the housing market is expected to start again.

Section 2. Section 2.9(d) of the Development Agreement is amended to delete the address to which notice shall be given to Developer and to replace it, as follows:

Catholic Bishop of Sacramento, a California corporation sole
Pastoral Center
2110 Broadway
Sacramento, CA 95818
Telephone: (916) 733-0100
FAX (916) 733-0295

This simply changes the name of the developer.

Section 3. Section 4.1(b) of the Development Agreement is amended to read as follows:

> As a condition to the approval of this Agreement by the City, Developer's predecessor presented to the City Council a fully executed agreement acceptable to the City between the Developer and the Winters Joint Unified School District ("School District"). That agreement provides, in addition to other matters as the parties agreed, that the Developer will pay to the School District, at the time of the issuance of a building permit, certain "Level 2" fees and will voluntarily pay certain "Level 3" fees, as those terms are commonly used in the K-12 education community. Should Developer and School District amend their agreement to change the amount or payment of the "Level 2" and/or "Level 3" fees, Developer shall provide a copy of such amendment to the City.

Section 4.Section 4.1(b)(1) and (2) and Section 4.1(c) are deleted from the Development Agreement.

Under the previous development agreements, developers were required to pay the Winters Joint Unified School District Level 3 impact fees toward school infrastructure. This is essentially a double payment. The economic reality is that this requirement is now viewed as a hindrance toward any subdivision being able to financially move forward and is recommended for deletion.

The WJUSD will still receive the Level 2 Impact Fees which will ensure that they receive 100% of the funds they are legally entitled to and currently receive from any other single family home development. The estimated fiscal benefit/loss per unit is $5,600.

An important note regarding this section is that there currently exists a separate agreement between this project and the Winters Joint Unified School District. While the City can waive this requirement, only the WJUSD can rescind the agreement. That ultimately will be decided by the District and the developer.

Section 5. Section 4.2(e)(2) of the Development Agreement related to the estimated cost of park infrastructure improvements is amended to read as follows:

> 2. The estimated costs of the infrastructure improvements and development of a park (including planning, developing, and equipping the same) will be calculated by the City Engineer based on an estimated cost index of park improvements of municipal park projects developed within the previous 24 month period.

Section 6. Section 4.2(e)(3) is deleted from the Development Agreement.

The previous development agreement established dollar amounts which were based on costs for 2004. Modifications to these sections simply allows for the most current cost index to be used when the development proceeds.

Section 7. Section 4.3 of the Development Agreement, entitled "Advance Funding of Fees for Construction of Police/Fire/Corporation Yard Facility" is deleted as the facility has been constructed.

The Public Safety Facility has been constructed and the costs are now incorporated into the City's Impact Fee Program. The funding previously anticipated will be collected as part of permits and impact fees collected.

Section 8. Section 4.4 of the Development Agreement, entitled "Payment to Library Fund" is deleted, but the Section 4.4 entitled "'Annuity in Lieu of Mello-Roos District" shall not change.

The Library has been constructed and the fees incorporated into the City's Impact Fee Program thus alleviating this requirement.

Section 9. Section 4.7 of the Development Agreement ,entitled "Urban Water Management Plan," is renumbered to be section 4.6.
This was a found typo in the previously adopted development agreement.

Section 10. Section 4.8 of the Development Agreement, entitled "Water Well," is deleted as a well has already been constructed.

The Water Well has been constructed and the fees incorporated into the City's Impact Fee Program thus alleviating this requirement. Funds will be collected as part of the permit process.

Section 11. The effective date of this First Amendment shall be the date as written above in the introductory paragraph. Except as modified and amended by this First Amendment, all other provisions of the Development Agreement shall remain unchanged and remain in full force and effect.

General Plan Consistency:

Pursuant to Government Code section 65867.5, the City Council is required to confirm that based on the project description and all written and oral evidence presented to the City Council, that the project is consistent with the City's General Plan.

As presented in 2005, the project is entirely consistent with the City's General Plan in zoning and conformity in its adoption.

The City Council can thus make the following findings:

A. That the Amendment promotes the public health, safety, and welfare of the community because the Amendment will allow the Developer to complete the residential development that will benefit the entire community by providing additional residential units.

B. That the Amendment is consistent with the City's General Plan, as it will allow the Developer to complete the Project, which the City Council previously found to be consistent with the City's General Plan.

CEQA:

Because the adoption of the amendment provides no material changes to the project or will have a significant environmental impact, the City Council is required to make a finding that the project is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA

Guidelines.

FISCAL IMPACT:

The most significant impact will be in the reduction of the Level 3 School Impact fees which will see a reduction of $5,600 per unit, or approximately $224,000. The offset to this is that development generally generates new students at a rate of approximately .72 students per unit which provides an average daily attendance income of approximately $6,000 per student. At 41 units, the student generation would be 29.52 or $177,120 per year or a payback of approximately 1.25 years to recover the funds. In discussions with the WJUSD, they currently have declining enrollment and this funding could dramatically help the District.

All other changes in funding will be captured through the collection of impact fees.

Attachments:

Exhibit A: Planning Commission Staff Report Approving Creekside Estates- November 23, 2004
Exhibit B: Creekside Estates Development Agreement
Ordinance 2012-01
First Amendment Document

Exhibit A

CITY OF WINTERS
PLANNING COMMISSION STAFF REPORT

TO: Members of the Planning Commission

FROM: Heidi Tschudin, Contract Planner

HEARING: November 23, 2004

SUBJECT: ***CREEKSIDE ESTATES SUBDIVISION***

SUMMARY OF PROJECT

The project is a proposed residential subdivision of 13.7 acres to create up to 41 single-family lots. In order to proceed with the project the following City approvals are needed:

- General Plan Amendment to designate the property for larger lots
- Rezoning to designate the property for larger lots
- Development Agreement
- Tentative Subdivision Map

LOCATION

The project site totals 13.7 acres comprised of APNs 003-430-12 (11.0 acres) and 003-120-04 (2.75 acres) located south of Grant Avenue (SR 128) and west of Main Street, adjacent to the Rancho Arroyo Unit 2 subdivision. Situs address is 898 Grant Avenue, Winters, California, 95694.

BACKGROUND

The application was received June 1, 2003. Additional information to complete the project was requested on July 22, 2003 and the application was determined to be complete on September 3, 2003. Subsequent information necessary for the CEQA analysis was received through May 12, 2004. The project was then stayed for a period while the City Council contemplated the Callahan and Highlands CEQA determinations which had citywide implications regarding the use of negative declarations. On August 17, 2004 the City Council upheld the use of a Mitigated Negative Declaration for the Callahan Estates project, thus clearing the way for continued use of Mitigated Negative Declarations on other projects where appropriate. Work on subject project resumed at that point. On September 28, 2004 a Community Workshop was held before the Planning Commission to introduce the Creekside Estates project and receive early community input. On October 9, 2004 an on-site Community Open House was held by the applicant to allow the community to visit the site and ask questions about the specifics of the site and the proposed project. The draft Mitigated Negative Declaration was released for public review on October 15, 2004. The review period for the Negative Declaration extended for 31 days from October 15, 2004 through November 15, 2004.

DETAILED PROJECT DESCRIPTION

Based on the tentative map dated "revised February 2, 2004" (see Attachment A), the project proposes 38 single-family lots that would range in size from 6,878 square feet (Lot 8) to 23,858 square feet (Lot 38), generally increasing in size and decreasing in density from the northeast to the southwest. Over 70 percent (27 of 38 lots) would be 8,000 square feet in size or larger. The average proposed lot size is 10,744 square feet.

The project site is oddly shaped which creates constraints for lot layout and site planning. It is further affected along the southwesterly boundary by Dry Creek, from which the General Plan requires a 50-foot buffer from top of bank. Grant Avenue (SR 128), a Caltrans facility, borders the property along the north.

Eleven of the proposed lots would back up to Dry Creek and be subject to a 50-foot setback from the top of the creek bank. Thirteen would back up to Grant Avenue (State Highway 128). Proposed improvements for the Grant Avenue frontage along the south side of Grant Avenue include road widening (an additional 27 feet from the existing edge of the pavement), curb and gutter, and an eight-foot wide meandering sidewalk within 20-feet of landscaped area. A six-foot privacy fence is proposed along the rear boundary of the lots that back onto Grant Avenue including Lot 4 that backs onto Main Street. The remaining 14 lots would be interior lots to the project.

The project proposes an extension of Cody Street and of Dry Creek Lane into the site to form a loop and one cul-de-sac. All streets are proposed to be built to meet City local street standards (57-foot right-of-way with separated sidewalks and six-foot wide parkway strip).

Initial discussions with the City involved a project alternative that would have replaced Lots 7, 9, and 10 with split lot duplexes in order to achieve the City's affordable housing requirements. Another alternative would have created a six-lot "bungalow court" in the area of the property between Dry Creek Lane, Main Street, Cody Street and Grant Avenue. Both of these alternatives created design and financing challenges that made them less than favorable. As proposed, all required affordable housing (6 units) would be provided offsite on a 1.7-acre multifamily (R-4 site) (APN 003-370-15) located near the southeast corner of East Street and East Baker Street directly west of the Winters Apartments. This property was previously identified in a June 1997 City study as a priority site for affordable housing. The Community Housing Opportunities Corporation (CHOC) is currently in escrow to purchase this site for the construction of 34 very low income apartment units. In order to satisfy the applicant's affordable housing obligation for the proposed Creekside Estate project, the applicant would provide CHOC with $260,000 towards the purchase of the site.

LAND USE ANALYSIS

The 1992 General Plan was the subject of a certified Environmental Impact Report that examined the environmental impacts associated with adoption of the General Plan, including the development of the site as Low Density Residential. At the time the General Plan was adopted this site was designated Low Density Residential (LR) and zoned Single Family Residential (R-1) (7,000 square foot minimum). In August of 1997 and again in June of 2001 the City Council approved Mitigated Negative Declarations for prior subdivisions of the 2.75-acre parcel. In February of 2003 the City redesignated and rezoned the site to increase the density and decrease the lot size. The assumed yield for the General Plan EIR analysis, based on the original designation, was 3.08 du/ac or 42 units.

The project site has been designated in the General Plan as Medium Density Residential (MR) since it was redesignated by the City in February 2003 from Low Density Residential (LR). The project proposes a General Plan amendment to designate the property back to the Low Density Residential designation.

The project site has been zoned on the City's Zoning Map as Single Family Residential, 6,000 Square Foot Average Minimum (R-2) since it was rezoned by the City in February 2003 from Single Family Residential (R-1) (7,000 square foot average minimum lot size). The project proposes a rezoning back to the Single Family Residential, 7,000 Square Foot Average Minimum (R-1) zone.

These designations would allow for a density range of 1.1 to 7.3 dwelling units per acre, a minimum average lot size requirement of 7,000, and a minimum lot size requirement of 6,000.

There are 13.7 acres in total on which 38 units are shown. This would result in a density of 2.8 du/ac which falls within the allowable range and is therefore consistent with the General Plan. The average lot size is 10,744 square feet which meets the minimum average requirement. The smallest proposed lot is Lot 8 totaling 6,878 square feet. This falls within the minimum lot size requirement of 6,000 square feet and is therefore consistent with the regulatory requirements.

POLICY ANALYSIS

General Plan

The project has been reviewed for consistency with the policies of the General Plan. Conditions have been identified in some cases, to ensure consistency. For all policies, the project appears to be consistent. The Planning Commission, and ultimately the City Council, must confirm this finding in order to approve the project.

Policies I.A.5, I.F.2, I.F.3, IV.H.5, and IV.H.6 related to funding and timing of school facilities have been superseded by State law (Proposition 1A/SB 50, 1998, Government Code Section 65996), as described in the Initial Study of the Negative Declaration.

Other Applicable Plans

The project site falls within the redevelopment area of the City of Winters known as the Community Development Project Area. The Community Development Director has indicated that the project is consistent with the requirements of the redevelopment plan and policies with regard to the proposed affordable housing plan, and that no other redevelopment issues are relevant to the review of the project.

Bikeway System Master Plan

The Bikeway System Master Plan for Winters was last updated in 2002. This plan shows a bicycle facility along Grant Avenue. Consistent with community and Commission discussions regarding connectivity and an off-street trail system, the project will be required to accommodate a planned Class 1 (off-street multi-purpose trail) along the south side of Grant Avenue.

Development Review Committee

The project was reviewed by the City's Development Review Committee on March 12, April 23, and July 23, 2003. The Committee discussed increasing the lot sizes, adding a "Welcome to Winters" sign at the western corner of the project site along Grant Avenue, and the need for heavy landscaping along Grant Avenue. As a result of the Committee review the project was revised to include larger lot sizes. Conditions requiring the community sign and a design specification for the Grant Avenue bike path have been added. It was acknowledged at the DRC that the applicant could address affordable housing on or off site and that there was no on-site park land proposed (see Attachment F).

Affordable Housing Committee

General Plan Policy II.A.8 requires projects of 50 units or more to submit for review by the City's Affordable Housing Committee. This project would result in fewer than 50 units and therefore did not trigger this requirement.

CONSISTENCY WITH OTHER REGULATIONS

Zoning Ordinance

The project has been reviewed for consistency with the requirements of the Zoning Ordinance. Conditions have been identified to ensure consistency. For all requirements of the Zoning Code, the project appears to be consistent. The Planning Commission, and ultimately the City Council, must confirm this finding in order to approve the project.

Pursuant to Section 8-1.4211, design review is required of this project, and has been made a condition of approval.

Other City Regulations

The project has been reviewed by the Contract Engineer for consistency with the State Subdivision Map Act. Conditions have been identified where necessary to ensure consistency.

INFRASTRUCTURE

Sewer System

Sanitary sewer service is proposed to be provided by an existing 8-inch sewer main in Dry Creek Lane. Connection will be made at the intersection of Cody Street and Dry Creek Lane. The City's Draft Sewer Master Plan identifies a potential deficiency in capacity on the Edwards Street sewer line if the Creekside Estate sewer flows are directed to Edwards Street via Dry Creek Lane. Creekside Estates will be required to commission a detailed study to evaluate the capacity available in the Edwards Street sewer line and will be required to provide facility improvements to accommodate the Creekside Estates Development.

Wastewater Treatment Plant

The City's Wastewater Treatment Plant (WWTP) is currently permitted to 0.92 million gallons per day (mgd). WWTP Phase 1B has been constructed which puts current capacity at 0.92 mgd. In December 2002, the estimated number of new dwelling units that could be served under current capacity was approximately 600 units. It was anticipated that over the following year approximately 200 dwelling units would be entitled to hook-ups based on approved maps and maps that were in the entitlement process. At this time, it is still anticipated that 200 units will be entitled to sewer hook-ups. The subject Creekside Estates project is included within those 200 assumed hookups. The City continues to monitor the WWTP on an annual basis to assess available capacity. The Phase 2 expansion of the WWTP will bring the capacity to 1.2 mgd. The timing of this expansion is not set. The Phase 2 expansion is not needed to serve this project.

Water System

An 8-inch water loop is proposed on-site to provide water service. This line would connect to the existing 8-inch water main in Cody Street. In addition, an 8-inch water line shall be required to be constructed from the future Creekside Road to Taylor Street. The location of the easement for the water line has yet to be determined.

The Draft Water Master Plan identifies that the city currently requires a new well to serve the existing City and the Creekside development. If a new well is required, the applicant shall be required to advance fund the land acquisition, design, and construction of a new municipal water well and waterline conveyance piping. The location of the new well has yet to be finalized. Two locations are under consideration: One in the vicinity of Valley Oak Drive and the Highlands Canal on the west edge of the City limits and the other location directly north of the terminus of West Main Street at the Rancho Arroyo Detention Pond.

Drainage System

Storm drainage for the project is proposed to be provided by an existing 48-inch storm drain along the west side of Lots 1, 9, and 10. The project would connect to this storm drain in two places where it would intersect existing storm drains in Grant Avenue and Cody Street.

Off-Site Infrastructure

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

Flooding

The project does not fall within the City's General Plan Flood Overlay Area. The site is designated on federal floodplain maps as Zone A (within the 100-year floodplain) in the creek and Zone C (outside of the 100-year floodplain) on the remainder of the property above the high bank. A 50-foot setback from the high bank is required under the City General Plan and Zoning Ordinance and as such, no work is proposed within a federally designated flood area.

HOME DESIGN

An analysis of home design, facades, and elevations has not yet been performed as design review approval has not been requested at this stage in the process. Pursuant to Section 8-1.4211 of the Zoning Code design review is required of this project and has been made a condition of approval.

AFFORDABLE HOUSING

The total number of proposed units is 38. The City requires a 15 percent affordable component comprised of 6 percent very low income, and 9 percent low to moderate income. Therefore the requirements for this project would be six affordable units comprised of three very low income units, two low income units, and one moderate income units.

The applicant is proposing to contribute $260,000 towards the purchase of an alternative site on which 34 very low income apartment units would be constructed through a partnership of the City Community Development Agency (redevelopment) and CHOC.

Alternatively Lots 7, 9, and 10 at the entrance of the project on either side of the proposed extension of Dry Creek Lane, would be converted to split-lot duplex lots thus creating six half-plex lots which would be deed restricted to satisfy the affordable housing requirement on-site. This would increase the total number of proposed lots to 41 and the density to 3.0 du/ac. The proposed size of the affordable lots would range from 3,377 square feet (7B, 9B, and 10A) to 4,258 square feet (7A). The minimum lot area for an affordable split lot is 3,500 square feet (see Zoning Ordinance, Table 3B, Footnote 2, page 82). As such the layout of these proposed split lots will need to be modified to reflect the minimum allowable lot size. A condition of approval has been added to address this issue should the Planning Commission determine the project should meet the affordable housing requirement onsite.

PARK REQUIREMENT

The City requires the development of public parkland in conjunction with subdivision development at a ratio of 5 acres per 1,000 persons, and has a goal of 7 acres per 1,000 persons. Using the applicable Department of Finance factor for household size of 3.248 persons per household, and assuming 41 total units (affordables included) the project triggers the need for between 0.67 and 0.93 acres of developed

parkland (3.248 x 41 dus) ÷ 1,000 x 5 = 0.67 acres; (3.248 x 41) ÷ 1,000 x 7 = 0.93 acres). The project includes no on-site public parkland. The applicant proposes to pay an equivalent fee for the development of parkland off-site. This fee would be required to address both the full acquisition costs and the full development costs for equivalent parkland.

Assuming this remains a large lot project, the staff believes it makes sense for this project to contribute towards off-site park land as discussed in the staff exhibit for the Callahan Estates project (also on tonight's agenda). The staff has identified several options for park development throughout the proposed neighborhoods on the City's west side. Depending on the option chosen, the park fees paid by the Creekside project would be used to implement the favored scenario.

GROWTH RATE AND PROJECT PHASING

The applicant proposes no project phasing. All lots would be immediately available for sale with no restriction on timing of development. However, the applicant anticipates selling all lots to individual owner-builders or small custom builders, rather than to merchant builders. To the extent that this occurs, homes are likely to become available for occupancy at a more varied rate and pace. Nonetheless, given the City's concern with growth issues this issue merits review for every project.

The General Plan (adopted May 19, 1992) anticipated a population cap of 12,500 by 2010 (Policy I.A.1). The current population is 6,868 (January 1, 2004 Department of Finance estimate) and there are 2,189 housing units (January 1, 2004 Department of Finance estimate). The City would have to experience a growth rate of almost ten percent annually over the next seven years (2004 through 2010) to reach the population cap. In other words, the City's growth is lagging behind what was anticipated in the General Plan, which is the basis for all of the fee programs and infrastructure planning in place today. Because the economy is cyclical, it is inevitable that growth will occur in "chunks" during times when the market is favorable, rather than smoothly over time as might be more desirable from a community standpoint. It appears that the City is facing one of those "chunks" in 2004 with four development applications currently in process.

The 1992 General Plan EIR assumed a yield of approximately 42 units from the project site, which would yield a population of approximately 136 persons (using the applicable Department of Finance factor for household size of 3.248 persons per household). The proposed project (assuming 41 units which includes the affordable units onsite) would generate substantially that amount. Therefore, the proposed project would be consistent with the General Plan EIR assumptions for the project site.

Over the last few years (1999 – 2003) the City has grown by an average of 63 new units per year (315 ÷ 5).

Calendar Year	Certificates of Occupancies Issued	Building Permits Issued
2003	107	100
2002	83	56
2001	39	45
2000	36	46
1999	50	36
TOTALS	**315**	**283**

The applicant is proposing no phasing for the project. The request is to be allowed to build out the project based on the market, without restrictions.

The status of other known proposals is as follows:

- Cottages (30 single family lots on 2.9 acres): Status – approved; under construction.

- Winters Townhomes (15 multifamily units on 1.2 acres): Status – approved; five units under construction.

- Winters Highlands (379 single family lots and 64 multifamily units on 102.6 acres): Status – continued; EIR under preparation.

- Callahan Estates (120 single family lots on 26.4 acres): Status – Scheduled for second hearing before the Planning Commission.

- Ogando-Hudson (65 single family lots on 16.0 acres): Status – application received and under review.

- Greyhawk (897 single family lots and 225 multifamily units plus additional non-residential land uses on 400.0 acres): Status – withdrawn.

- Springfield Ranch (1,700 single family lots and 200 multifamily units plus additional non-residential land uses on 851.2 acres): Status – withdrawn.

Assuming for the purposes of this discussion that the Highlands, Callahan, Ogando-Hudson, and Creekside proposals are all approved, that would total up to 669 units on top of the 45 associated with the already approved Cottages and Winters Townhomes projects. Left solely to market forces, the timing of these units would be significant for a town the size and scale of Winters. There is currently a population of about 6,868 and about 2,189 residential units in the City. In numbers alone the pending projects represent about a 35 percent increase in both population and total number of housing units.

Although anticipated in the General Plan, and planned for in terms of infrastructure and services, this magnitude of change is of concern to many citizens and should be discussed. The City Manager has been exploring the phasing of this development potential, including how and to what degree it could be successfully "metered" through development agreements. The desirability of this from a community point of view must be balanced with project feasibility from the developer's point of view, infrastructure financing costs, the City's affordable housing requirement, and the realities of modern subdivision financing.

DEVELOPMENT AGREEMENT

The City will require that a Development Agreement (DA) be executed for this project. Under the City's DA enabling ordinance, there must be a resulting "net benefit" to the community from entering into such an agreement. The community benefits to the City from the Creekside Estates agreement are anticipated to include Level Three fee payments to the schools as well as other net community benefits yet to be identified. In addition, if approved the Development Agreement will be used to "lock in" project features such as the lot layout, design review requirements, conditions of approval, mitigation measures, phasing (if any), payment of impact fees, etc.

A draft of the Creekside Estates Development Agreement has not yet been prepared. However, the key deal points for the agreement as they are envisioned at this time are outlined below:

- All conditions of approval and mitigation measures shall be fully implemented. These include installation of a new municipal water well; various street extensions, connections, and improvements; full participation in small/local builder program; reimbursement to City for cost of CEQA monitoring mitigation measures; and other items.

- Through a separate agreement with the school district, the developer shall pay Level 3 school mitigation fees for all market rate units.

- For the operations and maintenance costs necessary to off-set any fiscal deficit projected for the project, the Developer shall create and fund an annuity. The basis for the annuity is the difference

between the cost of city service and the taxes generated by the dwelling unit in property and transfer taxes.

- The developer shall advance the fees of $4,297 per unit (or whatever rate the fees may be at the time) for the purpose of construction of the police/fire station and corporation yard facility.

- Developer shall make a cash contribution to the City library fund, payable at the time the first final map for the project is recorded.

- Developers shall advance funding for, and/or pay a fair share of the cost of, preparation of a City Urban Water Management Plan.

- Assuming the project park requirement is not satisfied on-site, the applicant is responsible for the value of the land plus the value of the improvements that would have otherwise been required in order to satisfy the General Plan requirement. This has been calculated to be 0.93 acres for the Creekside Estates project.

CEQA CLEARANCE

A draft Negative Declaration (see Attachment D) was circulated on October 15, 2004, for a 31-day comment period extending through November 15, 2004. All comment letters received within the comment period are attached for the Commission's review (see Attachment C). Each letter is discussed briefly below:

- US Army Corps of Engineers – This letter speaks to the Corps jurisdiction over the bed of Dry Creek. This has been acknowledged and discussed in the Biological Resources reports and the Negative Declaration Initial Study. The project adheres to the City's 50-foot setback to protect the creek and therefore, the potential for impact is avoided. No impact will occur and the Corps jurisdictional area will be avoided.

- Robert Fischer – This comment requests that no building occur near Moody Slough Road and Niemann Street, and suggests that development is better suited along SR 128 (Grant Avenue). It appears this comment may have been intended for other projects before the City. The subject project is consistent with the wishes of the writer.

- Jeff TenPas – This letter speaks to concerns about odor emanating from the East Street Pumping Station. The writer is concerned that the subject project will worsen this situation. The odor issue is believed to be operational (tied to the nut season and effluent from Mariani's) and not related to additional residential flows going through the pump station. The City is investigating the concern with the City's sewer plant engineers (Eco-Resources) and will provide follow-up information to the Commission and Mr. TenPas.

- Tim Caro – The letter poses questions about the Biological Resources Assessment used as the basis of the Negative Declaration and makes recommendations regarding methods for doing the biological review. The applicant's biologist and the City's peer reviewer biologist have been asked to attend the Planning Commission hearing to respond to these and other questions that may arise regarding the biological resources on the site.

A resolution approving the Negative Declaration and adopting the Mitigation Monitoring Plan will be prepared for final action by the City Council if this project is approved.

COMMUNITY WORKSHOP

On September 28, 2004 the Planning Commission conducted a community workshop on this project. The minutes from that meeting are attached (see Attachment E). Some of the key points raised at that meeting and a brief explanation of how they have been addressed are as follows:

- Fence design along Grant Avenue – A condition of approval has been included to require masonry columns, steel rails, and wood fencing, with maintenance to be a homeowner responsibility.

- Grant Avenue bike trail design – A condition has been included to widen this right-of-way area to meet minimum standards and to require submittal and approval of a landscaping plan.

- Pedestrian pathway from Grant Avenue between lots at west end – The proposed trail system would provide safe and logical routes for students without creating safety and privacy concerns for future homeowners. A cut-through has not been included, however, as proposed by staff in the exhibit accompanying the Callahan discussion, the bike path would be part of an overall linked trail system that would take children to the school on a safe and connected path.

- Location of affordable units – The Planning Commission should reach a consensus as to whether they should be located off-site as proposed or on-site which could be accommodated through a prior site design.

- Erosion along Dry Creek -- The General Plan and Zoning Ordinance require a 50-foot setback from the top of the bank. This will protect the riparian and habitat values of the creek and also provide safety for residents and property from the creek during storm events.

PLANNING COMMISSION ACTION

Given the City's recent February 2003 decision to increase density on this site, the applicant's request to reverse that action raises policy issues that require deliberation. Presumably the City is seeking to achieve more units on this property – the applicant's proposed project would not have that result. Under the General Plan about 42 units were presumed. Under the 2003 City-initiated rezoning which remains in place today about 100 units would be allowed. The project as proposed (with all affordable units satisfied off-site) would result in 38 units.

However, notwithstanding the City's 2003 action, it is relevant to note that the property is small, irregular in shape, and encumbered by both a 50-foot setback from Dry Creek and right-of-way needs along Grant Avenue. In short the constraints affecting the site tend to support a lower density product. Furthermore, the City is in need of large lot, higher-end, move-up housing for local residents and the proposed project would fulfill that need. Other projects currently being processed would better and more appropriately fulfill the need for smaller lots and more dense types of single-family product. In light of these circumstances the staff is inclined to recommend support for the project.

Should the Planning Commission concur, recommended conditions of approval are attached (see Attachment B). The Planning Commission's action to approve this project is advisory to the City Council and would automatically move forward to the Council for final action. To recommend approval the Planning Commission should take the following actions:

1) The Planning Commission recommends that the City Council approve a resolution finalizing and adopting the Creekside Estates Negative Declaration and adopting the Mitigation Monitoring Plan.

2) The Planning Commission recommends that the City Council approve an ordinance adopting the Creekside Estates Development Agreement.

3) The Planning Commission recommends that the City Council approve a resolution to amend the General Plan to change the land use designation for 13.7 acres comprised of APNs 003-430-12 and 003-120-04 from Medium Density Residential (MR) to Low Density Residential (LR).

4) The Planning Commission recommends that the City Council approve an ordinance rezoning 13.7 acres comprised of APNs 003-430-12 and 003-120-04 from Single Family Residential, 6,000 Square

Foot Average Minimum (R-2) to Single Family Residential, 7,000 Square Foot Average Minimum (R-1).

5) The Planning Commission recommends that the City Council approve Tentative Subdivision Map No. 4645 creating ____ lots on 13.7 acres comprised of APNs 003-430-12 and 003-120-04

If the Planning Commission determines that the recent redesignation of the site to allow smaller lots should stand, then the project should be denied. A denial is considered a final action on the project and would not move forward to Council unless an appeal is filed. To deny the project the Planning Commission should take the following action: The Planning Commission denies this project due to inconsistency with the General Plan and City zoning map.

ATTACHMENTS

A. Tentative Map
B. Draft Conditions of Approval
C. Negative Declaration Comment Letters
D. Negative Declaration and MMP (separately bound and distributed)
E. Minutes from September 28, 2004 Community Workshop
F. July 23, 2003 DRC Notes

Exhibit B

Free Recording Requested Pursuant to
Government Code Section 27383

When recorded, mail to:
City of Winters
318 First Street
Winters, CA 95694
Attn: Community Development Department

YOLO Recorder's Office
Freddie Oakley, County Recorder
DOC- 2005-0063213-00
Acct 118-Winters - NC
Thursday, DEC 22, 2005 08:52:00
Ttl Pd $0.00 Nbr-0000614366
FRT/R5/1-99

CONFORMED COPY
NOT COMPARED
WITH ORIGINAL

AN AGREEMENT
BETWEEN
THE CITY OF WINTERS AND
DONALD MILLER
RELATING
TO THE DEVELOPMENT OF THE PROPERTY
COMMONLY KNOWN AS THE
CREEKSIDE PROPERTY

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THIS AGREEMENT is entered into between the CITY OF WINTERS, a municipal corporation (the "City"), and DONALD MILLER, (the "Developer"), under the authority of section 65864 *et seq.* of the Government Code of the State of California and Chapter 2 of Title 11 of the Winters Municipal Code. This Agreement is effective on the date it is recorded in the Office of the County Recorder of Yolo County.

FACTS AND CIRCUMSTANCES

This Agreement is entered into based on the following facts and circumstances, among others:

1. The City of Winters is a small city in Yolo County which, among other things, prides itself in being a clean, safe, and family-friendly place to live.

2. The Developer is in the business of developing residential communities in northern California, including the development of property in the manner which promotes the goals envisioned by the City for its residents.

3. In order to meet the needs of the City and the Developer, the Parties agree that the best method of planning the residential development of the property owned by the Developer, commonly known as the Creekside Property, is through the use of a Development Agreement as authorized by the Planning and Zoning Law, Division 1, Chapter 4, Article 2.5 (commencing with Government Code § 65864) [entitled "Development Agreements"] and Title 11, Chapter 2 of the Winters Municipal Code [entitled "Development Agreements"].

4. It is the intent of the Parties in entering into this Agreement to provide a mechanism by which the City's General Plan may be implemented in a manner which provides the Developer certain vested rights to develop the Creekside Property in exchange for planning and financial commitments by the Developer which will mitigate the impact of new development on the City's infrastructure and its ability to provide municipal services, while providing the City with sufficient discretionary control and police power authority to protect the health, safety, and general welfare.

THE PARTIES AGREE AS FOLLOWS:

TABLE OF CONTENTS

This Agreement is divided into articles, sections, and subsections as set forth below. The title of an article, section, or subsection is for the convenience of the Parties only and a title is not intended to alter the content or meaning of any article, section or sub-section.

Article 1. Definitions
Article 2. General Provisions

Article 3. Development of the Property
Article 4. Special Development Obligations
Article 5. Default, Remedies, and Dispute Resolution
Article 6. Hold Harmless and Indemnification

ARTICLE 1

DEFINITIONS

The following words and phrases used in this Agreement shall have the meanings set forth in this Article. All words not specifically defined shall be deemed to have their common meaning and/or the meaning generally given to such words in the parlance of the planning and development of real property in the State of California.

Section 1.1 "Agreement" means this agreement.

Section 1.2 "Application fees" means the amount paid by the Developer for the processing of any land use entitlement or for an amendment to this Agreement.

Section 1.3 "Building Permit" means the ministerial permit issued for the construction of a residential housing unit upon the payment of all applicable fees.

Section 1.4 "Creekside Property" or "The Property" means the real property which is the subject of this Agreement. It is legally identified as Yolo County Assessor's Parcel Nos. 003-430-12 (consisting of approximately 11.0 acres) and 003-120-04 (consisting of approximately 2.75 acres). A map showing its location is attached as Exhibit A.

Section 1.5 "Creekside Estates Tentative Subdivision Map" means the tentative map, and the Conditions of Approval, adopted for The Property concurrently with the approval of this Agreement in accordance with the Subdivision Map Act and the City's Subdivision Ordinance. A copy of the Creekside Estates Tentative Subdivision Map is attached as Exhibit C.

Section 1.6 "Creekside Estates" means the single family residential development created by the Creekside Estates Tentative Subdivision Map.

Section 1.7 "City" means the legal entity known as the City of Winters, a municipal corporation of the State of California. It includes the officers, agents, employees, bodies, and agencies of the City as the context may indicate. It also includes each person duly appointed to carry out a specific function as required in this Agreement. (E.g., the term "City Engineer" includes the person holding that title or any other person designated by the City to perform the functions set forth in the Agreement to be performed by the City Engineer.)

Section 1.8 "City of Winters" means the physical boundaries of the City of Winters.

Section 1.9 "Condition of approval" means a requirement placed on a land use entitlement which must be satisfied in order for the entitlement to be effective. Example: a condition that a road be built at the expense of the Developer and dedicated to the City as a public thoroughfare.

Section 1.10 "Conditions of Approval" means the conditions placed on the approval of the Creekside Estates Tentative Subdivision Map. A copy of the Conditions of Approval is attached as Exhibit D.

Section 1.11 "Developer" means Donald Miller and/or his successors in interest.

Section 1.12 "Discretionary Approval" means an action which requires the exercise of judgment, deliberation, or discretion on the part of the City in approving or disapproving a particular activity.

Section 1.13 "Final subdivision map" or "final map" means the map submitted to the City which, once approved under the City's Subdivision Ordinance and the Subdivision Map Act, is recorded in the Official Records of Yolo County and legally creates the residential lots, streets, and other land use features shown on it.

Section 1.14 "Impact Fee" means the amount paid by the Developer to mitigate the impacts of development of The Property for such things as traffic circulation, sewer and water conveyance facilities, and similar matters.

Section 1.15 "Land Use Entitlement" means either a Discretionary or Ministerial Approval issued to The Property by the City under its ordinances, resolutions, or other rules and regulations, or under applicable State and/or federal law, which permits development on The Property. Examples: zoning; a conditional use permit; a tentative or final subdivision map; a building permit; a sewer or water connection.

Section 1.16 "Ministerial Approval" means an action by the City given where there has been compliance with applicable regulations and which does not require the exercise of discretion.

Section 1.17 "Mitigation Measures" means the requirements placed on the development of The Property to cure or lessen the environmental impact of a particular physical activity as identified as part of the analysis done for The Property under the California Environmental Quality Act (CEQA). The Mitigation Measures are a part of Exhibit D, Conditions of Approval.

Section 1.18 "Off-site improvement" means a public improvement constructed outside the physical boundaries of The Property.

Section 1.19 "On-site improvement" means a public improvement constructed within the physical boundaries of The Property.

Section 1.20 "Party" means either the City or the Developer, or their successors, as the context may indicate. "Parties" means both the City and the Developer, or their successors.

Section 1.21 "Public Improvements" or "Infrastructure" means facilities constructed for use in accommodating residential use on The Property. Examples: roads; sewer and water lines; traffic signals.

Section 1.22 "Vesting law" means any State or federal law which gives the owner of real property the right to develop such property in a specified manner, which right cannot be limited or abrogated by the City.

ARTICLE 2
GENERAL PROVISIONS

Section 2.1 All Exhibits Deemed Incorporated by Reference.

Unless specifically stated to the contrary, the reference to an exhibit by a designated letter or number shall mean that the exhibit is made a part of this Agreement.

Section 2.2 Property to be Developed.

The property to be developed under this Agreement is the property commonly known in the City of Winters as the Creekside Property, Yolo County Assessor's Parcel Nos. 003-430-12 and 003-120-04. In this Agreement the Creekside Property will, in most instances, be referred to simply as "The Property."

Section 2.3 Agreement to be Recorded; Effective Date; Term.

a. When fully executed, this Agreement will be recorded in the Official Records of Yolo County, pursuant to Government Code section 65868.5.

b. The term of this Agreement is six (6) years, commencing on the date it is recorded. The term may be extended by mutual consent of the Parties. It may be terminated as provided in Article 5.

Section 2.4 Equitable Servitudes and Covenants Running With the Land.

Any successors in interest to the City and the Developer shall be subject to the provisions set forth in Government Code sections 65865.4 and 65868.5. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do, or refrain from doing, some act with regard to the development of The Property: (a) is for the benefit of and is a burden upon The Property; (b) runs with The Property and each portion thereof; and (c) is binding upon each Party and each successor in interest during ownership of The Property or any portion thereof. Nothing herein shall waive or limit the provisions of Section 2.5, and no successor owner of The Property, any portion of it, or any interest in it shall have any rights except those assigned to the successor by the Developer in writing pursuant to Section 2.5. In any event, no owner or tenant of an individual completed residential unit within Creekside Estates shall have any rights under this Agreement.

Section 2.5 Right to Assign; Non-Severable Obligations.

a. The Developer shall have the right to sell, encumber, convey, assign or otherwise transfer (collectively "assign"), in whole or in part, its rights, interests and obligations under this Agreement to a third party during the term of this Agreement.

b. No assignment shall be effective until the City, by action of its City Council, approves the assignment. Approval shall not be unreasonably withheld provided:

1. The assignee has the financial ability to meet the obligations proposed to be assigned and to undertake and complete the obligations of this Agreement affected by the assignment; and

2. The proposed assignee has adequate experience with residential developments of comparable scope and complexity to Creekside Estates and has successfully completed such developments.

c. The provisions of subsection b. do not apply to the sale of five (5) or fewer finished residential lots to individual buyers or builders.

d. The special development conditions set forth in Article 4 are not severable, and any sale of The Property, in whole or in part, or assignment of this Agreement, in whole or in part, which attempts to sever such conditions shall constitute a default under this Agreement and shall entitle the City to terminate this Agreement in its entirety.

Section 2.6. Amendment of the Agreement.

This Agreement may be amended from time to time with the mutual written consent of both Parties as provided by Government Code section 65868 and Title 11, Chapter 2, Article 6 (Amendment or Cancellation by Mutual Consent) of the Winters Municipal Code. The cost by the City in processing a proposed amendment shall be paid by the Developer. The Developer shall pay normal application fees.

Section 2.7 Whole Agreement; Conflict with City Code

a. This Agreement, together with any subsequent addenda, amendment or modification, shall constitute the entire agreement of the

Parties as to the development of The Property. All prior agreements of the Parties, whether written or oral, are of no further force or effect.

b. The provisions of Title 11, Chapter 2 of the Winters Municipal Code entitled "Development Agreements" are incorporated by this reference into this Agreement. However, if there is a conflict between a specific provision of the Winters Municipal Code and a specific provision of this Agreement, this Agreement shall prevail.

Section 2.8 Choice of Law; Venue; Attorney Fees; Alternative Dispute Resolution.

a. This Agreement shall be interpreted according to the laws of the State of California. Any litigation concerning its meaning shall be venued in the Superior Court of Yolo County. The prevailing Party in such litigation, as determined by the court, shall be awarded reasonable attorneys' fees in addition to statutory costs.

b. Nothing herein shall preclude the Parties from entering into a separate agreement to resolve any matter concerning this Agreement by a method other than litigation in court, including binding arbitration.

Section 2.9 Notices.

a. Formal written notices, demands, correspondence, and communications between the City and the Developer shall be given if sent to the City and the Developer by any one of the following methods:

1. Via certified U.S. Mail, return receipt requested.

2. Via an overnight mail service of the type normally used by the business community, such as Federal Express, UPS Overnight, and California Overnight.

3. By facsimile, provide a "hard" copy is sent at the same time by regular U.S. Mail.

b. The written notices, demands, correspondence, and communications may be directed in the same manner to such other persons and addresses as either Party may from time to time designate.

c. Notices to the City shall be given as follows:

City of Winters
318 First Street
Winters, CA 95694
Attn: City Manager
Telephone (530) 795-4910 x 110
FAX (530) 795-4935

d. Notices to the Developer shall be given as follows

Donald Miller
P.O. Box 457
Davis, California 95617
Telephone (530) 753-2596
FAX (530) 753-5693

ARTICLE 3

DEVELOPMENT OF THE PROPERTY

Section 3.1 Land Use Entitlements; One or more Final Subdivision Maps.

a. The Property will be developed under the following land use entitlements, all of which are approved contemporaneously with the recording of this Agreement:

1. A rezoning of The Property from Single Family Residential, 6,000 Square Foot Average Minimum (R-2) to Single Family Residential,

7,000 Square Foot Average Minimum (R-1). The rezoning is approved contemporaneously with this Agreement.

2. The Creekside Estates Tentative Subdivision Map consisting of approximately forty (40) single family residential lots on 13.7 acres. Of the forty (40) residential lots four (4) must be made available to local builders as defined by the City's land use regulations.

The Creekside Estates Tentative Subdivision Map is approved contemporaneously with the approval of this Agreement.

3. This Agreement as adopted on May 17, 2005 by Ordinance No. 2005-03 is effective as of upon recording 2005.

4. Subsequent discretionary approvals (such as design review) pursuant to the City's generally applicable land use regulations.

b. The Developer may apply for and receive one final subdivision map for Creekside Estates, or the Developer may chose to file separate final maps for various phases of Creekside Estates. If the Developer chooses to file final maps by phase, the number of phases and the size of each shall be at the discretion of the Developer, subject to the requirement for adequate infrastructure as provided in section 3.8.

c. Under the provisions of Government Code section 66452.6(a), the life of the Creekside Estates Tentative Subdivision Map is co-terminus with the life of this Agreement.

Section 3.2 Consistency with General Plan.

The City finds that the development of The Property according to the terms of this Agreement conforms with the General Plan of the City of Winters.

Section 3.3 Vested Rights of Developer.

a. The Developer shall, solely with respect to The Property, have the right to the following land use entitlements regardless of subsequent amendments to the General Plan, the Zoning Ordinance, the Subdivision Ordinance, or other ordinance, resolution, rule, or regulation adopted by the City.

1. The right to the number of single family residential building lots, and the density of development (dwelling units per acre) of those units, as shown on the Creekside Estates Tentative Subdivision Map.

2. Exclusion from any subsequently enacted building moratoria.

3. The right to connect each dwelling unit to sewer and water services, provided all improvements regarding such services are made and all applicable fees are paid.

4. The cross-section of streets (including sidewalks, trails, and other thoroughfares) as established as a condition to the Creekside Estates Tentative Subdivision Map.

5. The mitigation measures set forth in Exhibit D.

b. Subdivision a. does not apply to changes effecting development of The Property as mandated by State and/or federal laws effective after the

date this Agreement is recorded. In the event of such changes, the City will permit the development of The Property as originally permitted by this Agreement to the greatest extent reasonably feasible taking into consideration the changes in the law.

Section 3.4 Rights Retained By the City.

a. Except as specifically provided in section 3.2, all regulations of the City as expressly provided by State law, federal law, and/or local ordinance, resolution, or rule shall pertain to the development of The Property. Such regulations include, but are not limited to:

1. Discretionary approvals.

2. Subdivision standards in effect when a final subdivision map is approved.

3. The Uniform Codes (including Building, Mechanical, Plumbing, Electrical and Fire) in effect at the time a building permit for a specific dwelling unit is issued.

4. Fees (including, but not limited to, fees commonly referred to as "impact fees") and charges, including, but not limited to, fees and charges for building permits, traffic signalization, sewer infrastructure, water infrastructure, traffic and pedestrian circulation, library services, and police and fire buildings and equipment, which are in effect and collected at the time of the approval of a final subdivision map or the issuance of a building permit, as provided in this Agreement or as generally applicable throughout the City of Winters.

b. The City may make and enforce ordinances, resolutions, and other rules and regulations pertaining to The Property under its general police

power, provided they are of general applicability to all developments of a similar nature in the City of Winters.

Section 3.5 Other Vesting Laws Inapplicable.

a. It is the intent of the Parties that the provisions of this Agreement shall supersede any provision of State or federal law pertaining to the vested rights of the Developer to develop The Property, whether those laws are currently in force or become effective after this Agreement is recorded. The laws in effect as referenced in the preceding sentence include, but are not limited to, provisions of the Government Code pertaining to Development Agreements (§ 65864 *et seq.*) and Development Rights [vesting tentative maps] (§ 66498 *et seq.*).

b. Notwithstanding subsection a., however, to the extent that a State and/or federal law which becomes effective after this Agreement is recorded shall be made specifically applicable to the vested rights of landowners generally in the development of their properties, such State and/or federal law shall prevail.

c. The Developer shall not make any application to develop The Property, in whole or in part, under any vesting law, unless the right to do so is specifically granted by State and/or federal law which becomes effective after the date of the recording of this Agreement.

Section 3.6 Commencement of Development.

a. Unless excused by the City for circumstances beyond the control of the Developer, the Developer shall, within one hundred fifty (150) days after this Agreement is recorded, submit for approval by the City the final map for Creekside Estates (or the first phase, as the case may be) and accompanying

subdivision improvement plans. For purposes of this subsection a., "circumstances beyond the control of the Developer" shall include, but are not limited to, inclement weather, acts of God, natural disasters, acts of the State and/or federal government, a referendum of the ordinance adopting this Agreement, or third party litigation challenging the validity of this Agreement. However, "circumstances beyond the control of the Developer" do not include a change in economic conditions which affect either the Developer individually or the land development/building industry generally.

d. Any time limit prescribed for any action required by this Agreement shall be extended by the number of days during which circumstances beyond the control of the Developer preclude the action from being taken.

Section 3.7 Maximum Number of Building Permits Per Year.

a. The Developer may apply for and receive as many single family building permits as there are lots remaining in Creekside Estates.

b. No building permit shall be issued for any residential lot for which the Developer has not made application at the time of the expiration of this Agreement.

Section 3.8 Installation of Public Improvements.

a. Public improvements (infrastructure) in the nature of roads, sidewalks, trails, sewers, water service, third party utilities, and similar items will be constructed both on-site and off-site during the development of the Creekside Estates. When the final map for all of Creekside Estates (or a phase, as the case may be), is approved, the Developer shall enter into a

separate written agreement with the City by which it contracts to build and dedicate the public improvements required either in all of Creekside Estates, or in that particular phase, as the case may be. Security for the construction of the improvements shall be provided as required by law.

b. If the Developer proceeds by filing final maps for various phases of Creekside Estates, then, in some instances, the City Engineer may determine that public improvements outside the boundaries of a particular phase (both on-site and off-site of the entirety of Creekside Estates) must be constructed before the next phase to insure the orderly development of infrastructure within the City of Winters. In such an instance, the additional infrastructure required outside a particular phase will be built by the Developer during the construction of the phase for which a final map is approved, and the agreement to construct the public improvements for that phase shall include an obligation to build the additional infrastructure outside the boundaries of that phase.

Section 3.9 Property for Public Improvements; Offsite Improvements.

a. The Developer shall, in a timely manner as determined by the City, and consistent with the requirements of the Creekside Estates Tentative Subdivision Map, acquire the property rights necessary to construct or otherwise provide the public improvements contemplated by this Agreement.

b. In any instance where the Developer is required to construct any public improvement on land in which neither the Developer nor City has sufficient title or interest, the Developer shall, at its sole cost and expense, obtain the real property interests necessary for the construction of such

public improvements. The Developer shall exercise all reasonable efforts, as determined by the City, to acquire the real property interests necessary for the construction of such public improvements by the time the final subdivision map for Creekside Estates (or the first phase as the case may be) is filed with the City.

c. In the event the Developer is unable to acquire the necessary property interest or interests, the City shall either a) negotiate the purchase of the necessary property interests to allow Developer to construct the public improvements as required by this Agreement, or b) if necessary, in accordance with the procedures established by law, use its power of eminent domain to acquire the property interests. Prior to commencing negotiations, the City may require the Developer to enter into a separate agreement to provide the funding necessary to acquire the property interests and/or to pay for the cost of any eminent domain action. Such costs include, but are not limited to, the price of the property acquired, and for purposes of eminent domain, the City's attorney fees, expert witness fess, jury fees, and related matters, and litigation expenses awarded by the court to the property owner against the City.

Section 3.10 Reimbursement for Oversizing of Public Improvements; Advance Funding of Certain Improvements; Credit for Improvements Installed.

a. In some instances, the Developer, through the process commonly referred to as "oversizing," will be required to install public improvements to a size and/or capacity greater than that which is required to serve only the residents of Creekside Estates. These improvements will benefit other

properties. In such an instance, the Developer shall be entitled to reimbursement for such oversizing from fees paid by other properties.

b. There are two sources from which the Developer may be reimbursed for oversizing:

1. By way of a separate agreement between the City and the Developer which will provide that when a particular property benefiting from the oversizing is developed, the City will require the benefiting property to reimburse the Developer its *pro rata* share of the cost of the oversizing. A written agreement under this subsection b. shall have a term of no longer than fifteen (15) years.

2. By way of the payment to the Developer from impact fees for a particular type of infrastructure (e.g., sewers) collected by the City from other properties developed in the City.

c. In any instance in which oversizing is required, the City Engineer shall identify the method of reimbursement the Developer will receive.

1. Where reimbursement involves a benefiting property to reimburse the Developer for oversizing, the City Engineer will determine the total cost of the improvement installed by the Developer, deduct the prorata share to be borne by The Property, and determine what share of the remainder is to be reimbursed by the benefiting property.

2. When the Developer will receive reimbursement from mitigation fees paid by developing properties, the City Engineer shall provide to the Developer a statement of the amount the Developer will receive and the approximate time when that amount will be paid.

d. The Developer understands and agrees that reimbursement for a particular oversized improvement will come only from other developing

properties or from mitigation fees as described in subsection b.

1. When reimbursement is from impact fees, such fees shall come only from the fund into which fees for that type of improvement are made. (Example: If an oversized sewer main is reimbursed through mitigation fees, only those fees collected for sewer improvements, and not fees from any other fund, including, but not limited to, the City's General Fund, will be used.)

2. If mitigation fees paid by others are insufficient to repay the Developer for the full cost of oversizing a particular improvement, the Developer shall have no recourse against the City.

3. If benefiting property fails to reimburse the Developer for oversizing, the Developer shall have no recourse against the City. However, the Developer retains all rights against the benefiting property and its owners.

e. In some instances, the Developer will have agreed, under the provisions of Article 4, to pay, in advance of the time otherwise payable, certain fees which would normally be collected by the City at the time a building permit is issued. When the Developer pays such fees in advance, the Developer will be given credit against such advance each time a building permit is issued. The amount of credit will be the amount which was paid in advance and which would have otherwise been payable at the time of issuance of the building permit.

f. In the event the Developer installs an improvement for which a fee is normally collected at the time of the issuance of a building permit, the Developer shall be deemed to have paid that fee for the number of building permits which is equal to the cost of the installed improvement as

determined by the City Engineer. (Example: If a fee of $1,000 is normally collected at the time a building permit is issued for improvement X, and the Developer installs improvement X at a cost of $5,000, then the Developer will be credited with having paid that fee for 5 building permits.)

Section 3.11 Subsequent Discretionary Approvals.

To the extent any discretionary approvals are required to develop The Property after this Agreement is recorded, the Developer shall apply for those approvals in the same manner as any other person applying for land use entitlements from the City. All application fees then applicable for the type of land use entitlement(s) sought shall apply.

Section 3.12 Review of Agreement.

Reviews by the City of compliance by the Developer of the terms of this Agreement shall be done as provided in Title 11, Chapter 2, Article 7 (Review) of the Winters Municipal Code.

Section 3.13 Compliance with Government Code Section 66006.

As required by Government Code section 65865(e) for development agreements adopted after January 1, 2004, the City will comply with the requirements of Government Code section 66006 pertaining to the payment of fees for the development of The Property.

ARTICLE 4

SPECIFIC DEVELOPMENT OBLIGATIONS

Section 4.1 Schools.

a. The Developer acknowledges and agrees that the mitigation of the impact of Creekside Estates on schools within the Winters Joint Unified School District is of paramount importance to the City and its residents. As a consequence, the Developer states that its intention entering into this Agreement is to mitigate the impact on schools to the greatest reasonable extent, in accordance with the terms of an agreement negotiated between the Developer and the Winters Joint Unified School District. A copy of the agreement is attached as Exhibit E.

b. As a condition to the approval of this Agreement by the City, the Developer shall present to the City Council, at the time of the first reading of the ordinance approving this Agreement by the City Council, a fully executed agreement acceptable to the City between the Developer and the Winters Joint Unified School District ("School District"). That agreement shall provide, in addition to such other matters as the parties to it may agree, that the Developer will pay to the School District, at the time of the issuance of a building permit:

1. For each of the forty (40) residential units in Creekside Estates, fees designated as "Level 2" fees as that term is commonly used in the K-12 education community; and

2. For all units in Creekside Estates, except any very low income and low income affordable units, "Level 3" fees as that term is commonly used in the K-12 education community.

c. The Developer acknowledges receipt of the document dated October 2004 adopted by the School District entitled "School Facility Needs Analysis" prepared by Government Financial Strategies, Inc. This document will be used by the Developer and the School District in reaching the agreement referred to in subsection b.

Section 4.2 0.9 +/- Acre Park.

a. Developer shall provide a 0.9 +/- acre neighborhood park ("the Park Obligation"). The Park Obligation consists of three components:

1. Providing land.
2. Providing infrastructure.
3. Planning, developing, and equipping the park.

b. The Parties acknowledge that it is in the best interests of the community that the City accept a sum of money which represents the monetary value of the Park Obligation rather than have the Developer include a fully operational 0.9 +/- acre park within Creekside Estates. The payment of the Park Obligation by the Developer is in lieu of payment of any park impact fees as provided by City ordinance.

c. Developer agrees to satisfy the Park Obligation as follows.

1. At the time of filing the final map for Creekside Estates (or the first phase thereof, as the case may be) a payment of one hundred percent (100%) of the amount calculated by the City Engineer as set forth in c. below.

2. An additional fifty percent (50%) of the amount calculated under 1. above, payable as follows:

a) The additional fifty percent (50%) shall be divided by the number of market rate units in Creekside Estates (36 units). The resulting amount shall be paid each time a building permit is issued for one of the thirty-six (36) market rate units.

b) If at the end of thirty (30) months from the recording of the final map for Creekside Estates (or the first phase thereof, as the case may be), the full amount under this subsection 2. has not been fully paid, then the Developer shall pay the remaining amount owing within ten (10) business days of being notified of the City to do so. (Example: If at the end of 30 months, the Developer has obtained twenty (20) building permits for market rate units and has paid fees under this subsection, then the Developer, upon notice from the City, shall pay the fees owed under this subsection for the remaining 16 market rate units.)

d. Once all amounts owed under c., above, have been paid, the Developer will have satisfied the Park Obligation.

e. The Park Obligation shall be computed by the City Engineer as follows:

1. The land value will be determined by an appraisal made at the Developer's expense. The Developer shall provide to the City the names of three qualified appraisers acceptable to the City who are both licensed by the State of California and members of the Appraisal Institute (MAI) and knowledgeable in appraising property similar in nature to The Property. The City shall select the appraiser to be used from the list and notify the Developer of its decision. The appraisal shall be presented to the City within ninety (90) days thereafter, unless the Parties agree to a different date. The appraisal shall determine the fair market value of 0.9 +/- acres of The

Property with the development entitlements specified in this Agreement. The date of value shall be the date of the recording of this Agreement.

2. The estimated cost of the infrastructure improvements will be calculated by the City Engineer using the per acre cost of Sixty Thousand Dollars ($60,000).

3. The estimated cost of the development of a park (including planning, developing, and equipping the same) will be calculated by the City Engineer using the per acre cost of Two Hundred Twenty-Nine Thousand Five Hundred Dollars ($229,500).

4. To the total determined by adding the costs determined under 1., 2., and 3., above, shall be added five percent (5%) for administration, including, but not limited to, the use of eminent domain by the City as necessary to acquire park land.

Section 4.3 Advance Funding of Fees For Construction of Police/Fire/Corporation Yard Facility.

a. The Parties acknowledge that the City intends to construct a joint use facility for police and fire services, and for a corporation yard, on the 3.45+/- acre parcel shown on Exhibit F. In order to provide sufficient funds for the City to commence construction of this facility, the Developer shall, concurrently with the filing of the final subdivision map for Creekside Estates (or the first phase, as the case may be), pay to the City development fees as follows:

1. A police facilities fee at its then current rate for all forty (40) residential units in Creekside Estates.

2. A fire facilities fee at its then current rate for all forty (40) residential units in Creekside Estates.

3. A general municipal facilities fee at its then current rate for all forty (40) residential units in Creekside Estates.

b. Each time the Developer applies for and receives a building permit thereafter, the Developer shall be credited with the amount paid under subsection a. for each permit.

c. If, at the time of the actual issuance of a building permit, the fees payable at that time have increased since the payment made under subsection a., the Developer shall pay the difference between the two amounts.

Section 4.4 Annuity in Lieu of Mello-Roos District.

a. The Developer agrees that the City will establish, and the Developer will fund, an annuity to offset the projected fiscal deficit to the General Fund of the City created by the development of Creekside Estates per the document entitled EPS Fiscal Impact Analysis for Creekside Estates, dated February 21, 2005. Such an annuity is in lieu of the creation of a Mello-Roos Community Facilities District or other similar financing device.

b. The funding of the annuity will be created and funded as follows:

1. From the escrow for the sale of each residential lot to a third party the Developer will pay to the City the sum of Sixty Five Hundred Dollars ($6,500.00).

2. The City will invest the amounts received under this section in an annuity, or other similar investment, which will create a stream of income to be paid into the City's General Fund to pay for the increase in the cost of municipal services resulting from the development of Creekside Estates.

Section 4.4 Payment to Library Fund.

Prior to recording of the final map for Creekside Estates (or the first phase, as the case may be) the Developer shall pay to the City the sum of Twenty-Five Thousand Dollars ($25,000.00). This amount shall be kept in a specific designated account and used solely for constructing, maintaining, and/or improving a public library facility in the City of Winters.

Section 4.5 Affordable Housing.

Lot numbers 7 and 9 as shown on the Creekside Estates Tentative Subdivision Map will be divided in two to create four (4) affordable housing units (one (1) moderate income, two (2) low income, and one (1) very low income unit).

In addition, Developer is required to create two (2) affordable units off-site. In lieu of constructing two (2) off-site affordable housing units , the Developer shall, at the time of filing of the final map for Creekside Estates (or the first phase thereof, as the case may be) pay to the City Two Hundred Thousand Dollars ($200,000.00).

Section 4.7 Urban Water Management Plan.

a. The Developer shall pay the cost of the preparation of a City Urban Water Management Plan. Payment shall be due and payable no later than the date upon which the final map for Creekside Estates (or the first phase, as the case may be) is recorded. The Developer shall be entitled to a *pro rata* reimbursement of the cost of the Management Plan, as provided by section 3.10, to be paid by other developments benefiting from the Management

Plan, but only those commonly identified as Creekside, Winters Highlands and Hudson-Ogando.

b. The amount and timing of reimbursement under this section shall be the subject to a separate reimbursement agreement between the City and the Developer.

Section 4.8 Water Well.

At the time of filing the final map for Creekside Estates (or the first phase thereof, as the case may be) the Developer shall pay its pro-rata share of the construction of a water well at a location designated on the Creekside Estates Tentative Subdivision Map, or such other location on that map as selected by the City Engineer, in an amount finally determined by the City Engineer. The pro-rata share is currently estimated to be Twenty-Six Hundred Dollars ($2,600.00) per lot.

ARTICLE 5

DEFAULT, REMEDIES, AND DISPUTE RESOLUTION

Section 5.1 Application of Article. The Parties agree that the following provisions shall govern the availability of remedies should either Party breach its obligations under this Agreement.

Section 5.2 City's Remedies

a. The City's remedies under this Agreement are as follows:

1. Termination of the Agreement after giving the Developer the opportunity to cure a default, as provided in subsection b.

2. An action for injunctive relief to preserve the physical or legal status quo of the development of Creekside Estates pending a judicial determination of the rights of the Parties in the event of a dispute between the Parties as to their rights and obligations under this Agreement.

3. Specific performance as provided in subsection c.

4. An action for declaratory relief to determine the rights and obligations of the Parties under this Agreement.

5. An action for damages as provided in subsection d.

b. Default by the Developer.

1. Notice of Default. With respect to a default by the Developer under this Agreement, the City shall first submit to the Developer a written notice of default identifying with specificity those obligations of the Developer which have not been performed. Upon receipt of the notice of default, the Developer shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default. The Developer shall complete the cure of the default(s) not later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy the default(s), provided that Developer shall continuously and diligently pursue such remedy at all times until such default(s) is cured.

2. Procedure After Failure to Cure Default. If, after the cure period has elapsed, the City finds and determines that the Developer remains in default and the City wishes to terminate or modify this Agreement, the City Manager shall make a report to that effect to the City Council and set a public hearing before the Council in accordance with the notice and hearing

requirements of Government Code section 65868 and Section 11-2.802 of the Winters Municipal Code.

3. Modification or Termination of Agreement. If, after the public hearing, the City Council determines Developer has failed to timely cure a material breach of the obligations under this Agreement, City shall have the right to modify or terminate this Agreement.

c. Specific Performance. The City may seek specific performance to compel the Developer to do any, or all, of the following:

1. To complete or demolish any uncompleted improvements which are located on public property or property which has been offered for dedication to the public, with the choice of whether to demolish or complete such improvements and the method of such demolition or completion of such improvements to be selected by the City in its sole discretion.

2. To dedicate and properly complete any public improvements which are required by this Agreement.

3. To complete, demolish or make safe and secure any uncompleted private improvements located on The Property with the choice of whether to demolish, complete or secure such private improvements and the method of such demolition, completion and securing such private improvements to be selected by The Developer in its sole discretion.

d. The City may institute an action for damages for the amount of any money owed to it under Article 4, or the cost of performing any act required of the Developer under Article 4, or the cost to complete any public improvements required to be installed under the final map (or any phase, if applicable) for Creekside Estates.

5.3 Developer's Remedies.

a. The Developer's remedies under this agreement are as follows:

1. An action for specific performance of an obligation of the City after giving the City the opportunity to cure a default, as provided in subsection b.

2. An action for injunctive relief to preserve the physical or legal status quo of the development of Creekside Estates pending a judicial determination of the rights of the Parties in the event of a dispute between the Parties as to their rights and obligations under this Agreement.

3. An action for declaratory relief to determine the rights and obligations of the Parties under this Agreement.

b. Default and Notice of Default. With respect to a default by the City under this Agreement, the Developer shall first submit to the City a written notice of default identifying with specificity those obligations of the City which have not been performed. Upon receipt of the notice of default, the City shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default and shall complete the cure of such default(s) not later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy such default(s), provided that the City shall continuously and diligently pursue such remedy at all times until such default(s) is cured.

c. Waiver of Damage Remedy. The Developer understands and agrees that the City would not be willing to enter into this Agreement if it created any monetary exposure for damages (whether actual, compensatory, consequential, punitive or otherwise) in the event of a breach by City. For

the above reasons, the Parties agree that the remedies listed in subsection a. are the only remedies available to the Developer in the event of the City's failure to carry out its obligations hereunder. The Developer specifically acknowledges that it may not seek monetary damages of any kind in the event of a default by the City under this Agreement, and the Developer hereby waives, relinquishes and surrenders any right to any monetary remedy. The Developer covenants not to sue for, or claim any monetary remedy for, the breach by the City of any provision of this Agreement, except for attorney fees for actions under a. above, and hereby agrees to indemnify, defend and hold the City harmless from any cost, loss, liability, expense or claim (including attorney fees) arising from or related to any claim brought by the Developer inconsistent with the foregoing waiver.

ARTICLE 6

HOLD HARMLESS AND INDEMNIFICATION

Section 6.1 Limitation of Legal Relationship.

a. The Parties represent and declare that this Agreement creates no partnership, joint venture, or other legal entity between them.

b. In entering into this Agreement, the City is acting under the statutory and/or police powers which it holds as a municipal corporation of the State of California and which authorize it to regulate the development of land within its boundaries and to provide for the general health safety and welfare.

c. In entering into this Agreement, the Developer is acting in a purely private capacity as an owner of real property within the City of Winters, which property is subject to the jurisdiction of the City acting in the capacity set forth in subsection b.

Section 6.2 No Liability for Acts of the Developer.

a. It is expressly understood that the development of Creekside Estates is an undertaking that may create for the Developer liability to third parties, including, but not limited to, assignees of all or part of this Agreement, buyers and lessees of residential units, building contractors and sub-contractors, and suppliers. The Developer understands and agrees that the City would not execute this Agreement if, in so doing, it created for the City any liability to any third party.

b. Consequently, the Developer, its successors, heirs, and assigns agrees to defend, indemnify, and hold harmless the City, and all its officers,

agents, and employees from any claim of injury to person or property arising out of the operations of the Developer in the development of Creekside Estates under the terms of this Agreement or otherwise.

c. Notwithstanding anything in Article 5 to the contrary, the City shall have any remedy available to it at law and/or equity to enforce the provisions of this section or to collect damages for any breach of it.

Section 6.3. Duty to Defend Challenges to this Agreement.

a. The Parties recognize that there may be third party challenges to this Agreement, relative to the procedure used to adopt it or the contents of it.

b. The Parties jointly agree to cooperate jointly to defend any action or proceeding brought to challenge this Agreement or the ordinance adopting it.

c. In the event of any such challenge, each Party shall bear its own attorney fees and other litigation expenses.

d. Should the court, in any action challenging this Agreement or the ordinance adopting it, award attorney fees, costs and any other litigation expenses against the City, the Developer shall be responsible for the payment of those fees, costs, and expenses, and shall hold the City harmless from any claim thereto.

e. Notwithstanding subsection b, the City may, at its sole discretion, tender the defense of any action or proceeding brought to challenge this Agreement or the ordinance adopting it to the Developer, in which event the Developer shall have the sole responsibility to defend, on behalf of itself and the City, the matter. However, nothing herein obligates the Developer,

should the City tender its defense to the Developer, to defend the action if it determines that it is in its best interests not to do so.

DEVELOPER

DONALD MILLER

Donald M Miller

Dated: May 13, 2005

CITY OF WINTERS

By: _____
Mayor

Dated: July 29, 2005

Attest:

Nancy G. Miller
City Clerk

Approved as to form:

John Wallace, City Attorney

6-15-05
Tim Taylor of Somach, Simmons & Dunn, Attorneys for Developer

. . . . . .

This Agreement was adopted by Ordinance No. 2005-03 of the City Council of the City of Winters. Ordinance No. 2005-03 was adopted on May 17, 2005 and is effective on the date it is recorded with the Yolo County Recorder.

LIST OF EXHIBITS:

EXHIBIT A	Location Map of Creekside Property
EXHIBIT B	Legal Description of Creekside Property
EXHIBIT C	Creekside Estates Tentative Subdivision Map
EXHIBIT D	Conditions of Approval, including Mitigation Measures
EXHIBIT E	School Agreement
EXHIBIT F	Map of 3.45+/- Parcel

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of California } ss.

On 7/29/05 (Date) before me, Shelly A. Gunby Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Dan Martinez (Name(s) of Signer(s))

☐ personally known to me
☐ 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.

SHELLY A. GUNBY
Commission # 1383685
Notary Public - California
Yolo County
My Comm. Expires Dec 4, 2006

WITNESS my hand and official seal.

Shelly A. Gunby
(Signature of Notary Public)

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

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

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Yolo } ss.

On 5/13/05 before me, Shelly A. Gunby Notary Public
(Date) (Name of the Notary Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Donald M. Miller
(Name(s) of Signer(s))

☑ personally known to me
☐ 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.

SHELLY A. GUNBY
Commission # 1383685
Notary Public - California
Yolo County
My Comm. Expires Dec 4, 2006

WITNESS my hand and official seal.

(Signature of Notary Public)

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

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

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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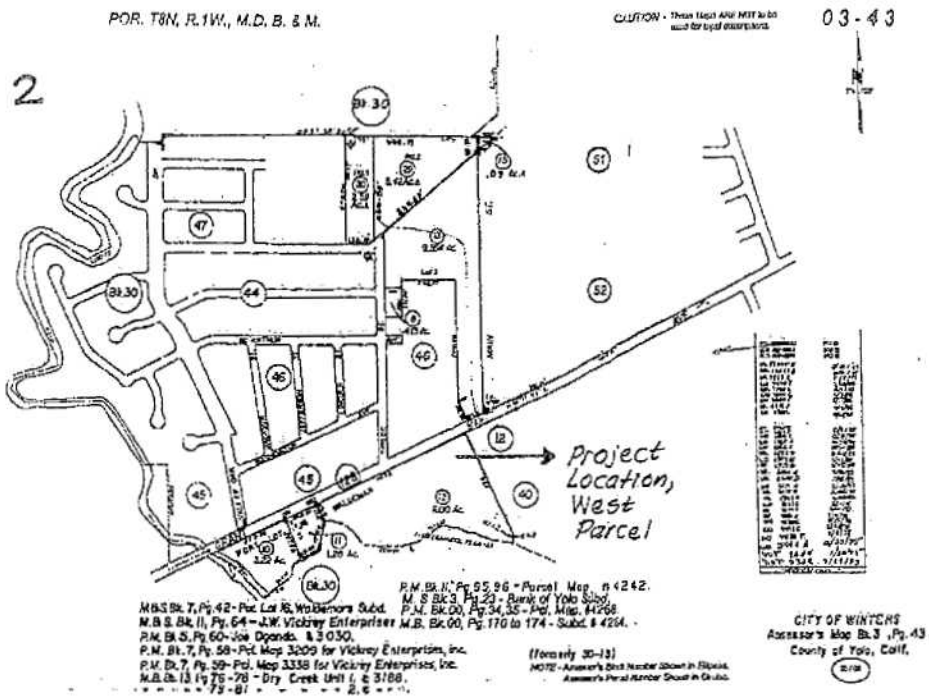
EXHIBIT A
Location Map of Creekside Property

2 of 2


POR. T8N, R.1W., M.D. B. & M.
CAUTION - These Maps ARE NOT to be used for legal descriptions.
03-43
Project Location, West Parcel
P.M. Bk. 11, Pg. 95, 96 - Parcel Map # 4242.
M. S. Bk. 3, Pg. 23 - Bank of Yolo Subd.
P.M. Bk. 00, Pg. 34, 35 - Pcl. Map. #4268.
M.B. Bk. 00, Pg. 170 to 174 - Subd. # 4264.
M.B.S. Bk. 7, Pg. 42 - Pcl. Lot 16, Waldemars Subd.
M.B.S. Bk. 11, Pg. 64 - J.W. Vickrey Enterprises
P.M. Bk. 5, Pg. 60 - Joe Ogando. # 3030.
P.M. Bk. 7, Pg. 58 - Pcl. Map 3209 for Vickrey Enterprises, Inc.
P.M. Bk. 7, Pg. 59 - Pcl. Map 3338 for Vickrey Enterprises, Inc.
M.B. Bk. 13 Pg 76-78 - Dry Creek Unit 1, # 3188.
(Formerly 30-13)
NOTE - Assessor's Block Number Shown in Ellipses.
Assessor's Parcel Number Shown in Circles.
CITY OF WINTERS
Assessor's Map Bk. 3, Pg. 43
County of Yolo, Calif.

1 of 2

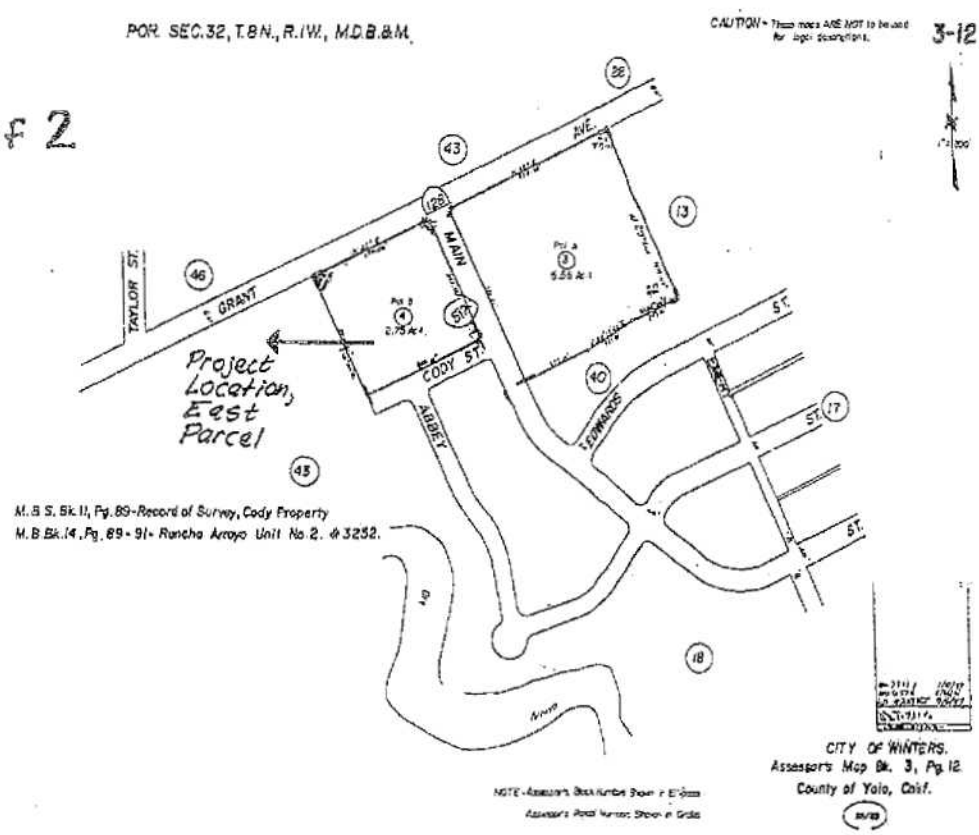

POR. SEC. 32, T.8N., R.1W., M.D.B.&M.
CAUTION - These maps ARE NOT to be used for legal descriptions.
3-12
Project Location, East Parcel
TAYLOR ST.
GRANT
MAIN
AVE.
CODY ST.
ABBEY
EDWARDS
ST.
M.B.S. Bk. 11, Pg. 89 - Record of Survey, Cody Property
M.B. Bk. 14, Pg. 89-91 - Rancho Arroyo Unit No. 2. # 3252.
CITY OF WINTERS.
Assessor's Map Bk. 3, Pg. 12
County of Yolo, Calif.
NOTE - Assessor's Block Number Shown in Ellipses
Assessor's Parcel Number Shown in Circles

EXHIBIT B
Legal Description of Creekside Property

ORDER NO. : 3111001021-GH

The land referred to is situated in the County of Yolo, City of Winters, State of California, and is described as follows:

PARCEL NO. 1

Beginning at a point on the Northerly line of Rancho Rio de Los Putos, distant thereon North 65° East, 23.37 chains, more or less, from the Northwest corner of Lot 16 of Waldemars Survey of Subdivision of a portion of Rancho Rio de Los Putos; said point of beginning being also the Northeast corner of a tract of land now or formerly owned by G. B. Moore; thence from said point of beginning, North 65° East, along the said Northerly line of said Rancho 62 rods 10 feet to the Northwest corner of a tract of land now or formerly owned by A. B. Wilson; said Northwest corner of said Wilson's land being located North 25° West 39.0 feet and South 65° 1625.70 feet to the Northwest corner of Block 1, D. P. Edwards Addition to the Town of Winters according to the Official Plat thereof, filed for record in the office of the Recorder of Yolo County, California, in Book 39 of Deeds, Page 394; thence South 25° East, along the West line of said Wilson's land, 44 rods to a point; thence South 00° 29.5' West 4 rods, 6 feet and 6 inches to the center of dry arroy; thence Northwesterly along the said center of said arroyo 75 rods, more or less, to the Southeast corner of the first mentioned tract of land now or formerly owned by Moore; thence North 25° West, along the East line of said Moore's land 7 rods to the point of beginning.

APN: 003-430-12

PARCEL NO. 2

Lot B of Subdivision No. 3252, Rancho Arroyo No. 2, recorded on July 27, 1987, in Book 14 of Maps, Pages 89, 90 and 91, Yolo County Records, and as corrected by Certificate of Correction recorded September 21, 1988, in Book 1969, Page 380, Official Records.

APN: 003-120-09

EXHIBIT C
Creekside Estates Tentative Subdivision Map

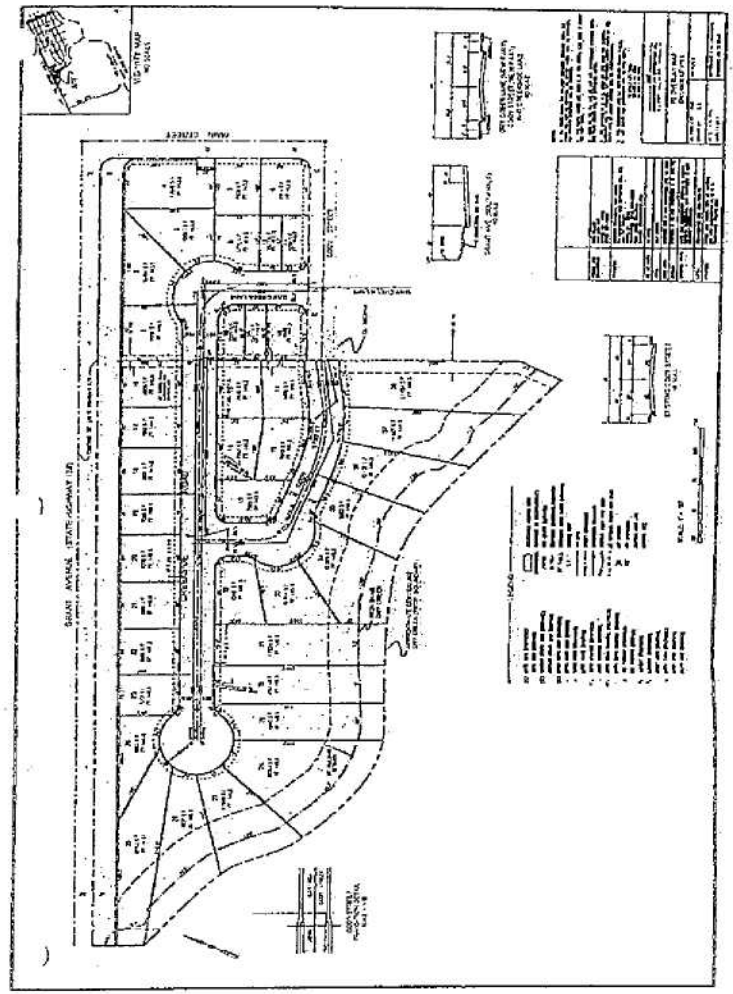


EXHIBIT D
Conditions of Approval, including Mitigation Measures

FINDINGS OF FACT AND CONDITIONS OF APPROVAL
for the CREEKSIDE ESTATES SUBDIVISION PROJECT
(Final revised -- approved by City Council on April 19, 2005)

FINDINGS OF FACT

Findings for Adoption of Mitigated Negative Declaration

1. The City Council has considered the proposed Mitigated Negative Declaration before making a decision on the project.

2. The City Council has considered comments received on the Mitigated Negative Declaration during the public review process.

3. The City Council finds that the environmental checklist/initial study identified potentially significant effects, but: a) mitigation measures agreed to by the applicant before the mitigated negative declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant impact would occur; and b) there is no substantial evidence, in light of the whole record before the City, that the project as revised to include the mitigation measures may have a significant effect on the environment.

4. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Winters.

5. The Mitigated Negative Declaration has been prepared in compliance with CEQA and the State CEQA Guidelines, and as amended/revised is determined to be complete and final.

6. The custodian of the documents, and other materials, which constitute the record of proceedings is the Community Development Director. The location of these items is the office of the Community Development Department at City Hall, 318 First Street, Winters, California 95694.

7. The Mitigation Monitoring Plan is hereby adopted to ensure implementation of mitigation measures identified in the Mitigated Negative Declaration. The City Council finds that these mitigation measures are fully enforceable as conditions of approval of the project, and shall be binding on the applicant, future property owners, and affected parties.

8. The City Council hereby adopts the Creekside Estates Subdivision Mitigated Negative Declaration.

Findings for General Plan Amendment

1. Amendment of the General Plan to redesignate this property for larger lots is in the best interest of the citizens of Winters and necessary to provide "move up" housing which is currently in short supply within the City.

Findings for Rezoning

1. The public health and general welfare warrant the change of zone and the change of zone is in conformity with the General Plan.

Findings for PD Overlay and PD Permit

2. The project, as modified and conditioned, is consistent with the General Plan and the purposes of Section 8-1.5117 of the Zoning Ordinance.

3. Deviations from specified provisions of the basic zoning district on the property have been justified as necessary to achieve an improvement design for the development and/or the environment. The development complies with the remaining applicable provisions of the basic zoning district on the property.

4. The proposed development, as modified and conditioned, is desirable to the public comfort and convenience.

5. The requested plan, as modified and conditioned, will not impair the integrity or character of the neighborhood nor be detrimental to the public health, safety, or general welfare.

6. Adequate utilities, access roads, sanitation, and/or other necessary facilities and services will be provided or available.

7. The development, as modified and conditioned (including execution of the Development Agreement) will not create an adverse fiscal impact for the City in providing necessary services.

Findings for Amendment of the Bikeway System Master Plan

1. The amendment to the Bikeway System Master Plan results in increased bicycle trail standards for the City resulting in a net benefit to the community and net increase in protected routes for alternative circulation.

Findings for Tentative Subdivision Map (G.C. 66474)

1. The proposed map is consistent with the General Plan.
2. The design and improvement of the proposed map is consistent with the General Plan.
3. The site is physically suitable for the type of development.
4. The site is physically suitable for the proposed density of development.
5. The design of the subdivision and the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. The design of the subdivision and type of improvements will not cause serious public health problems.
7. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Findings for Development Agreement

1. The DA is consistent with the objectives, policies, general land uses and programs specified in the General Plan.
2. The DA is compatible with the uses authorized in, and the regulations prescribed for, the zoning district in which the real property is or will be located.
3. The DA is in conformity with and will promote public convenience, general welfare and good land use practice.
4. The DA will not be detrimental to the health, safety and general welfare.

5. The DA will not adversely affect the orderly development of property or the preservation of property values.
6. The DA will meet the intent of Section 11-2.202(a) (Public Benefits) of the City Code.
7. The DA is consistent with Ordinance 2001-05 (Development Agreements).

CONDITIONS OF APPROVAL

The following conditions of approval are required to be satisfied by the applicant/developer prior to final map, unless otherwise stated.

General

1. In the event any claim, action or proceeding is commenced naming the City or its agents, officers, and employees as defendant, respondent or cross defendant arising or alleged to arise from the City's approval of this project, the project Applicant shall defend, indemnify, and hold harmless the City or its agents, officers and employees, from liability, damages, penalties, costs or expense in any such claim, action, or proceeding to attach, set aside, void, or annul an approval of the City of Winters, the Winters Planning Commission, any advisory agency to the City and local district, or the Winters City Council. Project applicant shall defend such action at applicant's sole cost and expense which includes court costs and attorney fees. The City shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense. Nothing in this condition shall be construed to prohibit the City of Winters from participating in the defense of any claim, action, or proceeding, if City bears its own attorney fees and cost, and defends the action in good faith. Applicant shall not be required to pay or perform any settlement unless the subdivider in good faith approves the settlement, and the settlement imposes not direct or indirect cost on the City of Winters, or its agents, officers, and employees, the Winters Planning commission, any advisory agency to the City, local district and the City Council.
2. All conditions identified herein shall be fully satisfied prior to acceptance of the first final map unless otherwise stated.
3. The project is as described in the Negative Declaration (as corrected in the final resolution of approval). The project shall be constructed as depicted on the maps and exhibits included in the Negative Declaration, except as modified by these conditions of approval. Substantive modifications require a public hearing and Council action.

General Plan Requirements

4. Pursuant to General Plan Policy II.A.19, a minimum of ten percent of the single-family lots (4 lots) shall be offered for sale to local builders or owner-builders.
5. Pursuant to General Plan Policy II.C.1 and VI.F.2, energy efficient design shall be used. At a minimum this shall include: maximization of energy efficient techniques as identified in the July 27, 2004 Planning Commission staff report on "Proposed Energy Resolution" (attached), and attainment of EPA Energy Star Standards in all units; low emission furnaces; and avoidance of dark colored roofing. A minimum of 12 of the market-rate homes shall have a minimum of 2.4kW (peak-rated DC watts) photovoltaic solar energy system. The developer shall identify these lots on the final map and purchasers shall be notified prior to sale.
6. Pursuant to General Plan Policy II.D.4 and IV.A.1 necessary public facilities and services shall be available prior to the first occupancy of the project.

7. Pursuant to General Plan Policy IV.A.4 (second sentence), the developer shall pay in-lieu fees for the increment of parkland not provided on site, or at the City's discretion may construct needed improvements according to City specification in lieu of paying the fees.

8. Pursuant to General Plan Policy VI.C.7, drought-tolerant and native plants, especially valley oaks, shall be used for landscaping roadsides, parks, schools, and private properties. Pursuant to General Plan Policy VI.C.8, drainage-detention areas shall incorporate areas of native vegetation and wildlife habitat. All homes in this subdivision shall have "low application rate" lawn sprinkler systems, as approved by the Planning Commission.

9. Pursuant to General Plan Policy IV.B.14, there shall be a water meter on each new hook-up.

10. Pursuant to General Plan Policy IV.C.2, adequate sewer service shall be provided prior to the issuance of any individual building permit.

11. Pursuant to General Plan Policy IV.J.2, all new electrical and communication lines shall be installed underground.

12. Pursuant to General Plan Policy VI.A.6, grading shall be carried out during dry months, when possible. Areas not graded shall be disturbed as little as possible. Construction and grading areas, as well as soil stockpiles, should be covered or temporarily revegetated when left for long periods. Revegetation of slopes shall be carried out immediately upon completion of grading. Temporary drainage structures and sedimentation basins must be installed to prevent sediment from entering and thereby degrading the quality of downstream surface waters, particularly Putah Creek. The full cost of any necessary mitigation measures shall be borne by the project creating the potential impacts. Pursuant to General Plan Policy VII.B.3, should the City allow any grading to occur during the rainy season, conditions shall be implemented to ensure that silt is not conveyed to the storm drainage system.

13. Pursuant to General Plan Policy VI.E.6, construction-related dust shall be minimized. Dust control measures shall be specified and included as requirements of the contractor(s) during all phases of construction of this project and shall be included as a part of the required construction mitigation plan for the project.

14. Pursuant to General Plan Policy VII.A.1, VII.A.2, and VII.C.4 all site work and construction activities shall be in accordance with the requirements of the City, and other applicable local, regional, state, and federal regulations.

15. Pursuant to General Plan Policy VII.C.1, necessary water service, fire hydrants, and access roads shall be provided to the satisfaction of the Fire Chief and Winters Fire Protection District standards.

16. Pursuant to General Plan Policy VII.C.2, a minimum fire-flow rate of 1,500 gallons per minute is required for all residential uses.

17. Pursuant to General Plan Policy VIII.D.2, street trees shall be planted along all streets, in accordance with the City's Street Tree Plan and Standards. There shall be a minimum of one street tree in the center front of each single-family lot, and on both frontages for corner lots. All trees shall be of a type on the approved street tree list and shall be a minimum of fifteen gallons in size with a mature tree canopy of at least a thirty-foot diameter within five years. The intent is that majestic street tree species that create large canopies at maturity will be required in all medians and streetside landscape strips. The goal is create maximum shade canopy over streets and sidewalks.

18. Pursuant to General Plan Policy VIII.D.4, a permanent mechanism for the ongoing maintenance of street trees is required, to the satisfaction of the City Manager and City Finance Director.

19. Pursuant to General Plan Policy VIII.D.7, all lighting including street lighting, shall be designed, installed, and maintained to minimize excess light spillage, unnecessary brightness and glare, and degradation of night sky clarity.

Dry Creek Protections

20. Pursuant to General Plan Policy VI.D.1, the Dry Creek corridor shall be protected by a 50-foot setback from the bank within which no structure may be constructed or placed and the natural terrain and vegetation shall be preserved and protected.

21. Pursuant to General Plan Policy VI.D.2, except for trails, the Dry Creek corridor shall be preserved as much as possible in its natural state. Access and trails shall not eliminate or degrade riparian habitat values and shall be sited to minimize impacts on sensitive wildlife habitat or riparian vegetation.

22. Pursuant to General Plan Policy VI.D.3, trees and shrubs planted within the corridor shall be selected from a list of native plants approved by the City. Non-native trees and shrubs should be removed. New irrigation or planting within the dripline of existing native oaks within the protected area of the creek corridor are prohibited.

23. Pursuant to General Plan Policy VI.D.8, brush clearing, mowing of natural vegetation, fire breaks, or similar activities are prohibited in the corridor unless a demonstrated need exists to protect the public health, safety, or welfare as determined by the Fire Protection District or other public agency with legal jurisdiction.

24. The entirety of these conditions related to restrictions within the 50-foot setback shall be disclosed to each buyer as a written notification, the wording for which shall be approved by the City Attorney.

24.1 There shall be no improvements placed within the high creek banks of Dry Creek. This shall be disclosed to each buyer of a lot adjoining Dry Creek as a written disclosure. Wording shall be approved by the City Attorney.

24.2 Lots adjoining Dry Creek shall include a written disclosure to each buyer that the creek is a dynamic entity with banks that may erode or shift over time. The 50-foot setback is imposed for that reason. Wording shall be approved by the City Attorney.

Negative Declaration Mitigation Measures

25. Mitigation Measure #1: Outdoor light fixtures shall be low-intensity, shielded and/or directed away from adjacent areas and the night sky. All light fixtures shall be installed and shielded in such a manner that no light rays are emitted from the fixture at angles above the horizontal plane. High-intensity discharge lamps, such as mercury, metal halide and high-pressure sodium lamps shall be prohibited. Lighting plans shall be submitted for approval as part of facility improvement plans to the City with certification that adjacent areas will not be adversely affected and that offsite illumination will not exceed 2-foot candles.

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

26. Mitigation Measure #2: a. Construction equipment exhaust emissions shall not exceed District Rule 2-11 Visible Emission limitations.

    b. Construction equipment shall minimize idling time to 10 minutes or less.

    c. The prime contractor shall submit to the District a comprehensive inventory (i.e. make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower of greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy-duty equipment on the inventory list.

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

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

175 hp - 750 hp	1996 and newer engines
100 hp - 174 hp	1997 and newer engines
50 hp- 99 hp	1998 and newer engines

In lieu of or in addition to this requirement, the applicant may use other measures to reduce particulate matter and nitrogen oxide emissions from project construction through the use of emulsified diesel fuel and or particulate matter traps. These alternative measures, if proposed, shall be developed in consultation with District staff.

27. Mitigation Measure #3: Homes constructed as a part of the project shall contain only low-emitting EPA certified wood-burning appliances or natural gas fireplaces

28. Mitigation Measure #4: Focused surveys for Valley Longhorn Elderberry Beetles (VELB) shall be conducted by a qualified biologist to determine presence of the species. The surveys shall be conducted, data collected, and mitigation required according to the USFWS' guidance document Conservation Guidelines for the Valley Elderberry Longhorn Beetle (USFWS 1999). If no plants are found then no further mitigation is required. If plants are found they shall be avoided and a 20-foot buffer from the dripline is required. If the plants can not be avoided then consultation with the USFWS is required and a mitigation plan should be prepared for approval by the Service. At a minimum the mitigation plan should include acquisition of credits at an approved mitigation bank or implementation of onsite mitigation and monitoring plan that includes transplantation of plants and planting elderberry seedlings. If the potential for take is identified following surveys, the project proponent will implement the referenced guidelines through coordination with the USFWS under Section 10 of the federal Endangered Species Act.

29. Mitigation Measure #5: The project proponent shall mitigate for potential project-related impacts to nesting raptors by conducting a pre-construction survey of all trees suitable for use by nesting raptors on the subject property or within 500 feet of the project boundary as allowable. The preconstruction survey shall be performed no more than 30 days prior to the implementation of construction activities. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of raptors known to occur in the vicinity of the City of Winters. If active special-status raptor nests (e.g. Swainson's hawk or white-tailed kite) are found during the preconstruction survey, a 0.25-mile (1,320-feet) buffer zone shall be established around the nest and no construction activity shall be conducted within this zone during the raptor nesting season (typically March-August) or until such time that the biologist determines that the nest is no longer active. The buffer zone shall be marked with flagging, construction lathe, or other means to mark the boundary of the buffer zone. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

30. Mitigation Measure #6: The project proponent shall mitigate for potential project-related impacts to burrowing owl by conducting a pre-construction survey no more than 30 days prior to the initiation of construction activity. The pre-construction survey shall be conducted by a qualified biologist familiar with the identification of burrowing owls and the signs of burrowing owl activity. If active burrows are found on the project site, the California Department of Fish and Game (CDFG) shall be consulted regarding appropriate mitigation measures for project-related impacts to burrowing owl. Pursuant to the CDFG document entitled "Staff Report on Burrowing Owl Mitigation" (September 25, 1995), it is

likely that replacement habitat will be required by CDFG. The guidelines include specific mitigation to protect nesting and wintering owls and to compensate for loss of breeding sites. In general, if the project would remove habitat of an occupied breeding site (e.g., if an active nest and surrounding habitat are removed), the project proponent will be required to compensate by preserving 6.5 acres of suitable habitat for each active nest site. In addition, the project proponent must install artificial burrows to offset the direct loss of the breeding site. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

31. Mitigation Measure #7: The project proponent shall mitigate for potential project-related impacts to Swainson's hawk foraging habitat by complying with the Yolo County Memorandum of Understanding (MOU) regarding project-related impacts to Swainson's hawk foraging habitat. The MOU requires the project proponent mitigate at a 1:1 ratio for every acre of suitable Swainson's hawk foraging habitat that is impacted by the project. The City shall review the MOU with DFG to determine whether or not the portion of the project area that was planted in orchard is subject to the mitigation fee. A fee shall be collected by the City of Winters for impacts to up to 13.7 acres of potential Swainson's hawk foraging habitat. The fee shall be payable to the Wildlife Mitigation Trust Account. Funds paid into the trust account shall be used to purchase or acquire a conservation easement on suitable Swainson's hawk foraging habitat and for maintaining and managing said habitat in perpetuity. The cost per acre for acquisition and maintenance of foraging habitat is reviewed annually and the project proponent shall be charged at the rate per acre at the time of project approval. Payment shall be made to the trust account prior to the initiation of construction activity and shall be confirmed by the City of Winters prior to the issuance of a grading permit.

32. Mitigation Measure #8: If cultural resources (historic, archeological, paleontological, and/or human remains) are encountered during construction, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the situation. Project personnel shall not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies. If the bone is uncovered and it appears to be human, California law mandates that the Yolo County coroner be contacted. If the bone is likely to be Native American in origin, the coroner must contact the Native American Heritage Commission in Sacramento to identify the most likely descendants.

33. Mitigation Measure #9: A Geotechnical Report shall be prepared for the subdivision by a qualified engineer to confirm onsite soil capabilities and geological conditions and make recommendations to be followed in subsequent home construction. Grading of the site, design of foundations for proposed structures and construction of other related facilities on the property shall follow the criteria identified in the report.

34. Mitigation Measure #10: a. Several soil samples shall be collected from a burn area on the southerly side of the metal barn and tested for priority pollutant metals.

    b. Several soil samples shall be collected from the orchard area and from the vicinity of the irrigation well (a former chemical mixing area) and tested for the presence or organochlorinated pesticides. A water sample from the irrigation well shall also be collected and tested for organochlorinated pesticides.

    c. The two on-site water wells shall be properly abandoned in accordance with State and County regulations.

    d. The open sewage trench on the westerly side of the residence shall be properly closed and abandoned in accordance with County regulations for sewer and septic systems.

35. Mitigation Measure #11: All aspects of the project shall be subject to design review to ensure compatibility with the surrounding area and satisfaction of the Community Design Guidelines and other applicable principles of good neighborhood design. Prior to issuance of a building permit for

each home, the builder shall submit for design review and approval. The developer is responsible for securing design review approval for the Grant Avenue landscape area and fencing.

36. Mitigation Measure #12: Where the facades of two-story homes are located within 47 feet of the Grant Avenue roadway centerline, the building plans shall be reviewed by a qualified acoustical professional to identify the acoustical treatments necessary for the units to meet the 45 dB Ldn interior noise level criteria. If these homes are located more than 47 feet from the Grant Avenue roadway centerline, no additional acoustical analysis is necessary.

37. Mitigation Measure #13: The applicant shall fund the preparation of a fiscal impact analysis to examine project impacts on the City's general fund. The applicant shall enter into a Development Agreement with the City that includes provisions acceptable to the City Council for mitigating any projected fiscal deficit. This may include an on-going Mello-Roos Community Facilities District (CFD) to fund eligible services, a Lighting and Landscaping District which could fund eligible park and landscaping expenses, establishment of an annuity the interest proceeds of which would cover the projected deficit, or other acceptable mechanisms.

38. Mitigation Measure #14: The applicant shall pay park mitigation fees to satisfy the obligation for 0.9-acre of developed parkland. Fees shall include both the value of the land and improvements that would otherwise be constructed if the parkland was provided on-site.

39. Mitigation Measure #15: a. Install a traffic signal at the intersection of Grant Avenue/I-505 Northbound Ramps. The traffic signal would need to be installed after construction and occupancy of 40 single family dwelling unit "equivalents" citywide (i.e., multi-family housing units are 0.6 single family dwelling unit "equivalents").

    b. The applicant shall pay a fair share of the cost for design and installation of a traffic signal at the intersection of Railroad Avenue/Main Street at buildout.

40. Mitigation Measure #16: The proposed systems for conveying project sewage, water, and drainage shall be finalized and approved by the City Engineer prior to final map. The project applicant shall commission a detailed study to evaluate the capacity available in the Edwards Street sewer line and shall provide facility improvements to accommodate the proposed Creekside Estates development. The project is required to fund and construct off-site improvements necessary to support the development. Such improvements could include, but not be limited to a water well, water lines, sewer lines and storm drainage lines. Should property acquisition or additional CEQA clearance be required for off-site improvements, this will be the responsibility of the developer.

41. Mitigation Measure #17: If necessary, the applicant shall fund the up-front costs of design and construction of a new water well and associated conveyance pipeline (including site acquisition and CEQA clearance if necessary). The location of the well shall be at a site satisfactory to the City. This cost is subject to later fair share reimbursement. Building permits shall be issued for individual units only after the City has established that water supply will be available to serve the units.

Community Development

42. Construction activities shall be limited to 7:00 am to 7:00 pm, Monday through Friday only (holidays excluded) in compliance with the City's Noise Ordinance and Standard Specifications.

43. Foundations shall be poured in place, onsite. No pre-cast foundations will be permitted. This shall be stipulated in all construction contracts.

44. The main electrical panel for each residence shall be located at the exterior of the building and capable of total electrical disconnect by a single switch throw.

45. All address numbering shall be clearly visible from the street fronting the property. All buildings shall be identified by either four (4) inch high illuminated numbers or six (6) inch high non-illuminated numbers on contrasting colors. Naming of streets and address numbering shall be completed by a

committee comprised of the Community Development Department, the Fire District, the Police Department, and the Postal Service.

46. The applicant shall pay all development impact fees, fees required by other entities, and permit fees.

47. The applicant shall be responsible for any additional costs associated with the processing of this project including but not limited to: plan check, inspections, materials testing, construction monitoring, and other staff review and/or oversight including staff time necessary to ensure completion/satisfaction of all conditions of approval and mitigation measures. The applicant shall, on a monthly basis, reimburse the City for all such costs. Project applicant shall pay all development impact fees adopted by the City Council and shall pay fees required by other entities.

48. BIKE WAYS: Class II bike lanes (on-street) shall be provided on Main Street. Class I bike trail (off-street) shall be provided on Grant Avenue. The tentative map shall be adjusted if necessary to incorporate the appropriate rights-of-way, to the satisfaction of the City Engineer.

49. FENCING: Prior to issuance of first building permit the developer shall install perimeter fencing along the north south and east property lines as specified. Design specifications shall be submitted for City approval prior to construction. East Side: With approval of adjacent property owners, the applicant shall retrofit existing wood privacy fencing with metal posts. Where adjacent owner objects, no retrofit is required. North Side: The fencing along Grant Avenue shall be comprised of reinforced masonry columns with a concrete curb, steel interim posts, steel rails, and redwood fencing. West and South Sides: The applicant shall install 6-foot ornamental iron fencing no closer than ten feet to the high creek bank. Maintenance of all fencing shall be the responsibility of the homeowner to the approved specification of the City. This shall be disclosed to each buyer as a written disclosure. Wording shall be approved by the City Attorney.

50. Deleted

51. The minimum square footage for the six half-plex plots shall be 3,500 square feet.

52. Deleted

53. The Grant Avenue cross-section on the map shall be corrected to show a 24-foot width and a 10-foot bike path. A landscaping plan for the path area shall be submitted for review and approval by the City. Heavy landscaping is required to provide shielding of residential structures from Grant Avenue.

54. The rear portion of proposed lot 25 shall be modified to create additional area in the public right-of-way to allow for construction of a community "Welcome to Winters" sign. The applicant shall be responsible for design and construction of the sign. A design specification, including color, materials, and sign copy shall be submitted for review and approval by the City.

Design Review

55. Pursuant to Section 8-1.4211 of the Zoning Code design review is required of this project. All home designs must be reviewed and approved as consistent with the City's design review requirements.

56. Prior to recordation of the Final Map, a deed restriction shall be recorded against each property that precludes conversion of garage area to livable areas.

57. Repetition of facades within builder tracts (subdivisions) shall be avoided. Abrupt changes in facades between builders shall be avoided.

58. In order to achieve architectural diversity, the developer shall offer a minimum of three floor plans and nine elevations (three per plan).

    A minimum of half of the required elevations shall include brick or stone veneer installed to a minimum height three feet from grade, with no more than a four-inch opening at the base. The veneer shall wrap

around all sides of the structure visible from the front and sides so that it terminates at a point where the yard fencing begins.

Each elevation for a particular floor plan shall be distinctive, with a unique roof design, architectural detailing, and application of exterior materials. Single story and two-story plans shall be varied.

59. The same (or substantially similar) elevation may appear no more than twice on one side of a block, or three times on either side of facing blocks, and may not be opposite or kitty-corner from the same elevation on the opposite side of the block. In addition, no more than ten percent of the homes can share the same elevation within a development.

60. A minimum of 50 percent of all detached units shall have useable front porches (minimum 6-feet by 8-feet). The remaining 50 percent shall have other prominent useable architectural features such as courtyards, balconies, and/or porticoes.

61. Units on opposing sides of a street shall be compatible in terms of design and color.

62. Lights along local streets shall not exceed 20-feet in height and shall be spaced to meet illumination/safety requirements. Lights along collector and arterial streets shall be as low as feasible in order to maintain pedestrian scale. Historic-style street lamps shall be used along all streets.

63. Entry walks to individual residences shall be separated from the driveway by a landscaped area.

64. Exterior colors on residential units shall not be restricted.

65. Single family structures shall be consistent with applicable development standards identified in Tables 3A and 4, and Section 8-1.5302, of the Zoning Ordinance.

66. Fencing and parking shall be consistent with the applicable requirements of Section 8-1.6001 and 8-1.6003 of the Zoning Ordinance.

67. Landscaping and signage shall be consistent with the applicable requirements of Section 8-1.6004 and 8-1.6005 of the Zoning Ordinance.

67.1 UNIVERSAL DESIGN: Universal design features shall be incorporated as an option in residential units. These features shall include first floor passage doors and hallways, a handicap accessible path of travel from either the driveway or sidewalk to the entrance of the residential units, and other features determined by the Community Development Department.

68. Garages shall be subordinate to the main living area. The garage portion of the front facade must be less than 50 percent of the front elevation. The garage must generally be recessed from the rest of the front facade by 10 or more feet. Flush garages may be used in no more than 30 percent of the units provided a heavy porch or architectural feature is used and that at least 2-feet of differential between the garage facade and the front facade is maintained. Garage forward design is prohibited.

Affordable Housing

69. The tentative map and affordable housing plan shall be modified to denote the obligation to deed restrict Lots 7a and b, and 9a and b as affordable – 1 restricted to very low income occupants, 2 restricted to low income occupants, and 1 restricted to moderate income occupants.

70. Prior to recordation of the Final Map, an inclusionary housing agreement shall be prepared and executed for the identified income-restricted units/properties. Deed restrictions shall be recorded against each income-restricted property to ensure permanent affordability.

71. The construction of the affordable units shall keep pace or exceed the construction of the market rate units.

72. Fifty percent of the affordable for-sale (single family) units shall have 3 bedrooms and 2 baths and fifty percent shall have 4 bedrooms and 2 baths.

Street Improvements

73. All proposed roads within the subdivision shall comply with the City's Public Works Improvement Standards and Construction Specifications, dated September 2003 or as amended.

74. Grant Avenue:

a) South half improvements shall be constructed from the western terminus of the tentative map to the eastern terminus of this Tentative Map with the first final map on the project. Applicant shall acquire the necessary right of way to construct full frontage improvements on the south half of Grant Ave. per the City of Winters Public Works Improvement Standards.

b) The south half improvements shall include all necessary right-of-way and improvements to include a 12-foot northbound left turn lane, two eastbound travel lanes (26-feet), six-foot class two bike lane, and a 24-foot landscape corridor that will include an 10-foot Class 1 concrete pedestrian/bike path.

c) The improvement plans shall include the design of a complete traffic signal that includes the conduit, pull boxes, signal poles and signal foundations, street lighting, and cabinets. The project proponent shall install all traffic signal improvements necessary for installation of a future new signal at the Grant Avenue and West Main Street intersection. This is a reimbursable expense.

d) Applicant shall be responsible for construction of a privacy wall along entire Grant Avenue frontage in conjunction with the landscaping corridor. Prior approval of fencing design is required.

e) No driveways shall be allowed to front load onto Highway 128 (known as Grant Avenue).

f) A non-access restriction shall be shown on the final map along Grant Ave. frontage.

75. Main Street:

a) No driveways shall be allowed to front load onto West Main Street within 140-feet of the tangent of the face of curb on Grant Ave.

b) A northbound left turn lane shall be required on West Main Street at Grant Ave.

c) A non-access restriction shall be shown on the final map along Main Street frontage.

76. Intersection Enhancement Details: Island Planters and crosswalks shall be constructed of colored brick pavers, stamped concrete or other enhanced feature as approved by the City Engineer.

77. Local Streets: Local streets shall provide for ADA compliant sidewalk turnouts where sidewalk widths do not meet ADA.

78. Tentative Map Street Cross-Sections, Sheet 1 of 1, dated February 8, 2005). Conditions and Changes shall be made as follows:

a) Street Cross section details, including all intersection geometric design, complying with the conditions of approval, shall be revised on tentative map, submitted to the City, and approved by the City Engineer prior to submitting a final map and improvement plans.

b) A signing and striping, and stop plan is required and shall be approved by the City Engineer. All signing and stripping shall be in accordance with the City of Winters Public Improvements Standards and Construction Standards.

c) Street light types shall be those historic types as approved by the City. If necessary, the applicant shall fund the analysis for designing standards and details for spacing historic lights. This is a reimbursable expense. Improvement plans shall be designed to those standards once approved.

Storm Drainage and Site Grading

79. A comprehensive storm drainage plan shall be prepared by a registered civil engineer for project watershed(s), including the plan area. The plan shall identify specific storm drainage design features to control increased runoff from the project site. The drainage plan shall demonstrate the effectiveness of the proposed storm drainage system to prevent negative impacts to existing downstream facilities and to prevent additional flooding at off-site downstream locations. All necessary calculations and assumptions and design details shall be submitted to the City Engineer for review and approval. The design features proposed by the applicant shall be consistent with the most recent version of the City's Storm Drainage Master Plan criteria and Public Improvement Standards. The plan shall incorporate secondary flood routing analysis and shall include final sizing and location of on-site and off-site storm conduit channels, structures and (detention basins if required). The Storm Drainage Plan shall be submitted for approval prior to submittal of the first final map and/or construction drawings for checking. The applicant shall pay the cost associated with all improvements required by the plan.

80. A topographic survey of the (excluding Dry Creek to its high bank) site and a comprehensive grading and drainage plan prepared by a registered civil engineer, shall be required for the development. The plan shall include topographic information on adjacent parcels. In addition to grading information, the grading plan shall indicate all existing trees, and trees to be removed as a result of the proposed development, if any. A statement shall appear on the site grading and drainage plan, which shall be signed by a registered civil engineer or land surveyor and shall read, "I hereby state that all improvements have been substantially constructed as presented on these plans". Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.

81. The Tentative map Grading and Drainage plan showing grading and drainage information including topographic information, drainage routing, pipe slopes and sizing and locations and overland drainage routing are preliminary only and do not constitute approval in any way. Final approval for the grading and Drainage Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval.

82. Construction materials for storm drainpipes within the water table shall be pre-cast rubber-gasket reinforced concrete pipe (RGRCP).

83. Applicant shall be required to coordinate with FEMA through the City's Floodplain Administrator to determine if a CLOMR or LOMR is needed for the project as a result of possible impacts to Dry Creek or Putah Creek Flood Plain. Applicant shall obtain all necessary permits and CLOMRs/LOMRs as required prior to First Final Map approval.

84. The differential in elevation between rear and side abutting lot lines shall not exceed twelve inches (12") without construction of concrete or masonry block retaining walls.

85. Drainage fees shall be paid prior to issuance of a building permit.

86. All perimeter parcels and lots shall be protected against surface runoff from adjacent properties in a manner acceptable to the City Engineer.

87. If disposal and sharing of the excavated soil from the construction of the Development occurs, prior to approval of the first Final Map, Applicant shall prepare a written agreement with the other participating property owners and submit to the City.

88. All projects shall include implementation of post-construction best management practices (BMP). Post construction BMP's shall be identified on improvement plans and approved by the City Engineer.

89. Construction of projects disturbing more than one acre of soil shall require a National Pollution Discharge Elimination System (NPDES) construction permit.

90. An erosion and sedimentation control plan shall be included as part of the improvement plan package. The plan shall be prepared by the applicant's civil engineer and approved by the City Engineer. The plan shall include but not be limited to interim protection measures such as benching, sedimentation basins, storm water retention basins, energy dissipation structures, and check dams. The erosion control plan shall also include all necessary permanent erosion control measures, and shall include scheduling of work to coordinate closely with grading operations. Replanting of graded areas and cut and fill slopes is required and shall be indicated accordingly on plans, for approval by City Engineer.

91. Landscaped slopes along streets shall not exceed 5:1. Level areas having a minimum width of two (2) feet shall be required at the toe and top of said slopes. Exceptions shall require approval of the City Engineer.

92. All inactive portions of the construction site, which have been graded will be seeded and watered until vegetation is grown.

93. Grading shall not occur when wind speeds exceeds 20 MPH over a one hour period.

94. Construction vehicle speed on unpaved roads shall not exceed 15 MPH.

95. Construction equipment and engines shall be properly maintained.

96. If air quality standards are exceeded in May through October, the construction schedule will be arranged to minimize the number of vehicles and equipment operating at the same time.

97. Construction practices will minimize vehicle idling.

98. Potentially windblown materials will be watered or covered.

99. Construction areas and streets will be wet swept.

Wastewater and Sewer Collection System

100. The applicant shall obtain a no-cost Wastewater Discharge Permit from the Public Works Department prior to the issuance of a Building Permit.

101. The property shall be connected to the City of Winters sewer system, with a separate sewer lateral required for each parcel, in accordance with City of Winters Public Improvement standards and Construction Standards.

102. A comprehensive Sewer Collection System Plan shall be submitted for approval by the City Engineer prior to submittal of the final map and/or construction drawings for checking. A registered civil engineer for project shall prepare the sewer collection system plan. The plan shall include final sizing and location of conveyance facilities, structures, and engineering calculations. The applicant shall pay the cost associated with all improvements required by the plan. Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.

103. The Tentative Map Sewer Plan showing sewer routing, pipe slopes and sizing and locations, are preliminary only and do not constitute approval in any way. Final approval for the Sewer Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval.

104. Construction of sewer mains deeper than 16-feet at the bottom of the pipe shall be connected to laterals by a parallel mains and connections at Manholes

Water Infrastructure

105. All materials and installation of the water system shall be at the applicant's expense per City of Winters Public Improvement Standards and Construction Standards.

106. If required, per the Subdivision Map Act, project Applicant shall obtain a Water Verification (WV) prior to approval of final map that addresses the following:

a) Actual water service to the subdivision will be predicated upon satisfaction of terms and conditions set by the water supplier

b) The WV is non-transferable, and can only be used for the specific tentative map for which it was issued.

c) The WV shall expire along with the tentative map subdivision map if a final map is not recorded within time allowed under law

d) Until such time as actual service connections are approved for the subdivision, the water agency may withhold water service due to a water shortage declared by the water agency.

107. Based on City water modeling, a new well is needed to serve the first phase of development. Developer shall advance fund the construction of new water well and required water system conveyance pipelines with the project per Mitigation Measure #17. In addition, the applicant shall acquire the parcel for the new well prior to approval of the first map subject to fee credits and/or reimbursements.

108. The Tentative Map Water Plan showing water routing, sizing and locations, are preliminary only and do not constitute approval in any way. Final approval for the Water Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval. Applicant shall comply with making changes to water system distribution pipe sizes and alignments based on the results of the specific water modeling performed for the development. Applicant shall pay for all required water modeling for identifying water infrastructure needs to serve its development and shall construct offsite water improvements to connect to the City water distribution system.

109. At the time the Building Permit is issued, the applicant will be required to pay the appropriate City connection Fees. All domestic water services will be metered. Water meters shall be installed on all water services to the satisfaction of the City Engineer.

110. Per City of Winters Cross Connection Control Program, all types of commercial buildings and landscape irrigation services are required to maintain an approved backflow prevention assembly, at the applicant's expense. Service size and flow-rate for the backflow prevention assembly must be submitted. Location of the backflow prevention assembly shall be per the City of Winters Public Improvements Standards and Construction Standards. Prior to the installation of any backflow prevention assembly between the public water system and the owner's facility, the owner or contractor shall make application and receive approval from the City Engineer or his designated agent.

111. Per the City of Winters Cross Connection Control Program, fire protection systems are required to maintain approved backflow prevention, at the applicant's expense. Required location, service size and flow-rate for the fire protection system must be submitted. Actual location is subject to the

review and approval of the Public Works Department, Fire Department, and Community Development Department.

112. The City of Winters Plan Review Fee applies and is due upon submittal of the maps and plans for review.

113. FINAL PLANS, PERIODIC TESTS FOR FIRE HYDRANTS: All final plans for fire hydrant systems and private water mains supplying a fire hydrant system shall be submitted to the City of Winters Fire Department for approval prior to construction of the system. All fire protection systems and appurtenances thereto shall be subject to such periodic tests as required by the City of Winters Fire Department.

114. WATER PRESSURE: All water lines and fire hydrant systems must be approved by the Fire Chief and operating prior to any construction taking place on the site. Prior to issuance of building permits, water flow must be measured and certified for adequacy by the Winters Fire District.

115. REFLECTORS FOR FIRE HYDRANTS: Any fire hydrant installed will require, in addition to the blue reflector noted in Standard Drawings, an additional blue reflector and glue kit that is to be supplied to the City of Winters Fire Department for replacement purposes.

116. All construction, new or remodeling, shall conform to the most current Uniform Fire Codes, the Winters Fire Prevention Code, and section of the National Fire Codes that the Winters Fire Chief or his/her agent may find necessary to apply.

117. Prior to approval of the first final map, a comprehensive water system plan shall be prepared by a registered civil engineer for project, and shall be submitted to the City Engineer for review and approval. The master plan shall include final sizing and location of conveyance facilities, structures, and engineering calculations. Said plan shall also include provisions for cost sharing among affected adjacent development for facilities sized to accommodate the plan area. The applicant shall pay the cost associated with all improvements required by the plan, and an appropriate reimbursement agreement shall be drafted to reimburse the applicant for oversize improvements on a pro rata basis per the Project level Development Agreement. Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.

118. Applicant shall be required to loop water system to the new water well. This will include connecting the development water system to Taylor Street water system.

119. Forty-eight hours notice shall be given to the Winters Fire District prior to any site inspections.

120. A hydrant use permit shall be obtained from the Public Works Department, for water used in the course of construction.

121. When the fire protection facilities are in the City of Winters, the developer shall contact the Winters Fire District Chief or his/or agent prior to construction for a pre-construction meeting.

122. All required fire accesses that are to be locked shall be locked with a system that is approved by the Fire Chief or his/her agent.

123. Submit three sets of plans for each fire suppression sprinkler system to the Fire Department for review and approval prior to the issuance of each building permit.

124. All residences shall have fire suppression sprinkler systems meeting or exceeding NFPA 13-D. Water laterals shall be appropriately sized to accommodate sufficient water flows for fire suppression sprinkler systems. In no instance shall a water lateral be less than 1.5-inches in size.

General Public Works and Engineering Conditions

125. The conditions as set forth in this document are not all inclusive. Applicant shall thoroughly review all City, state, and federal planning documents associated with this tentative map and comply with all regulations, mitigations and conditions set forth.

126. The applicant agrees to adhere to the terms of the of the ordinance (Ordinance No. 96-02) adopted by the City Council to address impact fees to be paid for development of property within the Rancho Arroyo Drainage District, to offset costs associated with drainage improvements.

127. Closure calculations shall be provided at the time of initial map check submittal. All calculated points within the map shall be based upon one common set of coordinates. All information shown on the map shall be directly verifiable by information shown on the closure calculation print out. The point(s) of beginning shall be clearly defined and all lot acreage shall be shown and verifiable from information shown on the closure calculation print out. Additionally, the square footage of each lot shall be shown on the subdivision map. Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.

128. A subdivision map (Final or Parcel) shall be processed and shall be recorded prior to issuance of a Building Permit. The Developer shall provide, to the City Engineer, one recorded Mylar copy and four print copies of the final map from the County, prior to issuance of the first building permit.

129. U.S. Post Office mailbox locations shall be shown on the improvement plans subject to approval by the City Engineer and Postmaster.

130. A registered landscape architect shall design landscape and privacy wall improvements and improvements shall be per City Standards, as applicable.

131. Joint trench/utility/composite plans shall be submitted to the City Engineer for review, prior to approval of the final map and improvement plans.

132. All existing and proposed utilities (Electric, phone/data, and cable) within 100 feet of the project boundary shall be installed underground per the undergrounding ordinance and shall meet the policies, ordinances, and programs of the City of Winters and the utility providers.

133. Street lighting location plan shall be submitted and approved by the Department of Engineering, prior to approval of improvement plans and final recordation of Map.

134. Roads must be constructed and paved prior to issuance of any building permit. Under specific circumstances, temporary roads may be allowed, but must be approved by the City of Winters City Engineer and Fire Department

135. Occupancy of residential units shall not occur until on-site and off-site improvements have been accepted by the City Council and the City has approved as-built drawings. Applicants, and/or owners shall be responsible to so inform prospective buyers, lessees, or renters of this condition..

136. If relocation of existing facilities is deemed necessary, the applicant shall perform the relocation, at the applicant's expense unless otherwise provided for through a reimbursement agreement. All public utility standards for public easements shall apply.

137. A Subdivision Improvement Agreement shall be entered into and recorded prior construction of improvements, issuance of any building permits, or recordation of a final map.

138. At the time of making the survey for the final map, the engineer or surveyor shall set sufficient durable monuments to conform to the standards described in Section 8771 of the Business and Professions Code. All monuments necessary to establish the exterior boundaries of the subdivision shall be set or referenced prior to recordation of the final map.

Easements and Right of Way

139. Appropriate easements shall be required for City maintained facilities located outside of City owned property or the public right-of-way.

140. The applicant shall facilitate, with City cooperation, the abandonment of all City easements and dedications currently held but no longer necessary as determined by the Public Works Department.

141. A ten (10) foot public utility easement back of sidewalk, adjacent to all public streets within the development shall be dedicated to the City and may be required elsewhere as requested by the utility companies and approved by the City.

142. Per the project level Development Agreement, prior to approval of first set of improvement plans and final map, Applicant shall acquire all rights of way and easements necessary to construct off-site and on-site improvements associated with the tentative map.

Reimbursements for Applicant Install Improvements

143. Applicant shall pay appropriate reimbursements for benefiting improvements installed by others, in the amount and at the time specified by existing reimbursement agreements. Where the City has deemed appropriate for reimbursement, the applicant will receive reimbursement from other parties for improvements that benefit those parties.

Landscaping and Lighting

144. Project proponents shall enter into the City wide Landscape and Lighting Maintenance District, in order to maintain and provide for the future needs of parks, open space, street lighting, landscaping, sound walls, and other related aspects of development. The project proponent is responsible for all costs associated with this condition. The project proponent shall fulfill this condition prior to the sale of any buildable lots or parcels within the project area.

145. Applicant of multi-family residential, commercial and industrial project shall provide refuse enclosure detail showing bin locations and recycling facilities to the approval of the Public Works Department.

146. Prepare, and submit for approval, a utility site plan prior to preparation of full improvement plans.

147. Prepare improvement plans for any work within the public right-of-way and submit them to the Public Works department for review and approval. The improvement plan sheets shall include the title block as outlined in the City of Winters Public Improvements Standards and Construction Standards. This submittal is separate from the building permit submittal. The Developer shall provide, to the City Engineer, one Mylar original and four sets of the improvement plans and electronic media (AutoCAD .DWG or DXF on Zip Disk or Compact Disk), for approval of plans by the City Engineer.

148. Each residence in the cul-de-sac must be able to accommodate parking for 3 vehicles: either (3) on site parking spaces or two (2) on site spaces and (1) on street space. The on street space shall be along the frontage of the subject property with no more than a 10-foot overlap across the frontage of adjacent parcels.

149. Conform to County Health regulations and requirements for the abandonment of a septic tanks and water wells.

150. Existing public and private facilities damaged during the course of construction shall be repaired by the subdivider, at his sole expense, to the satisfaction of the City Engineer.

151. The area of each lot, in square feet, shall be calculated and shown on the Final Map.

152. Encroachment permits if necessary from will be acquired from Yolo County, Caltrans, and PG&E.

153. All utility poles that are to be relocated in conjunction with this project shall be identified on the improvement plans, with existing and proposed locations indicated.

154. All public landscape areas shall include water laterals with meters and PG&E power service points for automatic controllers.

155. Prior to recording of the final map, if required, provide evidence of payment for the Habitat Mitigation Fee. This fee is paid to the Yolo County Planning Department.

156. If improvements are constructed and/or installed by a party or parties other than the Applicant, which improvements benefit Applicant's property, prior to issuance of a building permit (approval of the final map) on Applicants property, Applicant shall pay a proportionate share of the costs of said improvements, including interest, prior to the issuance of building permit(s) (approval of the final map) to Applicant.

CITY OF WINTERS CALIFORNIA

PLANNING COMMISSION STAFF REPORT
July 27, 2004

TO: Chairman and Planning Commissioners

FROM: Jenaye Shepherd – Management Intern

SUBJECT: Agenda Item VIII #1, Discussion Item – Proposed Energy Resolution.

Please find attached the proposed Energy Resolution and a Power Point Presentation.

The proposed Energy Resolution will require newly constructed homes to follow a number of energy efficient techniques and allow all new homes to be built to EPA Energy Star Standards, which in California is 15-percent less energy use than required by Title 24. Many of these energy saving strategies have rebates available and a short money return period. Implementing this resolution will not only save energy and money, but it will also increase the comfort ability for many residents in Winters.

Attachments:
1. Proposed Energy Resolution
2. Power Point Presentation

Planning Commission/Energy Efficiency Resolution PC Stf Rpt 27Jul04

PROPOSED ENERGY RESOLUTION

City of Winters, July 2004

PREFACE

This document is a proposal to improve the energy performance of all new single family homes by implementing measures that reduce their individual energy consumption and energy use related to their construction. The intent is to improve performance over Title 24 energy standards and to qualify homes for Energy Star ratings while insuring that the added cost can be amortized by energy savings. Implementation of these improvements would be through resolution or ordinance.

The State of California is increasingly facing limitations to its electric infrastructure, including both transmission and distribution systems and generation capacity, which will be worsened by the forecasted doubling of California's population by the year 2040[1]. Most of this problem results from residential air conditioning, which is responsible for 40% of California's peak load. The California Energy Commission is responding to this problem by supporting development of technologies that reduce residential peak load, by introducing "time-dependent valuation" of energy into the 2005 energy standards, and by promoting photovoltaics through a "Zero Energy New Homes" program.

Two federal programs, Zero Energy Buildings, and Building America have been in operation for over three years to promote the construction of homes that are more energy efficient and that utilize renewable energy sources. The objective of these programs is to improve our energy independence and security. Research completed under these programs has demonstrated that energy efficiency and photovoltaics can be cost-effective, is well received by homebuyers, and has the current potential to reduce energy use by 70% or more.

With the support of the Building America program, Davis Energy Group compiled a list of efficiency measures that are proposed to be enacted by resolution of the Winters City Council. These measures are grouped under the major categories of Site Planning & Landscape; Building Envelope, Appliances, and HVAC; Photovoltaic Systems; and Waste Reduction. The primary objectives of this proposal are to:

- Utilize site planning principals to facilitate improved cooling performance of new homes and that reduce transportation energy use
- To employ a list of cost-effective energy efficiency measures that enable homes to qualify under the Energy Star label, and that result in a positive cash flow for the buyers
- To require photovoltaics for those homes for which the systems will be readily affordable

Rather than allow builders to employ a performance approach to verify Energy Star ratings, we propose that a prescriptive list of measures that have been predetermined to

[1] CALTRANS Office of Community Planning

be cost-effective be required be required on all homes. This approach greatly reduces the burden of verification on plan checkers and building inspectors.

The following sections define the proposed measures and provide background, justification, and detail on each. Appendix F of the California Environmental Quality Act pertaining to energy conservation is also attached for reference.

1 SITE PLANNING & LANDSCAPE

1.1 Subdivision maps shall comply with Section 66473.1 of the California Subdivision Map Act by providing lots that allow homes to be sited with their fronts facing either north or south, to the maximum extent feasible.

Section 66473.1 of the Subdivision Map Act states: "The design of a subdivision for which a tentative map is required pursuant to Section 66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision. Examples of passive or natural heating opportunities in subdivision design, include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure." When it was drafted almost 30 years ago the act did not anticipate the need to reduce air conditioning peak load, nor the development of photovoltaics for residential applications. However, the principals on which was based still apply. Most streets must be orientated east-west in order to facilitate siting homes so that they use less cooling energy.

When windows are exposed to direct sunlight in summer, the resulting solar heat gain increases air conditioning energy use and compromises comfort. Since most windows are located in the front or back of homes, homes oriented with their fronts facing east or west can use over 50% more energy for cooling than homes facing north or south. East and west-facing windows are very difficult to shade. Comfort problems are particularly apparent on the second floor of two-story homes, because heat added by the sun rises to the upper floor. South-facing windows can be shaded by roof overhangs in summer and allow sunlight into the house in winter, thereby reducing heating bills.

Photovoltaic systems and solar water heaters perform much more efficiently when modules are located on south-facing roofs. Also, facing the majority of windows to the south can reduce winter heating energy use.

1.2 Deciduous street trees shall be provided by the developer, spacing and species to be approved by Planning Commission and/or listed on the City of Winters approved tree list.

Trees reduce local temperatures in summer by shading streets and roofs, and by evaporating moisture. On warm summer days urban areas can be 6-8% warmer than the surrounding agricultural areas. Street trees also improve the appearance of neighborhoods and contribute to higher property values. The City adopted an approved tree list but some new colorful varieties are available that are not on the list, such as the Chinese Tallow Tree (Sapium sebiferum) and the Autumn Fantasy maple (Acer Fremanii x). The City should also designate specific trees that are suitable for various street applications (primary feeder, secondary feeder, etc.)

1.3 Residential streets that provide access to dwellings shall not be wider than the City's adopted street standard.

Streets absorb the sun's rays and give off heat, increasing the need for air conditioning. Narrower streets are easier to shade with trees and tend to slow traffic down, improving neighborhood safety, are less expensive to build, and reduce rainwater run-off. Currently, the minimum street width is 35'. The Village Homes development in Davis has 20' and 26' street widths and provides off-street parking areas. It is recommended that the City review the current street guidelines and encourage developers to build narrower streets with off-street visitor parking areas. Alleys, such as those provided in Putah Creek Hamlet, are another alternative to parking areas.

1.4 Paved paths shall be provided to facilitate bike/pedestrian traffic to schools. Paths shall not cross secondary collectors.

Winters Highlands and Callahan Estates developments will be within easy walking distance of Shirley Rominger School, but current street layouts do not provide for easy pedestrian access, and require several streets to be crossed that are primary or secondary collectors. As a result, parents are likely to drive students to school. The auto exhaust will degrade local and regional air quality, and the children will be deprived of exercise. Obesity is becoming an enormous problem, which making provisions for increased pedestrian and bicycle activity can help solve.

2 BUILDING ENVELOPE, APPLIANCES, AND HVAC

2.1 All houses shall be built to EPA Energy Star standards.

The top builders in the country are building whole developments to EPA Energy Star standards, which in California is 15% less annual energy use than required by Title 24 energy standards. The added costs of improvements needed to meet the Energy Star rating when amortized over 30 years is more than offset by annual energy savings, so the buyer typically experiences a positive cash flow, even if the builder marks up these improvements. Thus, the buyer saves money and the builder makes more on the sale of the house. Studies have also shown that energy efficient homes have a higher resale value. Efficient neighborhoods are quieter (less air conditioner noise), and there is less air pollution from combusted natural gas.

The utilities and California at large benefits because most measures that save energy also reduce peak electricity load, meaning that utilities are not as pressed to add generating capacity and transmission-distribution systems to serve the loads added by new development. Because of the high cost of building new power-plants, and of running inefficient "peaker" plants, the costs that utilities would pass on to ratepayers is not as great. Everyone benefits.

Improvements that are implemented now are likely to yield much bigger payoffs to homeowners in the future. Last year Alan Greenspan gave testimony before the House Committee on Energy and Commerce that "Canada, our major source of imported natural gas, has had little room to expand shipments to the United States, and our limited capacity to import liquefied natural gas (LNG) effectively restricts our access to the

world's abundant supplies of gas." He also said "We are not apt to return to earlier periods of relative abundance and low prices anytime soon." Dwindling supplies resulted in an increase in the market price for natural gas of nearly 73% since the previous year. Regulation of energy prices will not protect consumers from these price hikes for long, and there is nothing in the near future that is likely to improve this scenario. Since most of California's electricity is generated by natural gas plants, the price of electricity is certain to be affected as well.

Analysis Davis Energy Group has completed under the Department of Energy sponsored Zero Energy Home and Building America programs has identified specific measures that are particularly cost-effective, market ready, and currently being used by many builders. If made mandatory, the following measures will assure that homes meet Energy Star standards:

- **High performance windows.** Most windows that are now installed by production builders are treated with a special "Low E" coating that reduces the amount of heat that is transmitted by the glass, and that reduces the amount of light transmitted in the non-visible spectrum. This property reduces solar heat gain without making the windows appear dark. Builders should only install windows that have a U-value of 0.36 and solar heat gain coefficient (SHGF) of 0.36 or lower.
- **Energy Star roof tiles.** Several companies, including Hanson Roof Tile in Dixon, are producing concrete roof tiles using pigments that reflect sunlight, even in darker colors. This higher reflectivity reduces summer attic temperatures and cooling loads, and helps keep neighborhood temperatures lower. Composition shingles with higher reflectivity are expected to be on the market soon.
- **Minimum R-38 ceiling insulation.** Deeper ceiling insulation results in better performance of buried ducts, as well as reducing heat gain and loss through the attic. The added cost for R-38 compared to the minimum standard R-30 is minimal.
- **Insulated headers.** Solid wood headers waste wood and degrade wall thermal performance. Insulated headers are similar to web trusses except they include two webs which sandwich foam insulation. Experience has shown they are less expensive than solid wood, don't cause cracking due to shrinkage, and since they are lighter, make walls easier to stand.
- **Air conditioners that meet the 2006 DOE minimum efficiency standard of 13 SEER.** Currently air conditioner manufacturers are not allowed to sell units that have a "SEER" rating of under 10. The U.S. Department of Energy proposed, and congress approved, a minimum rating of 13, effective in 2006. Since the proposed development will be required to install 13 SEER air conditioners on part of the homes (due to the build-out schedule), they should be installed on all new homes. The DOE standards are based on cost-effectiveness to the buyer.
- **Duct leakage HERS-certified to be not more than 6%.** Duct leakage can substantially degrade heating and air conditioning efficiency, and proper sealing is very inexpensive if done during construction. Since many ducts are not accessible after the houses are built, proper sealing can only be done during construction. The Energy Commission provides for independent Home Energy Rating System (HERS)

raters to test ducts when Title 24 credit is taken for tight ducts. This testing is necessary to assure proper installation.

- **Ducts installed in accordance with the California Energy Commission's 2005 Standards "Buried Duct" compliance option.** The 2005 energy standards will allow credit to be taken for ducts that are buried in attic insulation instead of suspended from roof trusses. According to a large Sacramento HVAC contractor, there is no added cost to install ducts in this fashion.
- **Pilotless, tankless gas water heaters.** Depending on how much hot water is used, these appliances reduce natural gas use by about 30 to 90% compared to storage type water heaters. They are available from several manufacturers and are seen increasingly in production homes. Since they heat water instantaneously they do not run out of hot water, and they do not take up valuable floor space.
- **Engineered "home run" hot water distribution systems using PEX pipe.** With conventional piping systems, it is not uncommon to have half of the hot water generated by the water heater lost in the piping, and a substantial amount of water is wasted while waiting for hot water to arrive at the tap. "Home run" piping that is properly designed saves energy and shortens hot water waiting times, thereby saving water. The cost for these systems is becoming comparable to that of conventional copper systems.
- **Energy Star approved dishwashers.** These are widely available in all popular brands, and save water as well as energy. Since dishwashers are permanently installed by the builder, they are not subject to easy replacement like refrigerators and clothes washers.
- **Fluorescent lights provided in all ceiling can fixtures and bathroom fixtures.** Fluorescent lights provide the same light output at less than a third of the electricity use and heat generation of incandescent lights, and last many times longer. The size, configuration options, cost, reliability, and color rendition of compact fluorescent lights (CFL's) have improved to the point that they are acceptable substitutes for incandescent lamps in most applications. Fixture manufacturers are beginning to introduce more fixtures designed for fluorescent lamps. The prolific use of ceiling can lights by builders provides a good opportunity to improve lighting efficiency by installing only CFL flood lamps, which can be screwed in to the conventional fixtures. Globe CFL's are good substitutes for incandescent lamps in most fixtures installed at bathroom mirrors. Efficient linear T8 lamps with electronic ballasts also provide very high quality light when used above kitchen cabinets for indirect lighting, and T5's provide excellent light for under counter applications.

3 PHOTOVOLTAIC SYSTEMS

Solar photovoltaic systems are becoming more economical every year, and there are new breakthroughs in technology that are likely to make these systems more competitive with conventionally generated electricity as time goes on. Currently, the California Energy Commission offers a $3.00 per Watt rebate for residential systems that are grid-connected, that is they feed excess power into the utility's power lines rather than storing

it in batteries. PG&E also offers a time-of-use rate that allows homeowners to "sell" power to PG&E at a higher price during the day (12-6 PM) than they purchase it for during night and morning hours. California also offers a 15% tax credit to purchasers of PV systems.

In addition, the DOE sponsored Zero Energy Homes and Building America programs offers assistance to builders to who combine energy efficiency improvements with photovoltaic (PV) systems. The reason that states and the federal government are supporting PV systems is that they are seen as a solution to both local electricity supply problems and a contributor to our national energy security.

Recent studies have shown that these incentives combine to make PV marginally cost-effective at current electric prices, which are likely to increase significantly over the 20 year life of the systems. PV systems are becoming increasingly common on production homes, and manufacturers such as General Electric and Sharp Electronics are aggressively marketing systems to residential builders. PV modules are now available that are easy to install and blend in with concrete roof tiles and other roofing materials.

3.1 All new homes shall be constructed with a minimum of 240 ft² of south roof area that is free of vents, chimneys, and other obstructions to facilitate future installation of solar electric systems.

Making homes easier to retrofit with PV systems reduces the future cost of installing these systems while not adding significantly to the construction cost. Allowing for 200 ft² of PV module area will assure that future systems can have a significant impact on reducing electric use.

3.2 All new homes having a conditioned floor area of 2500 ft² or greater shall be equipped with 1" minimum size conduit between the attic space and the main electrical panel to facilitate wiring for future photovoltaic systems.

Conduit is inexpensive to install while homes are under construction. Pre-installing conduit will further reduce the cost of installing PV systems, especially in larger two-story homes.

3.3 All new homes having a conditioned floor area of 3500 ft² or greater shall be equipped with a functioning photovoltaic system with an STC rating of 1.5 kW or greater.

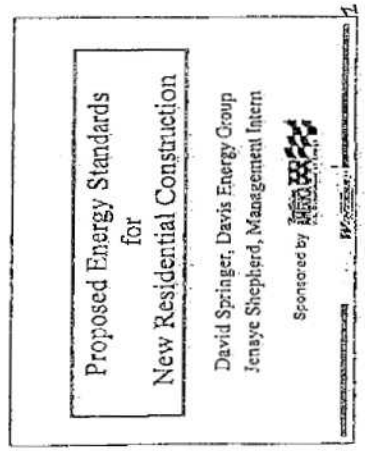
On larger, less affordable, homes a small PV system may constitute only 1% of the selling price and the cost is more easily borne by the buyer. Also, energy savings are greater in larger homes because the PV system typically offsets higher tier rates. Experiences from other builders offering PV systems show that the cost for systems is lower when some or all of the homes are scheduled to have PV systems (instead of offered as buyer options), and that the added cost rarely discourages buyers. Providing PV systems on 100% of the larger homes will help mitigate the added electricity load contributed by the new developments, and will reduce carbon and other emissions from natural gas combustion by electricity generation plants.

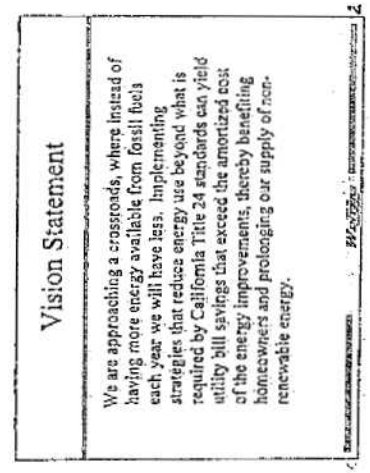
4 WASTE REDUCTION

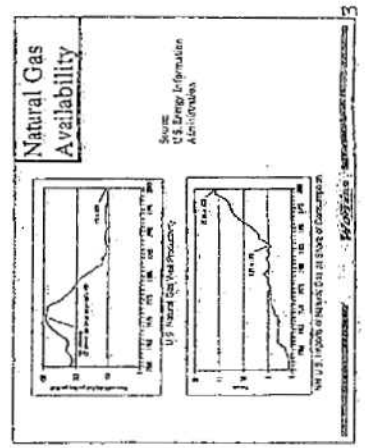
Construction projects contribute substantial waste to landfill sites. Much of this waste can be eliminated by implementing simple recycling measures that can reduce the builders' disposal costs.

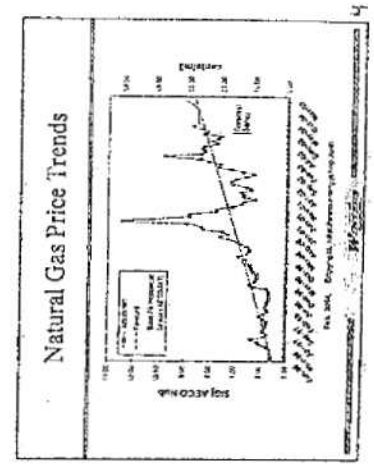
4.1 All construction waste shall be separated to allow recycling of wood, steel, and gypsum products.

This is a measure that has been adopted by several "green building" programs, including the Alameda County Waste Management Board's Green Builder Program. Energy savings resulting from this measure include reduced fuel costs for waste transport and landfill vehicles, reduction of the energy required for extraction of raw materials, and the potential use of wood waste in plants that generate electricity from biomass.

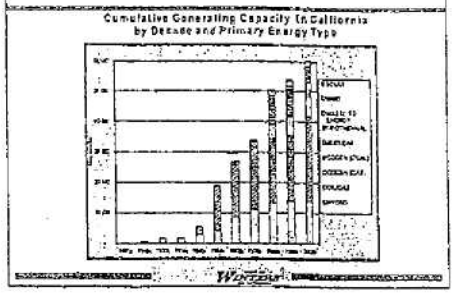




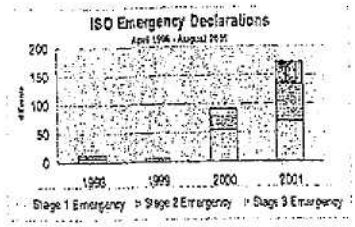




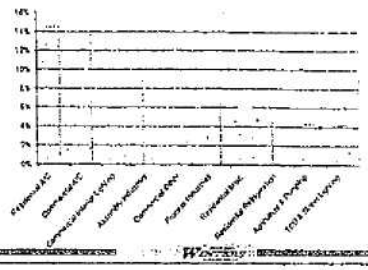
Where Does Electricity Come From?



Do We Have Enough Electrical Capacity?



What Are the Greatest Contributors to the Electricity Capacity Problem?



Approach

- Develop strategic list of energy measures
- Identify means of implementation
  - Citywide
    - Resolution
    - Ordinance
  - Development specific
    - Development agreements

Energy Saving Opportunities

- Categories:
  1. Site Planning and Landscape
     - Building energy use
     - Transportation energy use
  2. Building Energy Efficiency
     - Building envelope
     - Appliances
     - HVAC
  3. Renewables (Solar)

1. SITE PLANNING & LANDSCAPE

1.1. Comply with the California Subdivision Map Act by providing lots that allow homes to be sited so that they face to the north or south.

"In approving new residential subdivisions the City shall promote the maximum feasible east-west alignment of lots for southern solar exposure, as required by the State Subdivision Map Act."

-Policy VI.E.1. Winters General Plan

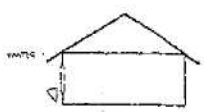
"Encourage solar oriented street design."

-Winters Design Guidelines

Importance of Street Orientation

- North-south streets:
  - Cause most of window area to face east-west
    - Increases air conditioner use
    - Limits passive solar heating performance
  - Limit south roof area for current or future application of solar electric systems and solar water heating

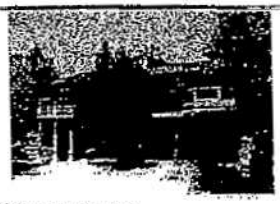
Using Orientation and Architecture to Control Solar Gain



South-facing windows are easily shaded by roof overhangs

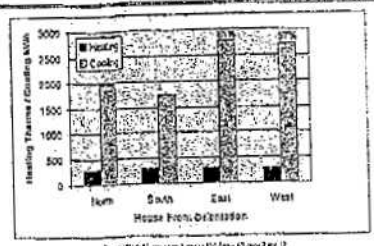
Older methods can be used but they are costly

Zero Lot Lines



- Eliminate east-west exposure
- Reduce outside wall surface area, reducing heat gain & loss
- Allow for higher densities without losing aesthetic appeal

Orientation and Heating & Cooling Energy



Street Trees

1.2. Deciduous street trees shall be provided by the developer, spacing and species to be approved by Planning Commission.

"Parkways of at least 5 feet should be provided within the landscape parkway and should be a variety that typically develops a large-scale canopy that will extend partially over the street."

-Winters Residential Design Guidelines

Tree Information Resources

- City of Winters Master Street Tree List
- SMUD Tree Program
- Sacramento Tree Foundation Program

4

Street Widths

1.3. "Residential streets that provide access to dwellings ~~should~~ [shall] not be wider than the City's adopted street standard."

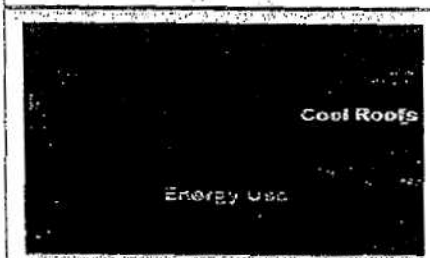
-Winters Residential Design Guidelines

- Insure consistency between the General Plan, Design Standards, Circulation Master Plan, and other planning documents

Narrow Streets

- Discourage speeding and increase safety
- Reduce the amount of pavement exposed to the sun
- Allow for higher housing densities and/or more open space and landscaping
- Are easier to shade with trees

"Heat Island" Effects



Street Width Specifications

- Winters Design Standards
  - Primary collector: 50' (70' with median)
    - 2 - 12' travel lanes
    - 5' bike lanes
  - Secondary collector: 40'
    - 2 - 12' travel lanes
    - no bike lanes
  - Local residential: 35'
    - 2 - 10' travel lanes
    - no bike lanes
- Village Homes: 20 - 26'
  - Off street parking
  - Off street bike lanes

Bike and Pedestrian Paths

1.4. Paved paths shall be provided to facilitate bike/pedestrian traffic to schools and parks. Paths shall not cross secondary collectors.

"The land use pattern and design of new development in Winters shall facilitate pedestrian convenience and the use of non-automobile forms of transportation."

- Policy 1.4.3, Winters General Plan

Bike and Pedestrian Paths

"The Bikeway System Master Plan Update recommends the development of a comprehensive bikeway system in Winters...[that] effectively connects all residential neighborhoods with the major activity centers in the City, such as downtown, schools, parks, and the library."

- Bikeway System Master Plan Update (2002)

Bike and pedestrian paths...

- Improve safety by keeping people and bikes away from cars
- Improve air quality by reducing auto trips
- Save time by reducing traffic congestion

...can be integrated into neighborhoods...

6

...and keep people fit!

Prevalence of Obesity* Among U.S. Adults

*Defined as 15 lb overweight

Source: Mokdad A.H. et al. J Am Med Assoc 1999

2. BUILDING ENERGY EFFICIENCY

2.1. All houses shall be built to EPA Energy Star standards (15% better than current Title 24) using prescribed methods

The Value of Energy Efficiency

- Buyers:
  - Energy savings can exceed incremental mortgage costs
  - Tax credits (up to $2000 in pending legislation*)
  - Hedge against rising energy costs
  - Improved comfort and health
  - Better quality home
- Builders:
  - Improve reputation for building quality homes
  - Earn entitlements

*SB 2311 - Feinstein

The Value of Energy Efficiency

- Utilities
  - Economic advantages from decreased peak load
    - Lower generating costs
    - Less stress on T & D systems
- Societal & National
  - Reduced risk of brownouts
  - Improved air quality
  - Reduced water use (local & utility)
  - Reduced carbon emissions
  - Improved energy security

7

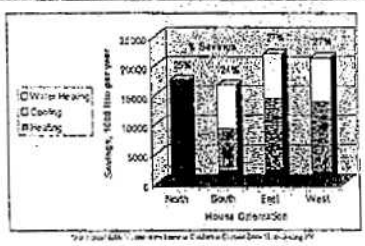
Energy Star Homes

- Northern California production builders who are currently building to meet Energy Star standards: Beazer, Centex, D.R. Horton, Greenheirs, Hoffman, KB, Lennox, Monisco, New American, Pardee, Prentler, Pulte, Renaissance, Shea, Summerhill, Sunorest.
- Energy Star homes provide a positive cash flow to the buyer and better resale value

How to Meet Energy Star

- "Prescriptive" requirements easier to enforce than "performance" standards
- Proposed Prescriptive Measures
  - High performance windows
  - Energy Star approved dishwasher
  - Pilotless, tankless water heaters
  - Engineered "home run" hot water piping using PEX pipe
  - 13 SEER air conditioners
  - Tightly sealed ducts (leakage < 6%)
  - "Buried" ducts
  - Minimum R-38 ceiling insulation
  - Insulated headers
  - Fluorescent lights
  - Energy Star roof tiles

Energy Savings Resulting From Application Of These Measures*



Envelope Measures

- **All windows shall have U-value and SHGF of 0.36 or lower**
  - Prescriptive requirement of Title 24
  - Utilized by most production builders
  - Retain good indoor visibility, provide privacy
- **All roof tiles shall be Energy Star rated**
  - Reflective pigments available in dark colors
  - Locally manufactured

Envelope Measures

- **All homes shall have minimum R-38 blown-in ceiling insulation**
  - Inexpensive to increase from R-30 rating required by Title 24
  - Enhances duct performance
- **Insulated headers shall be used instead of solid wood headers**
  - Less expensive
  - Conserves forest products

HVAC

- **Air conditioners shall have a minimum SEER* rating of 13.0**
  - DOE efficiency regulations will increase minimum efficiency from 10 SEER to 13 SEER in 2006
  - Many of the homes in the planning area will be built after 2006
  - SEER 13 air conditioners are readily available

*SEER = seasonal energy efficiency rate

HVAC

- **Ducts shall be sealed to provide a maximum tested leakage of not more than 6% of the furnace fan flow**
  - Duct leakage degrades furnace and air conditioner efficiency
  - Consistent with the California Energy Commission "tight duct" standard
  - Ducts are tested by certified HERS raters

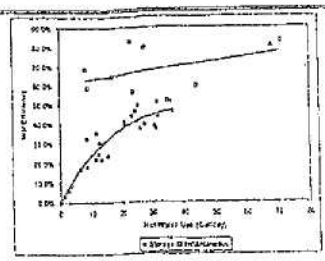
HVAC

- **Ducts shall be installed in accordance with the California Energy Commission's 2005 Standards "Buried Duct" compliance option**
  - Ducts covered by attic insulation instead of suspended from trusses
  - Can be done at no additional cost
  - Improves R-value from 4.2 to as high as 14 for R-38 attic insulation

Water Heating

- All water heaters shall be instantaneous (tankless) gas, and shall have no standing pilot
  - Available from at least four manufacturers
  - 30-90% more efficient than gas storage types
  - Little risk of running out of hot water
  - Responsive to changing hot water usage

Water Heater Efficiency Comparison



Hot Water Piping

- All hot water piping shall be engineered "home run" type and all hot water pipes to kitchens shall be insulated
  - Direct runs of small diameter PEX tubing from water heater to fixtures
  - Code approved
  - No increase in cost
  - Less water and energy waste
  - Meets 2005 Title 24 requirements

Appliances

- All dishwashers shall be Energy Star listed
  - Only appliance that is always installed by the builder
  - Use less electrical energy
  - Use less water

10

Lighting

- Fluorescent lights shall be provided in all ceiling can fixtures and bathroom fixtures
  - Less one third the energy use compared to incandescent
  - Decreases load on the air conditioner
  - Costs are falling and longevity is improving
  - Sizes and color rendition close to incandescent

3. SOLAR PHOTOVOLTAICS

3.1. To facilitate future installation of solar electric systems, all new homes shall have a minimum of 240 ft² of south roof area that is free of obstructions.

The owners of this Livermore, California home built by Centex Homes have yet to pay for electricity

PHOTOVOLTAICS (continued)

3.2. All new homes having a conditioned floor area of 2500 ft² or greater shall be equipped with a 1" or larger conduit between the attic space and the main electrical panel to facilitate wiring for future photovoltaic systems.

3.3. All new homes having a conditioned floor area of 3500 ft² or greater shall be equipped with a functioning photovoltaic system with an STC rating of 1.5 kW or greater.

PV System Benefits

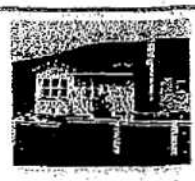
- Current California rebates of $3.00 per Watt (after July 1)
- California 7½% tax credit
- Can yield a positive cash flow with rebates and time-of-use rates applied
- Supported by federal programs

11

Pending Legislation & State Programs

- SB 1652 - Murray
  Requires at least 25% of all single-family homes built as part of a development larger than 25 homes to have PV systems starting in 2006.
- California Zero Energy New Homes
  Energy Commission program will provide $8 million in funding to develop zero energy communities and business models.

Building-Integrated PV Systems



"Zero Energy" model home in San Ramon, California

General Electric "solar tile" integrated PV modules being installed with roof tile

4. WASTE REDUCTION

4.1. Construction waste shall be separated, and wood, steel, and gypsum products shall be recycled
- Reduces impact on Yolo County landfill site
- Reduces transportation and disposal costs
- Waste wood can be used to generate electricity (Woodland Biomass Power Ltd.)

SUMMARY OF BENEFITS

- Energy savings and peak demand reduction
  - Energy Star measures and PV systems
  - Narrow streets, bike paths & street trees
- Water savings
  - Hot water distribution savings, reduced power plant load
- Air quality, health & safety improvements
  - Narrow streets, bike paths & street trees
  - Energy Star design and PV systems
- Reduced load on utility trans.& dist. System
- Reduced waste

12

EXHIBIT E
School Agreement

MUTUAL BENEFIT AGREEMENT BETWEEN

DONALD M. MILLER

AND

WINTERS JOINT UNIFIED SCHOOL DISTRICT

THIS MUTUAL BENEFIT AGREEMENT ("Agreement") is entered into this 20th day of April, 2005, by and between

DONALD M. MILLER,
hereinafter referred to as "*Developer*"

whose address is
20 College Park
Davis, CA 95616

and

.....TERS JOINT UNIFIED SCHOOL DISTRICT

Yolo County, California, hereinafter
referred to as "District"
whose address is
909 West Grant Avenue
Winters, CA 95694

RECITALS:

A. WHEREAS, *Developer* is the owner and developer of certain real property commonly referred to as the Creekside Estates Project described on Exhibit "A", attached hereto and incorporated herein by reference (hereinafter "the Property"); and

B. WHEREAS, the Property is located within the boundaries of the District; and

C. WHEREAS, *Developer* represents to the District that it proposes to construct residential dwelling units within the District, consisting of thirty-six (36) market rate, single family residential units, and four (4) affordable units on site, one (1) affordable unit will be for moderate income persons, two (2) will be for low income persons, and one (1) will be for very low income persons. (Collectively, the 40 single family residential dwelling units shall be referred to as "the Project"); and

D. WHEREAS, the District's facilities are currently at capacity and the District has the authority to levy fees on developers to mitigate the impact that future development will have

on the District's school facility needs within certain limits prescribed by law; and

E. WHEREAS, the District is currently levying fees pursuant to Government Code section 65995.5 ("Level II fees"); and

F. WHEREAS, *Developer* and the City of Winters are intending to enter into a development agreement which will provide for the voluntary payment by *Developer* of additional impact fees to the District of the equivalent of Level III fees on thirty-seven (37) residential units in the Project; and

G. WHEREAS, *Developer* and the District desire to set forth the agreements between them in writing so that the Agreement may be enforced by the District.

NOW, THEREFORE, in consideration of the terms and conditions herein set forth, the District and *Developer* do hereby agree as follows:

1. *Developer* agrees to mitigate the impact on District facilities as a result of the Project by the payment of the equivalent of Level III fees in effect as of the date of payment as specifically described herein, which will be payable in two installments as follows:

A. Payment of the equivalent of Level II fees which are in effect at the time Developer seeks issuance of a building permit, covering the square footage of residential construction for each single family residential unit, to be payable prior to the time a building permit is issued.

B. Payment of additional voluntary fees to be calculated as the difference between the first installment of Level II fees previously paid pursuant to Paragraph A above, and the current Level III fees in effect at the time of payment of the second installment, covering the square footage of residential construction for each single family residential unit, to be payable at the close of escrow on the sale of said single family residential unit.

2. The payments described in paragraph 1 shall be paid on the thirty-six (36) market rate residential units, and one (1) affordable residential unit for moderate income persons within the Project.

3. This Agreement and specifically paragraph 1, shall not apply to any residential units in the Project constructed specifically for low and very low income persons, it being acknowledged by the parties that those residential units would remain subject to the statutory Level II fees as described in Paragraph E hereof.

4. *Developer* shall not be required to pay directly to the District any fees or charges in addition to the payments described in Paragraph 1. Nothing contained herein shall prevent the District from seeking other means of mitigation or additional funding for school facilities from other sources, but nothing herein obligates the District to do so. In addition, nothing contained herein shall prevent the City of Winters from requiring other impact fees from *Developer* for purposes other than school impact mitigation which may also benefit District properties.

5. A. It is anticipated that an executed copy of this Agreement will be attached as an exhibit to the Development Agreement between *Developer* and the City.

B. The District shall provide *Developer* and/or its successors in interest with two appropriate releases within a reasonable time for each single family residential unit for which *Developer* has paid the fees agreed upon in this Agreement as follows:

1) The first release shall be conditioned upon the payment in full of Level II fees as described in Paragraph 1A and shall serve to authorize the City to issue a building permit.

2) The second release shall be provided after the payment of the fee described in Paragraph 1 B.

C. The City has advised both the District and *Developer* that no building permit will be issued until *Developer* has paid the required Level II fees pursuant to Paragraph 1 A above and the District has notified the City of such payment by delivering a copy to the City of the release specified in B. 1) of this paragraph 5.

D. The District shall provide a release from the recorded memorandum of this Agreement to *Developer*, or to an escrow holder designated by *Developer*, when *Developer* has paid the District the additional fees for a single family residential unit, described in Paragraph 1 B.

E. No fee shall be required for issuance of a building permit for subdivision improvements (including, but not limited to utilities, curb, gutter, sidewalk, roads, alleys, grading, walls or monuments).

6. *Developer* acknowledges that the payments established in this Agreement are in excess of the Level II fees the District is authorized by statute to impose and agrees that it is entering into this Agreement voluntarily and that it waives any right to protest, challenge or object to the payments as set forth in this Agreement.

7. The District acknowledges that the legal limitations on the amount of payments established in this Agreement may be hereafter be amended or adjusted by legislative or administrative action, or may be invalidated or augmented as a result of court action, and agrees that it waives any right to school impact fees from *Developer*, its successors or assigns, other than as provided for in this Agreement

8. This Agreement is for the benefit of the Project and is intended to preserve its value and enhance its development. *Developer* agrees that for the benefit of the District, the City, and for itself, that it will construct and pay for any and all road improvements (including, in addition to the traveled way, such items as shoulders, bike lanes, sidewalks, and utilities) along any District property which may be required by the City or otherwise, and that it will not seek reimbursement for such improvements from the District.

9. A. The parties agree that the Project shall be held, transferred and encumbered,

subject to the provisions of this Agreement, which is for the use and benefit of each and every person or entity who now or in the future owns any portion or portions of said real property. This Agreement and all rights and obligations hereunder shall be binding upon and inure to the benefit of the parties hereto and their heirs, successors, assigns and personal representatives. *Developer* shall be permitted to sell or assign all or any portion of the properties described in Exhibit A to any other individual, partnership, corporation, licensed contractor, or limited liability company for purposes of development of residential lots or residences on such lots, subject to said assignee assuming all Developer's obligations hereunder.

B. A Memorandum of this Agreement in the form of Exhibit "B" to this Agreement shall be recorded in the Office of the County Recorder of Yolo County, California. Such Memorandum shall be executed by the parties before a notary, and shall constitute a covenant which shall run with the land; provided however, as to any lot within the Callahan Parcel on which a dwelling unit has been constructed, and for which an occupancy permit has been issued, and escrow for the sale to a third party has closed, this Agreement shall be deemed terminated and of no further force or effect.

C. Upon *Developer's* payments as described in Paragraph 1 hereof, District agrees to execute any documents necessary or convenient including, but not limited to a lien release and escrow instructions in order to release any lien existing on said lot by virtue of this Agreement or the Memorandum of Agreement referenced herein.

10. The parties acknowledge that in consideration of the payments as provided in this Agreement, the Callahan Parcel will be exempt from and excluded from inclusion in any landowner Mello-Roos Community Facilities District formed by the District for the purposes of financing the acquisition and development of school facilities. This section is not intended to prevent the school district from using State funds under the Leroy Greene Lease Purchase Act or other applicable legislation including, but not limited to, land donations, general obligation bonds, or other sources of funding to finance the acquisition, design, construction, or reconstruction of school facilities.

11. Should any suit brought by either party against the other for the enforcement of any rights of either party against the other pursuant to the provisions of this Agreement, or by reason of any alleged breach of any of the provisions of this Agreement or arising from this Agreement, then and in such event, the successful party in such action shall be entitled to receive from the unsuccessful party all costs incurred in connection with such suit, including a reasonable allowance for attorneys' fees incurred by the successful party.

12. All notices or other communications to be given hereunder shall be in writing and shall be deemed received when personally delivered by commercial courier or otherwise, or three business days after deposit in the United States mail, postage prepaid, addressed as follows:

Developer:

Mr. Donald M. Miller
20 College Park
Davis, CA 95616

District: Winters Joint Unified School District
909 West Grant Avenue
Winters, CA 95694
Attn.: Dale J. Mitchell, Superintendent

13. Should the provisions of State law preclude the District from levying statutory developer fees or remove the statutory limits on developer fees, this Agreement shall be considered a current obligation of *Developer* for each and every single family residential unit planned for the Project whether or not a building permit has been issued, and as such shall have the protection of the California and United States Constitutions.

14. *Developer's* obligations to make any payment under the terms of this Agreement is expressly conditioned upon approval by the City of a Development Agreement between the City and *Developer*. Should this condition not be satisfied then this Agreement shall be void, and of no further force and effect. The District shall in that event execute a release of the Memorandum of Agreement.

15. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

16. This Agreement and all rights and obligations hereunder shall be binding upon and inure to the benefit of the parties hereto and their heirs, successors, assigns and personal representatives.

17. This Agreement constitutes the entire understanding and agreement between the parties and supersedes all previous negotiations among them. Except as otherwise expressly provided, neither this Agreement nor any of its terms may be amended, modified or waived except by written agreement. This Agreement shall, however, be construed in light of and in conjunction with the Mutual Benefit Agreement between the City of Winters and the District.

18. This Agreement shall be governed and construed in accordance with the laws of the State of California.

19. This Agreement shall be effective on the same date as the Development Agreement between *Developer* and the City is recorded in the Office of the County Recorder of Yolo County.

WINTERS JOINT UNION SCHOOL DISTRICT

By Dale J. Mitchell

DEVELOPER

By Donald M. Miller

Donald M. Miller

EXHIBIT A

The land referred to is situated in the County of Yolo, City of Winters, State of California, and is described as follows:

PARCEL NO. 1

Beginning at a point on the Northerly line of Rancho Rio de Los Putos, distant thereon North 65° East, 23.37 chains, more or less, from the Northwest corner of Lot 16 of Waldemars Survey of Subdivision of a portion of Rancho Rio de Los Putos; said point of beginning being also the Northeast corner of a tract of land now or formerly owned by G. B. Moore; thence from said point of beginning, North 65° East, along the said Northerly line of said Rancho 62 rods 10 feet to the Northwest corner of a tract of land now or formerly owned by A. B. Wilson; said Northwest corner of said Wilson's land being located North 25° West 39.0 feet and South 65° 1625.70 feet to the Northwest corner of Block 1, D. P. Edwards Addition to the Town of Winters according to the Official Plat thereof, filed for record in the office of the Recorder of Yolo County, California, in Book 39 of Deeds, Page 394; thence South 25° East, along the West line of said Wilson's land, 44 rods to a point; thence South 00° 29.5' West 4 rods, 6 feet and 6 inches to the center of dry arroy; thence Northwesterly along the said center of said arroyo 75 rods, more or less, to the Southeast corner of the first mentioned tract of land now or formerly owned by Moore; thence North 25° West, along the East line of said Moore's land 7 rods to the point of beginning.

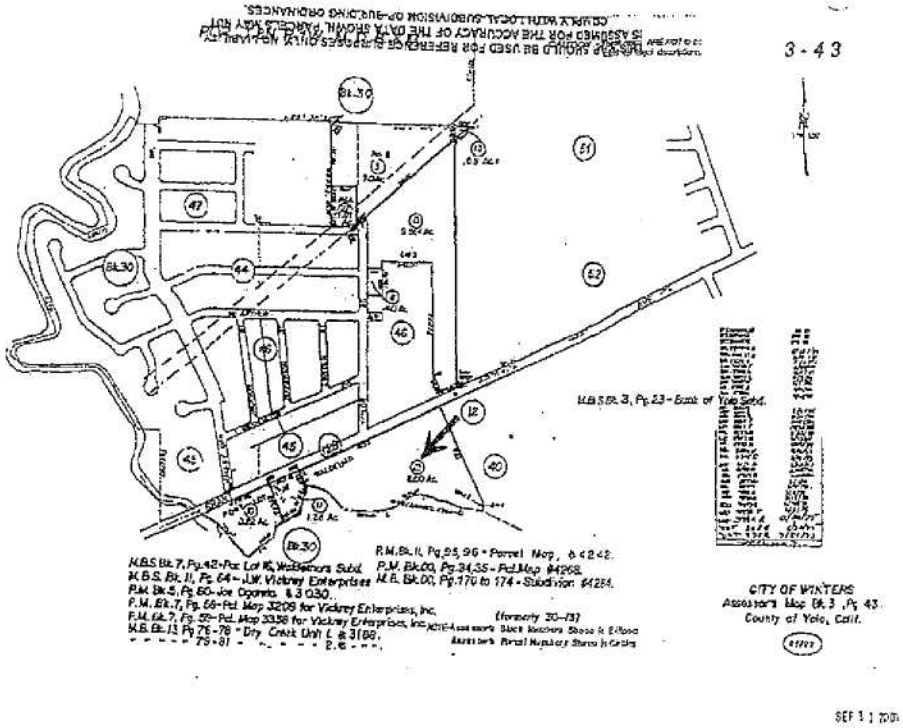
APN: 003-430-12

PARCEL NO. 2

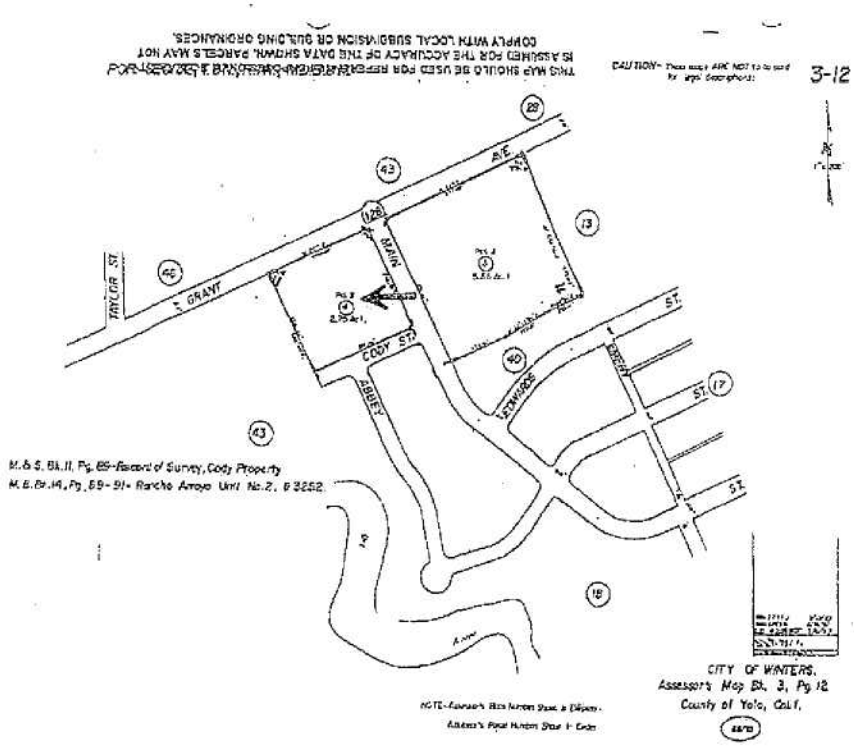
Lot B of Subdivision No. 3252, Rancho Arroyo No. 2, recorded on July 27, 1987, in Book 14 of Maps, Pages 89, 90 and 91, Yolo County Records, and as corrected by Certificate of Correction recorded September 21, 1988, in Book 1969, Page 380, Official Records.

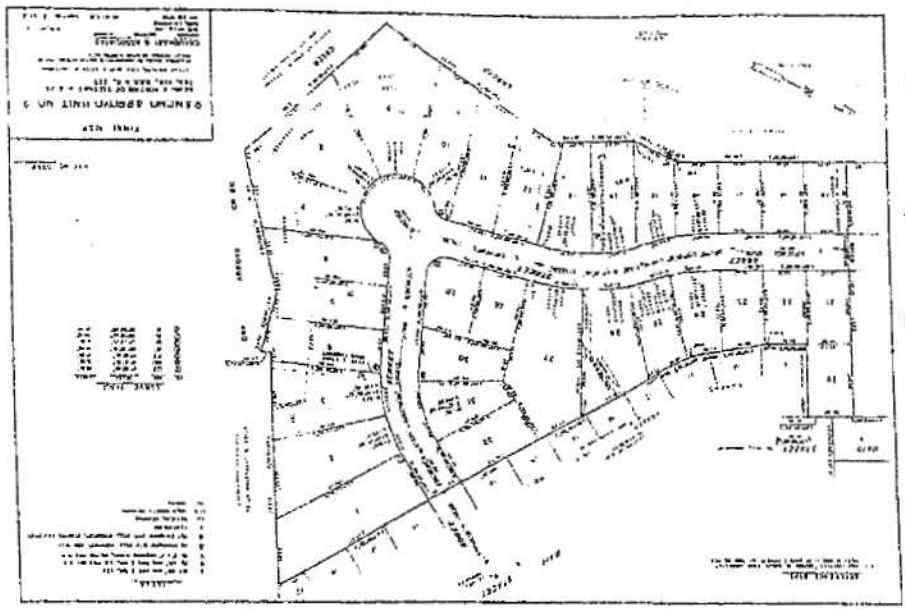
APN: 003-120-04

Description: Yolo, CA Assessor Map 3.43 Page: 1 of 1
Order: stafford Comment:



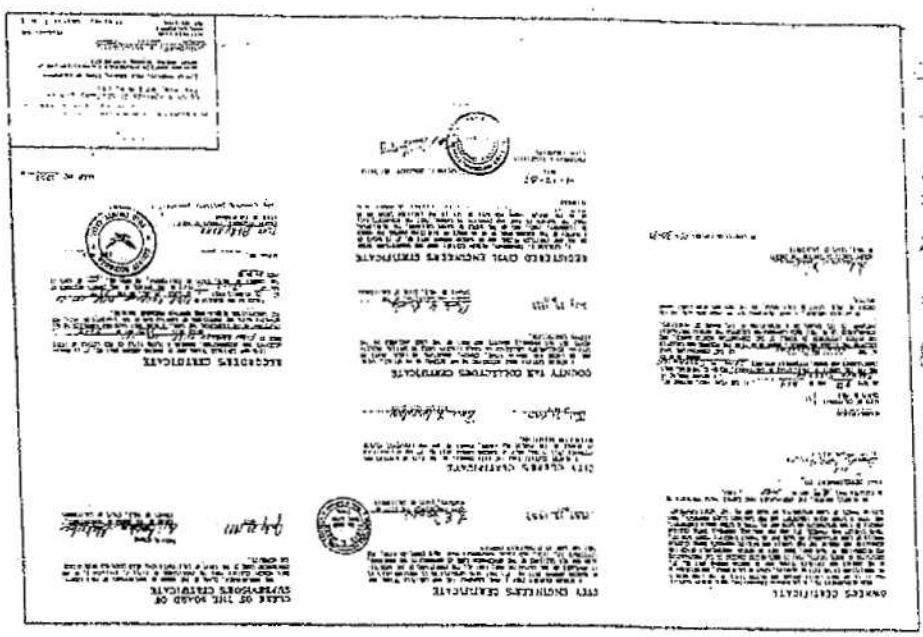
Description: Yolo, CA Assessor Map 3.12 Page: 1 of 1
Order: stafford Comment:





THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

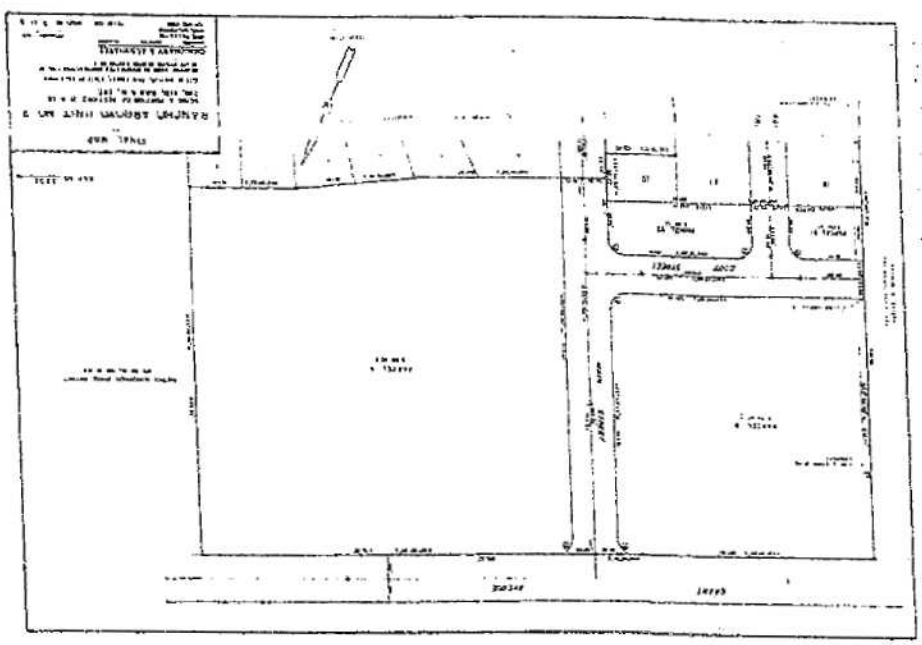
Description: Yolo,CA Tract Map 14.90 Page: 1 of 3
Order: stafford Comment:



THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

Description: Yolo,CA Tract Map 14.89 Page: 1 of 3
Order: stafford Comment:

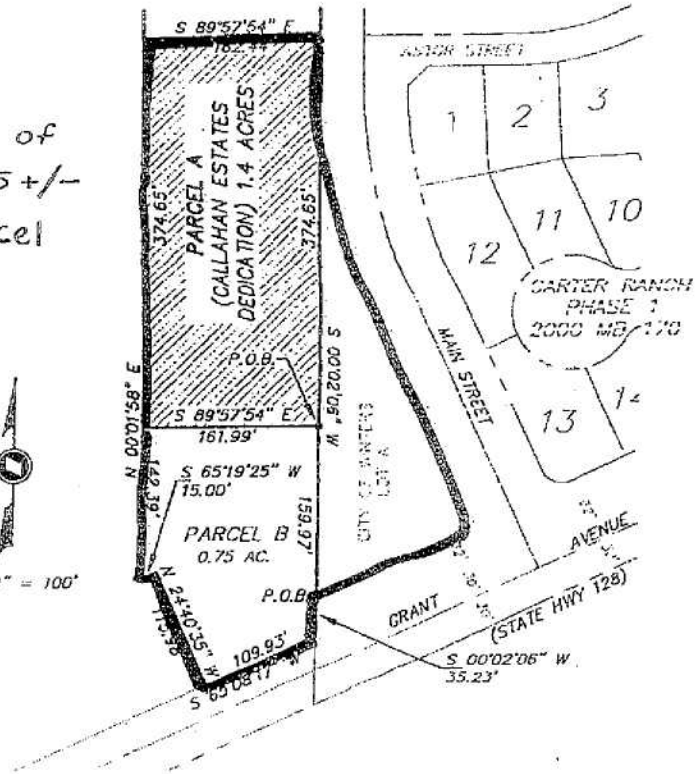
EXHIBIT F
Map of 3.45+/- Parcel



THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

Description: Yolo,CA Tract Map 14.91 Page: 1 of 1
Order: stafford Comment:

Map of
3.45 +/-
Parcel



SCALE: 1" = 100'

YOLO COUNTY, CALIFORNIA
A PORTION OF LOT 3
BANK OF YOLO SUBDIVISION
BOOK 3, MAPS & SURVEYS, PAGE 23
BEING A PORTION OF SECTION 21,
TOWNSHIP 8 NORTH, RANGE 1 WEST,
M.D.M.
MARCH 30, 2005

CIVIL ENGINEERING
LAND SURVEYING
PLANNING
AUGENOUR AND MEIKLE
608 COURT STREET, WOODLAND, CA 95695
PHONE:(530) 662-4733
FAX:(530) 662-4607

ORDINANCE NO. 2012-01_

AN ORDINANCE OF THE CITY OF WINTERS APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE CREEKSIDE ESTATES DEVELOPMENT DATED DECEMBER 22, 2005, BETWEEN THE CITY OF WINTERS AND DONALD MILLER, TO EXTEND THE TERM OF THE DEVELOPMENT AGREEMENT FOR AN ADDITIONAL EIGHT YEARS, REMOVE FUNDING REQUIREMENTS FOR FACILITIES THAT HAVE BEEN BUILT, AND MODIFY LANGUAGE CONCERNING PARK COSTS

WHEREAS, the City of Winters ("City") and Donald Miller ("Miller") entered into that certain Development Agreement dated December 22, 2005 ("Development Agreement"); and

WHEREAS, the Development Agreement provides for the residential development of 41 single-family units ("Project") on 13.7 acres of certain real property in the City ("Property"); and

WHEREAS, after Miller passed away in 2007, his heirs subsequently sold the Property to the Catholic Bishop of Sacramento ("Developer"); and

WHEREAS, the Property has not been developed, and the parties now desire to extend the term of the Development Agreement for an additional eight years and to make other changes to it; and

WHEREAS, on December 14, 2011, the Winters Planning Commission conducted a public hearing pursuant to Government Code section 65867, notice of which was provided in accordance with Government Code section 65090 and 65091, at which hearing all persons wishing to testify in connection with the proposed amended Development Agreement were heard and at which the amended Development Agreement was comprehensively reviewed; and

WHEREAS, on December 20, 2011, the Winters City Council conducted a public hearing pursuant to Government Code section 65867, notice of which was provided in accordance with Government Code section 65090 and 65091, at which hearing all persons wishing to testify in connection with the proposed amendment to the Development Agreement were heard and at which the amended Development Agreement was comprehensively reviewed; and

WHEREAS, the City Council reviewed and studied the amended Development Agreement and found it complies with the California Environmental Quality Act ("CEQA").

NOW THEREFORE BE IT RESOLVED:

SECTION 1. ADOPTION OF AMENDMENT. Pursuant to California Government section 65868, the City Council hereby approves the amendment to the Development Agreement, attached hereto as **Exhibit A** ("Amendment").

SECTION 2. FINDINGS. Pursuant to Government Code section 65867.5 and based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council makes and adopts the following findings:

A. That the Amendment promotes the public health, safety, and welfare of the community because the Amendment will allow the Developer to complete the residential development that will benefit the entire community by providing additional residential units.

B. That the Amendment is consistent with the City's General Plan, as it will allow the Developer to complete the Project, which the City Council previously found to be consistent with the City's General Plan.

SECTION 3. CEQA. The City Council finds and determines that it can be seen with certainty that adoption of this Ordinance will not have a significant effect on the environment. Thus, the adoption of this Ordinance is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. Staff is directed to file a Notice of Exemption with the Yolo County Recorder's Office within five (5) working days of adoption of this Ordinance.

SECTION 4. RECORDATION. Pursuant to Government Code section 65868.5, within ten (10) days following the execution of the Amendment, the City Clerk shall record with the County of Yolo Recorder a copy of this Amendment.

SECTION 5. SEVERABILITY. If any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more of such be declared invalid or unconstitutional.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

The foregoing ordinance was introduced on December 20, 2011, and passed and adopted during a regular meeting of the City Council of the City of Winters on January 17, 2012, by the following vote to wit:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):
ABSTAIN: Council Member(s):

_____
Woody Fridae, MAYOR

ATTEST:

_____
Nanci G. Mills, CITY CLERK

EXHIBIT "A"
AMENDMENT TO THE DEVELOPMENT AGREEMENT

RECORDED AT REQUEST OF AND
WHEN RECORDED MAIL TO:

CITY OF WINTERS
318 First Street
Winters, CA 95695
Attention: City Clerk

(Space Above this Line for Recorder's Use Only)

FIRST AMENDMENT TO

DEVELOPMENT AGREEMENT BY AND BETWEEN

THE CITY OF WINTERS AND

THE CATHOLIC BISHOP OF SACRAMENTO, A CALIFORNIA CORPORATION SOLE

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (hereinafter referred to as the "First Amendment") is entered into as of December _____, 2011, by and between the CITY OF WINTERS, a municipal corporation (the "City") and the CATHOLIC BISHOP OF SACRAMENTO, A CALIFORNIA CORPORATION SOLE, a California nonprofit corporation, (the "Developer").

Recitals

A. The City previously entered into a Development Agreement with Donald Miller, who owned certain real property commonly known as the Creekside Estates Property, with Yolo County Assessor's Parcel Numbers 003-430-120 (consisting of approximately 11.0 acres) and 003-120-04 (consisting of approximately 2.75 acres) (the "Property" or "Creekside Estates Property"). The Development Agreement provides for the residential development of the Property. Any capitalized terms used but not defined in this First Amendment shall have the meanings given in the Development Agreement.

B. Donald Miller's successors subsequently transferred the Property to the Developer, who was assigned all rights and obligations under the Development Agreement as Donald Miller had.

C. In furtherance of the Project, the City and Developer desire to enter into this First Amendment to make certain changes to, and extend the term of, the Development Agreement.

D. City has given the required notice of its intention to adopt this First Amendment and has conducted public hearings thereon pursuant to Government Code section 65857. As

required by Government Code section 65867.5, City has found that the provisions of this First Amendment and its purposes are consistent with the goals, policies, standards, and land use designations specified in the City's General Plan.

E. On December 14, 2011, the City of Winters Planning Commission, the initial hearing body for purposes of Development Agreement review, recommended approval of this First Amendment. On December 20, 2011, the City of Winters City Council adopted Ordinance No. _____ approving this First Amendment and authorizing its execution.

Agreement

Section 1. Section 2.3(b) of the Development Agreement is amended to provide that the term of the Development Agreement shall be extended for an additional eight (8) years, commencing on the date written above in the introductory paragraph ("Effective Date").

Section 2. Section 2.9(d) of the Development Agreement is amended to delete the address to which notice shall be given to Developer and to replace it, as follows:

> Catholic Bishop of Sacramento, a California corporation sole
> Pastoral Center
> 2110 Broadway
> Sacramento, CA 95818
> Telephone: (916) 733-0100
> FAX (916) 733-0295

Section 3. Section 4.1(b) of the Development Agreement is amended to read as follows:

> As a condition to the approval of this Agreement by the City, Developer's predecessor presented to the City Council a fully executed agreement acceptable to the City between the Developer and the Winters Joint Unified School District ("School District"). That agreement provides, in addition to other matters as the parties agreed, that the Developer will pay to the School District, at the time of the issuance of a building permit, certain "Level 2" fees and will voluntarily pay certain "Level 3" fees, as those terms are commonly used in the K-12 education community. Should Developer and School District amend their agreement to change the amount or payment of the "Level 2" and/or "Level 3" fees, Developer shall provide a copy of such amendment to the City.

Section 4.Section 4.1(b)(1) and (2) and Section 4.1(c) are deleted from the Development Agreement.

Section 5. Section 4.2(e)(2) of the Development Agreement related to the estimated cost of park infrastructure improvements is amended to read as follows:

> 2. The estimated costs of the infrastructure improvements and development of a park (including planning, developing, and equipping the same) will be calculated by the City Engineer based on an estimated cost index of park improvements of

municipal park projects developed within the previous 24 month period.

Section 6. Section 4.2(e)(3) is deleted from the Development Agreement.

Section 7. Section 4.3 of the Development Agreement, entitled "Advance Funding of Fees for Construction of Police/Fire/Corporation Yard Facility" is deleted as the facility has been constructed.

Section 8. Section 4.4 of the Development Agreement, entitled "Payment to Library Fund" is deleted, but the Section 4.4 entitled "'Annuity in Lieu of Mello-Roos District" shall not change.

Section 9. Section 4.7 of the Development Agreement ,entitled "Urban Water Management Plan," is renumbered to be section 4.6.

Section 10. Section 4.8 of the Development Agreement, entitled "Water Well," is deleted as a well has already been constructed.

Section 11. The effective date of this First Amendment shall be the date as written above in the introductory paragraph. Except as modified and amended by this First Amendment, all other provisions of the Development Agreement shall remain unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have entered into this First Amendment as of the date first above written.

CITY:	**DEVELOPER:**
CITY OF WINTERS _____ Mayor	CATHOLIC BISHOP OF SACRAMENTO, A CALIFORNIA CORPORATION SOLE, a __ _____ By: _____ Its: _____
ATTEST: _____ City Clerk	

CITY OF
WINTERS
california
Est. 1875

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members

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

DATE: Jan. 17, 2012

FROM: Dawn Van Dyke, Management Analyst

SUBJECT: Appointment of City Council member to Community Choice Aggregation (CCA) Committee for Yolo County.

RECOMMENDATION: That the City Council receive the report and appoint a City Council member to the Community Choice Aggregation (CCA) Committee for Yolo County.

BACKGROUND: One of the recommendations included in the Yolo County Climate Action Plan in order to achieve its greenhouse gas reduction target is to pursue a CCA Program. According to Measure E-1 in the Plan, the benefits of CCA include local control over energy resources, the ability to provide electricity at a lower overall price and greater use of renewable energy.

In a CCA, cities and counties supply electricity to customers within their jurisdiction by combining the loads of residents, businesses and municipal facilities. A CCA does not own transmission and delivery systems, but is responsible for providing electricity to customers. Commonly, a CCA purchases electricity from private electricity generators through an RFP process. If adopted, it is deemed crucial that PG&E remain a partner in the CCA program and continue to provide electricity to those customers who wish to remain with them, as well as providing natural gas for all customers. PG&E would deliver the energy through its transmission facilities and provide billing and customer service.

It is believed that a CCA would "facilitate implementation of an aggressive program to increase use of renewable energy resources and promote improved energy efficiency" (Measure E-1). While it is assumed that a percentage of customers (25-30%) would opt-out of the CCA and continue to purchase their electricity from PG&E, approximately 50 % of customers are anticipated to purchase a "light green" energy portfolio, which is comprised of both renewable and conventional

energy sources. The remaining 25% of customers would purchase a "dark green" or "deep green" portfolio, which is comprised of a high percentage of renewable energy sources and is priced at a higher premium.

Yolo County Climate Change Advisor John Mott Smith has prepared a Preliminary Scoping Report (attached). Next steps include establishing a committee of policy makers to decide whether Yolo County wishes to pursue a CCA. If the committee decides to pursue a CCA, a detailed feasibility study would need to be initiated and could result in up-front costs. Subsequently, a business plan and implementation strategy would be developed.

FISCAL IMPACT: None by this action; there could be costs involved in the development of a feasibility study and other reports/plans.

ATTACHMENTS: Community Choice Aggregation Preliminary Scoping Report

DATE: September 26, 2011

TO: Dirk Brazil
Assistant County Administrator

FROM: John Mott-Smith
Climate Change Advisor

SUBJECT: **COMMUNITY CHOICE AGGREGATION: PRELIMINARY SCOPING REPORT**

BACKGROUND

On March 15, 2011 the Yolo County Board of Supervisors adopted a Climate Action Plan (CAP) designed to achieve its greenhouse gas reduction target of 27 percent below 1990 levels by 2030. Included in this plan is a requirement to determine the potential feasibility and benefits of Community Choice Aggregation (CCA). The first steps in this process are preparation of a "preliminary feasibility study," and establishment of a stakeholder advisory committee, followed by development of a business plan and implementation strategy. The CAP also identified analysis of "energy production costs" as a first step, but this analysis is more appropriately conducted at a later stage in the process (i.e. development of a business plan and implementation strategy).

The Board indicated its wish to have a report on CCA by October 2011. The CAP indicates a timetable of 2012 for a feasibility study and identification of partner jurisdictions, with development of a business plan and implementation strategy by 2015.

This document is a "scoping" report that identifies the necessary elements of a feasibility study and business plan, and describes the efforts and experiences of other jurisdictions which have either considered or are now considering establishment of a CCA.

SUMMARY

The bottom line appears to be that a CCA is not for everyone, but it is for some. What appears to matter most is that the goals for the CCA resonate with and receive support from the community as a whole, that the project pencils out for ratepayers, and risk to taxpayer dollars is minimized or eliminated.

There are both risks and benefits in forming and operating a CCA. To date, of the jurisdictions that have considered formation of a CCA only one --- Marin Energy Authority --- is in operation (began May 2010) in California. CCA's also operate in Ohio and Massachusetts. In California, several jurisdictions have put the process on hold or abandoned the effort. At least two are currently considering joining the Marin Energy Authority. One (San Francisco) appears on track to establish their CCA and begin operation in mid-2012. Other jurisdictions are, like Yolo, in the beginning stages of a process to evaluate whether to form a CCA.

The success of the Marin Energy Authority appears to rest in large part on a "green consciousness" in the community that was leveraged by a consistent public education, involvement, and information effort over a period of years prior to implementation that resulted in an informed public with confidence in the CCA.

The process of forming a CCA is technically, financially, and legally complicated and will require one or more consultants to succeed.

There may be more than one path available to Yolo County if it wishes to form a CCA: creation of a Yolo Power Authority; exploring the potential for a Yolo-Solano Power Authority, or; joining with the Marin Energy Authority.

Yolo County can form its own CCA or invite cities (and other entities such as UC Davis and Yoche De He) to form a Joint Powers Authority (JPA) that would both expand the customer base and also insulate taxpayer dollars from exposure to liability.

The goals of a CCA need to be clearly spelled out before development of a business plan and implementation strategy. For example, is it the goal of the CCA to provide energy at a lower cost than the utility? Similarly, is it a goal to reduce greenhouse gas emissions through "carbon free" energy sources or to obtain a greater percentage of "renewable" energy?

A CCA is not a municipal utility; PG&E will remain as an integral partner and participant in providing energy (both electricity and natural gas) and services (billing, customer service, etc.) to Yolo County customers. An effective and cooperative partnership with the utility is an important ingredient in the potential for success of a CCA.

In addition to determining energy supply sources and rate structure CCA can choose to develop or finance development of energy production facilities, either within Yolo County, regionally, or remotely.

The pioneering efforts to form CCA's in San Joaquin and Marin involved numerous and detailed disagreements with PG&E over implementation procedures, and each of these jurisdictions expended significant time and funds for legal assistance, representation before the CPUC at regulatory proceedings, and efforts to inform the public. More recent efforts to form a CCA do not appear to include this level of conflict with the utility and the CPUC has resolved many of the early issues. As a result, while new issues may arise and require discussion and resolution, an effort to establish a CCA in Yolo County is not likely to involve as many of these types of expenses.

WHAT IS COMMUNITY CHOICE AGGREGATION?

AB 117 (Chapter 838, Statutes of 2002) amended the California Public Utilities Code to allow a local government or group of local governments to "combine the loads of its residents, businesses, and municipal facilities in a community-wide electricity buyers program."

Upon establishment, customers have the choice of receiving electrical energy from the CCA or "opting out" and continuing to receive electricity from PG&E. After the initial enrollment period, customers may still choose to opt out, but mechanisms (fees, time limits, etc.) are in place to discourage excessive back-and-forth movement by customers.

All customers will continue to receive natural gas from PG&E. There is a separate program ("Core Gas Aggregation") for jurisdictions interested in purchasing natural gas from third party suppliers. The City of Woodland is apparently exploring this program.

A CCA is not a municipal utility: PG&E will continue to provide for transmission (long distance, high voltage) and distribution (delivery to homes and businesses, lower voltage) of electricity, including maintaining the infrastructure to do so. In addition, PG&E will continue to provide customer services such as billing, meter reading, outage restoration, extension of new service, and customer call centers.

Customers will continue to receive a bill from PG&E that will include the costs of transmission, distribution, and other miscellaneous charges (Public Purpose Programs for energy efficiency and assistance to low-income ratepayers; costs associated with decommissioning of nuclear power plants, bond payments collected on behalf of the Department of Water Resources, Competition Transition Charges associated with the energy crisis of 2001 and PG&E's subsequent bankruptcy, a California Energy Commission Tax, and, at the customers option, a fee through the Climate Smart program to offset the greenhouse gas emissions required to produce electricity for the customer). In general, CCA customers do not pay PG&E for "generation" but do pay for the rest of the above list, plus a Power Charge Indifference Adjustment, a component of the Cost Responsibility Surcharge (collected by PG&E on behalf of DWR) and a Franchise Fee Surcharge for "non-utility suppliers."

The cost of "generation" of the electricity will be listed on the bill, either as a charge from PG&E or the CCA. As a part of utility restructuring, PG&E divested itself of much of its generation facilities, though they are currently involved in development of renewable energy generation facilities they will own and operate.

The CCA can determine the cost to the consumer of the energy it selects. For example, Marin offers, in addition to the choice for PG&E to continue supplying power, a "light green" rate for electricity through the CCA that is approximately in parity with PG&E rates and reflects 25% renewable energy generation or a "deep green" rate, also through the CCA, that is slightly higher than PG&E rates but is generated from 100% renewable energy sources.

All electricity providers, including CCA's, must have capacity (owned or under contract) to meet peak electricity demand ("Resource Adequacy Requirement").

A BRIEF OUTLINE OF THE PROCESS FOR ESTABLISHING A CCA IN YOLO COUNTY

The process divides more or less into three parts. First: development of a Scoping Report to identify issues and procedures. This report completes this step. Second: determining feasibility and desirability through a technical and financial analysis as well as an assessment of public support. Third: assuming the project is determined to be feasible and desirable, development and approval of a detailed business/implementation plan.

Determine Feasibility and Desirability

1. Determine if the cities of Davis, Woodland, West Sacramento, and Winters are interested in participating in a Joint Powers Authority. Determine if Solano County, the University of California at Davis, and Yoche De He are interested. Member jurisdictions should assist in the process of analyzing and developing a CCA, including contributing to the cost of consultant services.

2. Establish a Steering Committee of interested parties, including a Chair. Interested parties would include representatives from each jurisdiction as well as constituencies such as the farm community, business, etc.

3. Steering Committee: Determine goals, objectives, and criteria (see discussion, below) for deciding whether to form a CCA.

4. Steering Committee: Determine whether to initiate a Yolo CCA or request to join Marin Power Authority or take another direction. Extend invitation to MEA to discuss their program with the Board of Supervisors and public.

5. Steering Committee: Develop outreach plan for community education and involvement. Consider county-wide survey of customer attitudes.

6. Steering Committee: Based on the results from 1-5 above, determine an appropriate schedule and target implementation date. The schedule should include key steps and identify any "off ramps" for member jurisdictions along the way as.

7. Jurisdictions adopt Resolution of "Intent to Explore CCA" and request load data from PG&E

8. RFP for consultant to develop feasibility study.

Develop Business/Implementation Plan

9. If the Steering Committee, based on the results of the feasibility study, determines a CCA is feasible and desirable, develop an RFP for a consultant to prepare a detailed business plan (see discussion, below), including an organization plan, load forecast, financial plan, and other required elements of an Implementation Plan.

10. Form Joint Powers Authority.

11. Apply for Certificate of Registration with California Public Utilities Commission (CPUC).

12. Submit Implementation Plan, as developed by the consultant and approved by the governing body, to California Public Utilities Commission for approval.

13. Receive approval from CPUC

14. Develop and issue an RFP for an energy provider.

SUMMARY OF THE YOLO COUNTY CLIMATE ACTION PLAN AS IT RELATES TO COMMUNITY CHOICE AGGREGATION

The Yolo County Climate Action Plan calls for a 27% reduction in greenhouse gas (GHG) emissions by the year 2030 against a baseline level of 613,651 metric tons of CO2 equivalent per year in 1990 (for convenience sake, emission numbers cited in this scoping document will be rounded to the nearest thousand and, unless otherwise specified, the units will be MTCO2e/yr) and 53% below 1990 levels by 2040. Emissions in 2008 were 651k, an increase of 6% over the 1990 baseline.

In order to accomplish these reductions it's necessary to not only reduce from current levels but also from projected levels that will accrue due to population growth and other factors (estimated in the Climate Action Plan as 993k in 2020 and 1,394k in 2030).

According to the CAP, implementation of federal and state GHG reduction measures will reduce Yolo County's GHG emissions by 12% of the projected level for 2020.

The CAP proposes GHG reduction measures in five sectors: Agriculture, Transportation, Energy, Solid Waste, and Wastewater. Two sectors (Stationary Sources, Mining and Construction) are outside of Yolo County's jurisdictional control and therefore no reduction measures are proposed. Similarly, the CAP does not account for emissions from autonomous jurisdictions such as UC Davis and Yoche De He.

Establishment of a CCA is one of the recommended measures to reduce GHG emissions in the "Energy" Sector. According to the CAP, the Energy sector contributed about 21% of all greenhouse gas emissions in 1990, most of which were due to emissions required to produce and provide electricity and natural gas for residential and commercial purposes. The Energy sector had, however, grown to a 28% share by 2008 with projections for 41% in 2020 and 45% in 2030 (see page 15, Yolo County Climate Action Plan).

According to the CAP (Table ES-2), the Community Choice Aggregation program is the single most important measure in the CAP, accounting by itself for 43% of the GHG reductions in 2020 and 29% in 2030. Excluding formation of a CCA , absent other reduction strategies, could make it very difficult to meet the county's GHG reduction goals.

The CAP estimates that establishment of a CCA would result in a reduction of 117k MTCO2e in 2020 and 146 MTCO2e in 2030. This is almost double the reduction in GHG's achieved by all the other measures in the Energy sector combined.

In terms of participation in the CCA, customers may choose to receive energy from either PG&E or the CCA. Of the entire customer base in 2020, the CAP anticipates that 25% would continue to use PG&E as their electricity provider, 50% would choose a "light green" option with rates equivalent to PG&E rates but with a higher proportion of energy produced from renewable sources, and 25% would be willing to pay a premium of 10% above PG&E rates for energy produced 100% from renewable sources. The CAP estimates that by 2030 0% of customers would choose to obtain energy from PG&E, 75% would subscribe to the "light green" option, and 25% would choose the "deep green" portfolio. These are aggressive assumptions.

QUESTIONS TO BE ANSWERED REGARDING ESTABLISHING CCA IN YOLO COUNTY

This Scoping Report reflects conversations with each of the jurisdictions in California that has considered or is currently considering forming a CCA, as well as with consultants, various experts, the California Public Utilities Commission, and interested parties. This scoping report is not a technical discussion, but is rather intended to provide policy makers with information about what other jurisdictions have identified as key issues, what we can learn from their experience, and recommendations for a path towards a decision whether a CCA is feasible and desirable for Yolo County.

SHOULD YOLO COUNTY GO FORWARD ON ITS OWN, FORM A JPA WITH CITIES OR SOLANO COUNTY, OR PETITION TO JOIN THE MARIN ENERGY AUTHORITY?

Yolo County could form a CCA on its own but given the relatively small number of potential customers in the unincorporated portion of the county this is probably not advisable. A larger customer base spreads costs and generates revenue necessary to operate the CCA. A detailed load analysis and business plan is required to determine feasibility. The county should initiate a process to involve the cities and other stakeholders in a Steering Committee to both assess their interest in a CCA and to assess its feasibility.

Marin Energy Authority has expressed interest in exploring the potential for Yolo County to join that JPA. It is not known what costs or procedures would be required. This may be an easier, less costly and time consuming, simpler path to the benefits of a CCA but it is not known what costs and/or procedures might be required. This alternative should be discussed by the Steering Committee and, if appropriate, fleshed out more fully in the feasibility study.

It is important to note that if a JPA is formed the GHG reduction targets and the assumptions in a plan to implement a CCA will no longer depend solely on the Yolo County CAP but will instead reflect the combined baseline and reduction targets for the county as a whole, including all the cities.

Marin expressed, anecdotally, that if Yolo were to join the MEA it would not necessarily follow that Yolo would be represented on the JPA Board or, if represented, whether participation would be proportional to the population/customers of each jurisdiction. However, Marin's documents indicate that JPA board representation would reflect population/customer data. There may be reluctance on the part of MEA to increase its customer base too much, given that Marin's total population base is just over 250,000, not all the cities in the county are participating, and Yolo County, with all its cities, could add an additional 200,000 customers. Such an addition, were JPA board membership to reflect population, could dilute Marin's authority over the actions and policies of the JPA.

It may also be worthwhile to determine whether the University of California at Davis would be interested in engaging as a partner in a CCA. Although they obtain their electrical power from a different source and pay lower rates than residents and businesses in Yolo County there may be a basis for participating. A similar determination could be made with regard to Yoche De He's interest.

WILL IT BE NECESSARY TO ENGAGE A CONSULTANT?

Determining whether the cities and citizens in Yolo County are interested in participation, along with development of goals and objectives, does NOT require a consultant; it can be done with a Steering Committee with some assistance from staff.

If the Steering Committee decides to proceed, a consultant will be required to determine technical and financial feasibility.

Actual formation of a CCA requires a detailed business/implementation plan that must contain prescribed elements and be approved by the CPUC. This step will also require a consultant.

Conversations with individuals with experience in this area indicate that the cost of a feasibility analysis is likely in the neighborhood of between $100,000 and $200,000. Development of a full-blown Business and Implementation Plan could add another $100,000 to $200,000.

If a CCA is formed and begins operation there would be additional costs for start-up (building a staff, establishing governance, technical and legal expertise, etc.) and working capital necessary to operate the CCA until revenue is generated. Estimates for this phase vary considerably but likely involve several million dollars.

All of these costs would be recoverable through the rate base if the JPA /CCA goes forward, and would be apportioned among the member jurisdictions.

WHAT TASKS SHOULD THE STEERING COMMITTEE UNDERTAKE?

First, determine the interest level of each jurisdiction in joining the effort to form a CCA. This "commitment" can include off ramps along the way as more information is generated, but, at some point, the feasibility and business/implementation plans will be predicated on firm commitments to participate in a Joint Powers Authority. In more than one effort around the state to form a CCA, one or more jurisdiction has changed its mind about participating and this reversal has contributed to the eventual dissolution of the JPA or pause in the process.

Second, the Steering Committee should agree on goals and objectives for the CCA. A clear statement of these goals and objections is *critical* for development of a both the feasibility and business/implementation plans. The visioning process must begin with a detailed assessment of both current loads and projected loads that take into account the county's view of the future. For example, is there interest in electrifying local transportation systems, will a significant number of citizens opt for plug-in electric vehicles, etc.

Examples of possible goals and objectives include (some of these are discussed in greater detail below) whether:

(1) It is feasible to obtain energy at rates that are equal to or competitive with those offered by PG&E;

(2) A CCA structure can involve minimal additional costs to local government, and insulate taxpayers from any financial liability.

(3) It is a purpose of the CCA to increase the percentage of energy consumed in Yolo County that is produced from "renewable" sources;

(4) Reduction of greenhouse gas emissions is an agreed upon goal;

(5) The CCA would undertake to manage energy efficiency programs currently implemented by PG&E;

(6) The CCA would include efforts to generate renewable energy, or purchase it, and if there is a preference for local, regional, or state sources.

(7) Whether formation of a CCA could stimulate or result in creation of local "green jobs";

(8) Local control of energy supply and rates can be accomplished with "expertise parity" to the current process at the CPUC.

Third, the Steering Committee should determine whether the option of joining the Marin Energy Authority should be included in the analysis of the feasibility of implementing a CCA in Yolo County. It may also be appropriate to investigate whether Solano County (population approximately 400,000) would be interested in jointly developing a CCA (their Climate Action Plan requires a feasibility study).

Fourth, the Steering Committee should design and build a public information and education program and involve the public in discussions concerning the risks and benefits of a CCA, or pursue other mechanisms to determine the level of public support for a CCA.

There are many questions that arise in the course of establishing a CCA. Establishing a process to identify and answer these questions for ratepayers and taxpayers is an essential component of building public support for whatever decision is reached regarding a CCA.

Development and implementation of a public education and outreach program is an important part of the process. Marin County, for example, conducted a county-wide survey to determine support for a CCA prior to its formation, and provided numerous opportunities for public discussion.

It may be worthwhile to invite representatives from Marin County and other jurisdictions to Yolo County for a presentation to and discussion with the Board of Supervisors and/or a public forum.

Fifth, if the Steering Committee determines the best course is to go forward with a CCA in Yolo County it should recommend a process (including resources) for development of an RFP for a consultant to perform the necessary technical, structural, and financial analyses.

DISCUSSION OF MAJOR ISSUES

RATE PARITY

This is a key issue. If the CCA can't provide energy at a competitive rate with PG&E it is probable that many ratepayers will opt out of the CCA. Reducing the customer base can have a cascading effect as the costs of operating the CCA are spread over fewer ratepayers thereby putting upward pressure on rates and encouraging more customers to opt out. The Yolo CAP greenhouse gas reduction targets assume a 100% customer participation rate by 2030.

The common generalization is that if a goal of the CCA is to increase the percentage of energy produced from renewable sources (and to reduce GHG emissions) the CCA will have a difficult time in the short term (4 or 5 years) providing electricity at a cost lower than that which is available from PG&E . This is due to a number of factors, including the current higher cost of renewable energy. However, over time, the combination of a JPA's ability to finance renewable energy at a relatively low cost and the predicted increase in costs of fossil fuels can combine to increase the likelihood of rate parity in the out years. Community support for the goals of the CCA, including an understanding of (and a willingness to pay) potentially higher rates for energy, at least in the short term, would be a critically important factor in the success of the CCA.

No one can predict the future, and there are many assumptions at play in forecasting whether or not rate parity is achievable, including: the cost of renewable energy, whether the price of natural gas will go up or down, the existence or expiration of tax credits in the private sector for renewable energy development, and the extent of cost advantages a CCA may have in financing its own generation.

There is a tension between the goals of keeping rates competitive with PG&E while simultaneously increasing the percentage of energy provided from renewable sources (see discussion below on "Renewable Energy") since, in general, the cost of renewable energy is higher (though declining) than that of conventional energy sources such as natural gas, hydro-electric, and nuclear.

The Marin Clean Energy Program appears to be increasing energy supply through renewable energy sources at a cost that, although above PG&E rates, is acceptable to its customers. As mentioned above, prior to establishing a CCA Marin conducted a county-wide survey that indicated support for renewable energy even if it cost more. Staff in Sonoma County indicates that, although they have not conducted a survey, it is unclear whether their residents would be willing to pay a premium for renewable energy. The City of Berkeley indicated that the potential higher cost of renewable energy (at least in the short term) was one of the factors important in their decision to put their efforts to form a CCA on hold.

In their business plans, both the City of Berkeley[1] and the City/County of San Francisco contemplate using their ability to issue bonds as a favorable financing mechanism to build renewable energy generation. This could, in the longer term, balance the higher costs of renewable energy and result in lower energy rates; but the expectation would be for higher rates in at least the first few years during which the potential for customers to opt out creates an uncertainty. The business plan for Berkeley estimated rates at between 3 to 6% higher for the first 4 years and then between 7% below and 10% above PG&E rates after that.

Marin offers energy rates specific to the residential, commercial/industrial/general service, and agricultural sectors. They also have specific rates for street lights/outdoor lighting. Residential customers have three choices for the purchase and price of energy. One is PG&E. The second is what they refer to as "Light Green" that is at approximately the same rate as PG&E but is produced with a 25% renewable energy content, currently higher than PG&E's energy mix (See discussion below on "Renewable Energy"). This is the default rate for new customers. The third choice is "Deep Green" energy which is produced from 100% renewable energy sources (wind, solar, biomass from Northern California, Oregon, and Washington) and has a premium of $0.01 above PG&E rates. Marin expects to increase "Light Green" to 50% renewables by 2015.

The goal of rate parity is common to almost all jurisdictions that have considered or are considering a CCA. The ability of aggregated jurisdictions to buy energy at bulk (lower) rates is the *singular goal* of the Northeast Ohio Public Energy Council (NOPEC), a CCA involving 126 communities in 9 counties in Ohio. One of the primary requirements of the San Joaquin Valley Power Authority was an energy cost a minimum of 5 percent below utility rates; the inability to meet this requirement was one of the reasons the CCA did not go forward.

The ability of a CCA to achieve rate parity depends on several factors. Marin established this as a key criterion in its selection of Shell Energy of North America as its energy provider. Other factors include

[1] For simplicity, references to the "City of Berkeley" refer to the effort to establish a CCA through the East Bay Power Authority, which initially included the cities of Berkeley, Oakland, and Emeryville.

costs for the JPA to manage the CCA. These costs are funded through the rate structure. Marin began operations with four full time employees. The business plan for the City of Berkeley envisioned (eventually) 20 full-time staff.

It is important to note that a CCA can "phase in" rate payers. For example, start with municipal customers in order to make sure billing and other services are functioning properly. Marin began with a target of about 9,000 customers and experienced a 20% opt out rate, some of which can be attributed to PG&E's efforts to discourage customers from joining the CCA.

Recent action by the PUC to "flatten" the rate structure by decreasing the rates for the upper tiers and increasing the rates for lower tiers may have made it marginally more difficult for CCA's to offer rates similar to PG&E and also pursue renewable energy sources.

FINANCIAL RISK

A goal of equal importance to that of rate parity is insulation of taxpayers from financial liability. Formation of a JPA generally accomplishes this goal, though there has been some uncertainty expressed as to whether the potential for the customer/revenue base to shrink through the "opt out" process could jeopardize the stability of the JPA and/or result in a requirement for local jurisdictions to guarantee loans for program start up or construction of generation facilities.

The "opt out" rate for Marin was approximately 20%. Experience from Ohio and Massachusetts indicates a 10% opt out rate. The opt out rate may be higher in the initial years following formation of a CCA due to the higher cost of renewable energy and other factors and the potential difficulty of retaining customers during this period is an element of risk.

During the effort to form a CCA in San Joaquin there was an issue as to whether JPA member jurisdictions were subject to "joint and severable liability" for costs incurred by the JPA. The CPUC has apparently settled this question indicating that member jurisdictions are not liable for JPA costs.

Financial risk can take several forms.

First, the process of forming a CCA necessarily requires incurring "pre-implementation" costs for feasibility studies, legal analysis, development of a business plan, assistance in obtaining CPUC approval, development of an RFP for an energy services provider, and other consultant activities. A public education and outreach process would also require staff time and resources. Additional costs would be for monitoring and attending CPUC hearings and tracking legislation effecting CCA development or operation. Experience with other efforts to form a CCA includes examples of "member" jurisdictions deciding at some point in the process they were no longer interested in participating. Such a withdrawal necessarily increases pre-implementation costs for those jurisdictions that remain. These costs could be reimbursed through the rate structure if the CCA was eventually formed.

Costs for San Joaquin and Marin in particular were fairly significant due to the fact that these were pioneer jurisdictions and many of these costs may be lower for jurisdictions like Yolo that follow on the path. In particular, both San Joaquin and Marin expended considerable time and resources contesting and resolving details of implementation with PG&E and the CPUC.

Second, once the decision has been made to form a CCA there are "start-up" costs for the working capital required to hire staff, secure energy contracts, and generally prepare to sell energy. The consultant for the City of Berkeley indicated that these costs could be recovered from revenues over a 5-year period and that exposure to these costs would be minimal as long as the customer base is stable. The City/County of San Francisco apparently experienced a dispute with the energy service provider they initially selected over how start up costs would be financed, with the result that they re-issued the RFP and selected a different vendor.

Third, the ability of a JPA to utilize its authority to issue bonds to build or finance the building of renewable energy sources has been cited by several jurisdictions as one of the most powerful tools available to the CCA to increase the percentage of energy provided from renewable sources while offering rates that are competitive with those offered by PG&E. Member jurisdictions would appear to be insulated from risk associated with the problems or potential failure of one or more of these investments unless, as was previously mentioned, the uncertainty created by the ability of ratepayers to opt out of the CCA resulted in a requirement for member jurisdictions to in some fashion guarantee the financing. Marin County, after extensive technical and legal review, includes in all its energy and vendor contracts provisions that protect JPA member jurisdictions from any liability. Contracts for renewable energy generation can be for relatively short term (5 years) or longer (20+ years). While longer term contracts insulate the CCA from fluctuations in the energy market and guarantee a stable rate they also limit its ability to respond to potentially advantageous changes in the energy market. If customers opted out of the CCA or it otherwise became financially unviable, the strength and legal enforceability of these contract provisions would be important in shielding taxpayers from liability and the generation facilities themselves would be collateral against any claims.

GREENHOUSE GAS REDUCTION AND RENEWABLE ENERGY

A common goal of most efforts to form a CCA has been to provide customers with a higher percentage of energy generated from "renewable" sources in order to meet greenhouse gas (GHG) reduction goals. The Yolo County Climate Action Plan sets a greenhouse gas reduction target of 27% below 1990 levels by 2030. Each of the cities in Yolo County has joined the Climate Change Compact of Yolo County and, by resolution, committed themselves to pursuing a process to identify baseline GHG emissions, set reduction targets, and develop a plan to meet these targets. Yolo County cities can reasonably be expected to support GHG reduction as a goal of a CCA.

If a JPA is formed among the cities within the county (and/or other jurisdictions) the baseline GHG emissions and reduction targets will reflect that: the Yolo CAP will be combined with the efforts in other jurisdictions. Individual cities may have different reduction targets from that set by Yolo County. For example, the City of Davis seeks to achieve the county goal by 2020 --- 10 years earlier than the county. There may be practical and policy differences that result from differing targets in terms of priorities set by the JPA.

The federal government and the State of California are acting to reduce "upstream" greenhouse gas emissions through, among other actions, increasing mileage efficiency for vehicles, increasing building and appliance efficiency, and requiring that utilities increase the amount of energy produced from "renewable" energy sources. Recent legislation (SBX1-2, Chapter 1, Statutes of 2011) requires utilities to provide 33% of their electricity from renewable energy sources by 2020. This requirement will assist jurisdictions in meeting their greenhouse gas reduction goals whether or not they form a CCA.

There is a difference between "renewable" and "carbon-free" energy generation. As defined by the State the term "renewable energy" refers to energy that comes from naturally replenished sources such as wind, solar (concentrating or photovoltaic), biomass, geothermal, hydrokinetic (tidal), and small-scale hydro but does not include energy generated from "carbon free" sources such as large scale hydro-electric or nuclear power plants.

Electricity produced by PG&E in 2009 was generated from natural gas (34.6%), nuclear (20.5%), coal (1.3%), large hydro-electric (13.0%), eligible renewable (14.4%), unspecified (15.0%), and "other fossil fuel s (1.2%). The renewable energy was generated from biomass (30.1%), geothermal (29.7%), wind (22.3%), small-hydro (17.8%), and solar (0.2%).

Although only 14.4% of PG&E's 2009 electricity supply was from renewable sources (as defined) the utility has signed approximately 100 contracts since 2002 which, if added to the total place the utility over 20%. In 2010 the percentage of renewables increased to 17.7% (average for investor owned utilities was 17.9%). In 2009 PG&E's electricity supply was approximately 50% carbon-free.

The State has established a "loading order" for new power that requires that utilities invest first in customer energy efficiency, followed by "demand response", which is then followed by development of renewable energy sources and distributed generation (CSI). The last option is "clean fossil fuel" --- the state does not permit production of electricity from coal-fired power plants. As a result, PG&E indicates that projected load growth from 2010 to 2019 will be met by energy efficiency (45%), the California Solar Initiative (6%) and customer owned renewable energy (49%).

Representatives of the Marin CCA indicate that 20% of its customers[2] obtain their energy from PG&E, 73% have signed up for the "light green" option that is at an equivalent rate to that offered by PG&E but has a higher (25% compared to 18% for PG&E) portion of electricity generated from renewable sources, and the remaining 7% are paying a premium for "deep green" energy produced from 100% renewable sources.

The effect of upstream energy efficiency requirements on greenhouse gas reduction in Yolo County is difficult to estimate with any precision. What is clear, however, is that the recent increase of the Renewable Portfolio Standard to a requirement for utilities to produce 33% of their electricity from renewable sources will decrease the marginal benefit of a CCA in terms of its ability to reduce greenhouse gas emissions. Stated another way, PG&E will be required to produce by 2020 a minimum of 33% of its energy from renewables, which will boost the percentage of "carbon free" energy (add in large-scale hydroelectric and nuclear) to approximately 67% of total energy provided. The City of Berkeley cited the increase in the RPS as a factor in their decision to place their effort to form a CCA on hold.

The Yolo County CAP indicates that state actions will reduce GHG emissions in Yolo County by 12% by 2020. The degree to which PG&E will be able to increase its percentage of energy produced from renewable resources is not known but it is increasing in response to state law and regulation. The process of bringing new generation on line is complicated and can take a long time to issue bids, sign contracts, negotiate environmental concerns, obtain financing, site new facilities, obtain permits, and build new transmission capacity, if needed.

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[2] Marin began their CCA as a pilot project for approximately 10% of eligible customers in Phase I; the other 90% are slated to join the MEA in the near future.

It is safe to say that if Yolo County does not develop a CCA it is possible that large-scale renewable energy projects installed on county land could provide electricity (and GHG reductions) to other jurisdictions. Contracts for renewable energy generation may have a term of 20+ years. One project currently being discussed for a site in Yolo County has indicated it is in fact in negotiations with the Marin CCA.

ENERGY GENERATION

A CCA can reduce GHG emissions by purchasing and/or developing renewable energy. The CCA can, by policy and/or through financing, encourage and support locally developed energy generation. Local generation is a goal of the Marin Energy Authority, and is also indicated in the goals for efforts to begin a CCA in San Francisco, Berkeley, and San Joaquin. A CCA could provide a means for financing local, publicly owned and operated renewable energy: for example; utilizing the resources of the Yolo County landfill, local biomass, and commercial roof-top solar.

According to the Yolo County CAP, a CCA can lower the cost of renewable energy development through the lower financing costs of tax free revenue bonds, the fact that a CCA has no stockholders or investors to consider, and because the CCA does not pay income taxes.

Although bond financing is a major advantage in terms of financing renewable energy it will take time for the JPA to establish its credit worthiness and in the interim it may wish to contract with an energy provider, as the Marin Energy Authority has done, for its electricity needs. Currently, federal tax credits for renewable energy development somewhat level the playing field for the private sector, but if these credits expire and are not renewed this will increase the advantage of a CCA to use its financing authority. Many federal tax credits are slated to expire in 2012 or 2013.

The ability of a CCA to supply renewable power at a lower rate than the utility can also depend on external factors such as the price of natural gas. Approximately a third of PG&E's electricity is generated from natural gas; if the cost of natural gas declines, the overall cost to the utility to provide energy also declines. Currently, the price of natural gas is declining and the US Energy Information Administration does not project a price increase until after 2020.

ENERGY EFFICIENCY PROGRAMS

Utilities collect fees on gas ($0.08400/therm) and electricity ($0.0135/kwh) provided to customers for "Public Purpose Programs" that fund state mandated assistance programs for low-income customers and energy efficiency.

Some jurisdictions, in their efforts to establish a CCA, indicated an interest in conducting their own energy efficiency programs, rather than having this done by the utility as is currently the case. Although AB 117 (the initial legislation establishing the ability of local jurisdictions to form a CCA) indicates that a CCA may elect to operate energy efficiency programs, the implementation of this has been the subject of discussion at both the PUC and in the Legislature and, to date, despite its interest in doing so, the Marin CCA has thus far not been successful in receiving this authority.

Utilities, including PG&E, currently fund energy efficiency programs according to goals and policies developed by the CPUC. These approved programs are determined by the CPUC to achieve real and

verifiable savings and are intended to target areas of specific opportunity or need for improved energy efficiency.

Yolo County residents receive benefits from these programs through rebates, incentives, and specific programs designed to encourage energy efficiency. The County also implements a local government partnership with PG&E to pursue energy efficiency and overall community sustainability in government facilities, businesses, farms, and residences. The total dollar amount of benefits received in Yolo County from Public Purpose Program funds is not known. Determining the advantages and disadvantages of operating its own energy efficiency programs would be a task of the Steering Committee and the consultant developing the Business Plan.

If the county forms a CCA, current legislation (SB 790, now in the Assembly and set for hearing in the Appropriations Committee August 17th) clarifies that CCA's can implement energy efficiency programs and that the utility is required to continue funding these programs at a "proportionate" level. The CCA would be required to submit a plan to the CPUC that is approved by the JPA governing body and the CPUC would be required to certify that the plan meets certain standards. In addition, the CCA would be responsible for providing data that demonstrates program effectiveness and its energy efficiency programs would be subject to audit.

Conducting its own energy efficiency programs could, within the boundaries of CPUC review and approval and required performance metrics, potentially allow more targeted and locally effective efforts.

Programs to increase energy efficiency have a direct impact on overall greenhouse gas emissions: the less energy used by farms, homes and businesses in Yolo County the less GHGs emitted in the production of this energy. If local efforts to reduce energy use can be demonstrated to be more effective than utility programs the GHG reduction goals of the County will be more achievable. In addition, if less energy is required to meet the needs of customers it may be possible to provide this energy at lower rates.

MANAGEMENT AND GOVERNANCE

If the county creates its own CCA the Board of Supervisors could be the governing body or it could create a separate governing body to insulate taxpayers from fiscal and other liabilities. Creation of a CCA that involves the cities will require formation of a JPA.

The Business Plan developed by the consultant will include an organizational plan for governance and operation of the CCA. This will describe the composition and responsibilities of the board of directors, its officers and committees, and its procedures for managing the CCA. The Business Plan will also identify staffing needs on a position-by-position basis, as well as program operations such as resource planning, rate setting, financial management and accounting, customer service, and legal and regulatory representation.

In addition to the goal of "rate parity" discussed above, developing "expertise parity" that ensures informed representation in the overall process of generating and distributing energy in California is an important function of the CCA.

It may be possible to share expenses related to legal and regulatory representation with the Marin Energy Authority and/or other CCA's if they are formed. In particular, the regulatory process is very detailed and specialized. Creation of the CCA does not mean all issues are resolved. The business of an energy provider is subject to constant discussion, amendment, and change and monitoring issues related to CCA's at the CPUC and the Legislature, including participation in hearings and other proceedings, is important to the ongoing success of a CCA.

If the county forms a JPA with the cities all member jurisdictions will share (proportionally?) in GHG reductions achieved by the CCA. It is possible that some jurisdictions will have higher levels of customer participation than others, or that some communities will see a greater number of customers willing to pay a premium for "deep green" energy.

LOCAL CONTROL

Currently, decisions concerning electricity rates and renewable energy are made by the CPUC. This organization is remote from Yolo County residents but as an institution has a mission and purpose that requires a high level of technical and legal expertise.

A CCA would be governed by a JPA, the members of which would arguably be more accessible to customers and therefore those customers might have more influence in determining rates and energy supply mix.

The JPA would contract for some services but may have a difficult time establishing "expertise parity" in terms of technical and regulatory issues that come before the governing body.

OUTREACH AND PUBLIC EDUCATION

As indicated above, community support is essential for the success of a CCA, particularly if, in its initial stages, electricity rates are higher than what is available from the utility.

Participation by each municipality is important for several reasons, not least of which is that government operations represents a first tier of potential customers and are relatively large energy consumers (although the City of Davis is currently producing nearly its entire municipal facilities load from solar arrays at the PVUSA and waste water treatment sites).

A countywide survey is one way to gauge initial interest on behalf of residents of the county and each of the cities and may assist each jurisdiction in determining whether to participate as well as provide a basis for estimating potential "opt out" rates.

In addition to municipal customers, it may be important to assess support or opposition from key constituencies such as the agricultural and business communities.

The CPUC and the Legislature are addressing many of the issues between the Marin CCA and the utility and as a result it may be possible to develop and deliver a clear and uniform public education campaign and message that is uncomplicated by disagreement about roles and responsibilities.

CONTINUED POSITIVE PARTNERSHIP WITH PG&E

Some jurisdictions report strong opposition from PG&E to efforts to create and operate a CCA. These early battles appear to be diminishing as the CPUC and the Legislature define appropriate conduct on both sides.

By its nature, a CCA is a partnership and positive relations are important to coordinating and providing good customer service. Also by its nature, as in any partnership, particularly in business, there will be points of difference that need to be resolved. In most cases the arbiter for these discussions is the CPUC and it is an important requirement for any CCA that it maintain an effective monitoring presence in the regulatory process.

Senate Bill 790 (Leno), currently in the Assembly, includes a requirement that the CPUC, by March 1, 2012, initiate a rule making proceeding to consider and adopt a "Code of Conduct" with associated rules and enforcement procedures to govern utility relationships and responsibilities with CCA's. This code would, among other things, require that a utility not market against a CCA except through its own ratepayer supported efforts and would also impose limitations on marketing efforts. The bill received bipartisan support in the Assembly Utilities and Commerce Committee but its eventual fate is unknown. It is set for hearing in the Assembly Appropriations Committee on August 17, 2011.

As mentioned above, all Yolo County residents will continue to obtain their gas from PG&E, and PG&E will be one of the choices customers have for their electricity. Customers will also continue to receive their bill and other services through the utility. The customer will be best served if the CCA and PG&E have a cooperative and positive relationship.

GREEN JOBS

Some jurisdictions indicate that a goal of their effort to form a CCA is the potential for creation of green jobs. The extent of this job creation is very difficult to predict. The City of Berkeley estimated that their CCA would result in between 100 and 120 green jobs, but qualified this estimate with the statement that it came with a high level of uncertainty.

If the CCA were to include efforts to generate renewable energy or to operate energy efficiency programs it is reasonable to assume that some unknown number of jobs would be created in association with these efforts.

SUMMARY OF ACTIONS IN OTHER JURISDICTIONS

MARIN COUNTY

The Board of Directors of the Marin Energy Authority (MEA) approved a 5-year contract with Shell Energy of North America on February 4, 2010 and began delivering electricity (27 percent from renewable sources) to customers on May 7, 2010. The JPA is the governing body for the not-for-profit "Marin Clean Energy" program and consists of the County of Marin and the cities of Belvedere, Fairfax, Mill Valley, San Anselmo, San Rafael, Sausilito, and Tiburon. The cities of Larkspur, Novato, Corte Madera, and Ross apparently did not join the JPA.

The documents forming the JPA indicate, in part, that "other incorporated municipalities and counties may become Parties upon (a) the adoption of a resolution by the governing body of such incorporated

municipality or such county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority,..." The documents also indicate that a "membership payment" may be required of new jurisdictions in order to contribute a pro rata share of implementation costs, that only incorporated cities or counties may participate, and that representation on the JPA Board is proportional to the energy use in the jurisdiction.

CCA proponents conducted a countywide survey in 2007 that determined that 90 percent of potential customers wanted to reduce greenhouse gas emissions, 74 percent supported creation of a governmental body to accomplish this goal, 69 percent were willing to pay 5 percent more on their energy bills in order to reduce greenhouse gas emissions, and 58 percent would pay a 10 percent premium.

Also in 2007, proponents commissioned a study ("Increasing Renewable Energy Resources in Marin County") to identify and evaluate the potential for local power. The study indicated that in-county solar, small wind, large wind, off shore wind, methane capture, biomass, and ocean power could potentially produce about 850 MW. They also mapped roof top and other sites for solar photovoltaic systems.

The goal of MEA is to provide customers with energy that is produced 100 percent from renewable sources. Their initial RFP sought 40 MW of renewable power; they received applications for 400 MW. Customers can buy energy from PG&E or from the MEA. MEA offers the option of "Light Green" energy that is "competitive" with PG&E rates and is produced from 27 percent renewable sources or "Deep Green" energy for a premium of $0.01/kwh (estimated to be $5 to $10/month for the average household).

The CCA initially offered to provide power to a mix of approximately 9,600 residential, commercial, and municipal customers --- with intent to expand to all customers in the JPA territory by May of 2012. Approximately 20 percent "opted out" of the CCA and chose to remain with PG&E. This number appears to be higher than is reported for other CCA jurisdictions in Ohio and Massachusetts. MEA complained to the California Public Utilities Commission that PG&E was advertising and otherwise actively encouraging residents to opt out of the CCA. The CPUC agreed with the complaint and directed PG&E to halt any actions that interfere with the CCA. Senate Bill 790 (Leno) has been introduced to clarify the relationship between utilities and CCA's.

The County offers various programs to encourage energy efficiency in order to reduce the amount of energy required to be produced and provided to customers, including a $500 rebate (in addition to that offered by PG&E) for households that exceed a 15 percent energy savings.

The county also encourages development of roof top solar by offering to buy excess power from qualified installations at $0.01 above the base rate.

The JPA intends, once it has an operating history and credit rating, to examine the potential for using its funding authority to finance renewable energy generation.

THE CITY OF BERKELEY AND THE EAST BAY ENERGY AUTHORITY

The City of Berkeley, in conjunction with the cities of Oakland and Emeryville, created the East Bay Energy Authority (EBEA), an ad hoc organization to explore the potential for a CCA for residents and businesses in these jurisdictions. The documents studying the feasibility of a CCA, including a detailed

business plan, were predicated on participation by all three entities but Emeryville has subsequently opted out and Oakland has adopted a "watch" position.

The Berkeley City Council, on the recommendation of the city Energy Commission, adopted a resolution indicating that the city is "not convinced that the benefits of implementing a CCA outweigh the costs and risks" and decided to postpone a decision and observe implementation in Marin. The resolution also states that when and if the city ascertains CCA's have adequately demonstrated their viability the council should commission a "portfolio analysis" to "evaluate a variety of generation portfolios to determine a realistic renewable energy target and a strategic plan to attain that target."

The primary goals of the city in considering a CCA were: (1) to reduce greenhouse gas emissions; (2) the opportunity to use the EBEA to finance renewable energy projects, and; (3) to maintain comparable rates to those offered by PG&E.

The decision to postpone creation of a CCA was made for several reasons, including: (1) the decision by the California Air Resources Board, and subsequent enactment of legislation, to increase the Renewable Portfolio Standard to 33 percent by 2020; (2) the difficulty in achieving rate parity with the utility given generally higher costs for renewable energy generation; (3) uncertainties in the future price of natural gas and the recent decline in price also making rate parity more difficult; (4) uncertainty over the potential for extension of federal tax credits for private renewable energy projects scheduled to expire in 2012; (5) uncertainty over future costs of renewable energy technologies; (6) potentially significant financial risk related to start up costs; (7) the potential for customers to opt out of the CCA; (8) the change in circumstance and the need for new analysis when Emeryville opted out of the EBAEA; (9) potentially substantial efforts required of city staff to initiate a CCA; (10) the current state of financial markets, and; (11) the speculative nature of job creation estimates.

In addition, the business plan indicated that rates would likely by 6 percent higher than PG&E rates for the first years of the program, or until the advantages of municipal financing of new generation capacity could be realized.

Financial risks and uncertainties included: (1)underwriting up to $17 million in start up costs which, although this could be recovered through electricity rates, could also be lost if the CCA failed or didn't meet its revenue projections; (2) development of local generation could require up to $190 million, and; (3) although the EBEA would act as a firewall between the general fund and these liabilities, the ability of customers to opt out could result in a requirement for the city to guarantee the debt.

An additional concern was that if the CCA failed to achieve rate parity with PG&E the number of customers opting out could increase, snowball, and reduce revenues to the point of jeopardizing the ability of the CCA to repay any money loaned from or guaranteed by the city to construct generation facilities.

CITY OF RICHMOND

The City of Richmond adopted a resolution on May 24th of this year to demonstrate its "intent to explore" Community Choice Aggregation with the Marin Energy Authority and to authorize the city manager to request energy consumption data from PG&E. Staff indicates that PG&E has been helpful and cooperative.

As noted above, the governing documents of the MEA specify that cities or counties may join the JPA; there is no language regarding adjacency, although the City of Richmond shares a border with Marin County on an island in the Bay.

Staff estimates a "Membership Payment" of between $150,000 and $200,000 to join the MEA; which would be recoverable through rate revenue.

A City of Richmond report from the City Manager to the City Council does not specifically identify the reasons or goals for joining a CCA but does indicate an interest in reducing greenhouse gas emissions, development of "clean, local energy" and promoting energy efficiency.

The City of Richmond is a member of the East Bay Energy Watch and receives energy efficiency program support through this organization. Staff indicates, however, an interest in localizing and customizing these energy efficiency programs with the potential use of Public Purpose Program funds.

Staff has met with MEA staff and attended an MEA Board meeting where the potential for Richmond joining MEA was discussed. Staff indicates they expect to ask the city council to authorize funds (estimated at $20,000) for a consultant to prepare a technical and financial analysis and discussion of implementation issues. MEA is also preparing a more detailed analysis of the financial, technical, and governance issues from MEA's point of view.

It is not clear whether Richmond would be given membership on the MEA Board or if MEA would be required to file a revised Implementation Plan for approval of the CPUC.

SAN JOAQUIN (Kern River Conservation District)

The San Joaquin Power Authority was formed in November of 2006 and consisted of 15 members, including three counties (Kings, Fresno and Tulare) and 12 cities (including Fresno, Clovis, Dinuba, Hanford, Kerman, Kingsburg, Parlier, Reedley, Sanger, Selma, Corcoran, and Lamoore).

The primary purpose for forming a CCA was to secure a reliable supply of energy. Staff indicates that transmission capacity into Kern County is limited and local officials wanted to develop local energy generation capacity (500 MW gas fired base load facility) to ensure a consistent supply of energy for local needs. Reducing greenhouse gas emissions was not a goal of the SJPA.

SJPA was the first in the state (2007) to file for and receive CPUC approval of an Implementation Plan.

The SJPA suspended its efforts to implement a CCA in June of 2009 for several reasons. The RFP for an energy service provider included a requirement that electricity cost be a minimum of 5 percent lower than PG&E and the energy service provider (Citigroup Energy) was unable to meet that requirement, in part due to the collapse of the credit market. The RFP also included a requirement that rate increases be capped at a maximum of 2 percent per year for 7 years.

Other reasons cited for suspension of efforts to implement a CCA include: the state's increase in the Renewable Portfolio Standard to 33 percent renewable by 2020; the loss of several member jurisdictions that withdrew from the JPA, partly due to uncertainty at the time about the potential for liability for each jurisdiction; the initiation of independent and aggressive solar programs in Kings County and the

City of Clovis; failure to establish grassroots support for the CCA, and; continuing requirements for staff time and resources.

Staff indicates that the principal member of the JPA --- the Kern River Conservation District --- expended approximately $3 million over 5 years in the effort to form a CCA. The bulk of these funds were for studies, polling, marketing, and development of an Implementation Plan, but a substantial portion was for legal representation at CPUC regulatory hearings over disputes with PG&E concerning implementation procedures.

CITY AND COUNTY OF SAN FRANCISCO

San Francisco began consideration of a CCA in September of 2003 and received approval from the CPUC for an Implementation Plan in May of 2010. The city issued an RFP and selected an energy services provider but the parties were unable to agree on methods for financing start-up costs. The city issued a second RFP and is currently negotiating with Shell Energy of North America (the same energy services provider as was selected by the Marin Energy Authority) and, according to staff, expects to be selling power to customers by mid-2012. Staff indicates this implementation date was chosen in part because of PG&E's current rate restructuring.

San Francisco is unique in that it encompasses two jurisdictions: the city and county of San Francisco have exactly the same boundaries. SF also has an existing power authority --- the San Francisco Public Utilities Commission --- that manages power and water from the Hetch Hetchy Reservoir. The SF PUC is the governing authority for"CleanPowerSF."

The goals of CleanPower SF are to use voter approved bonds to finance construction of renewable energy facilities while seeking to maintain rate parity with PG&E.

SF has a major logistical advantage in that the CPUC is located in that city and monitoring regulatory activity is more convenient than for jurisdictions further away.

SONOMA COUNTY

According to staff, the effort to form a CCA is very much in the preliminary stages. No goals or criteria have yet been established, though the Board of Supervisors has allocated $150,000 for a feasibility study that is scheduled to be presented to the Board of Supervisors in September. A JPA has not been formed and no cities are as yet formally involved in the effort.

A Steering Committee has been created consisting of two city managers, citizens, representatives from county counsel and the department of General Services and the Treasurer/Tax Collector, and individuals from the water agency, the Regional Climate Protection Agency, and the citizen-based Climate Protection Campaign. The Steering Committee is currently considering policy issues such as the relative ranking of the goals of rate reduction versus greenhouse gas reduction, the potential for local power generation, and whether to initiate the CCA as a county-only entity and invite city participation in the future. They are also examining whether a CCA could equal or exceed energy efficiency efforts of PG&E.

PG&E declined the invitation to participate on the Steering Committee but published an Op-Ed indicating the utility would not interfere with the process.

To date there has been little or no outreach or public education.

Joining the Marin Energy Authority is an option that will be included in the consultant's analysis. Staff indicates a variety of opinions on the MEA Board concerning establishing a CCA and the path to get there.

SOLANO COUNTY

The Solano County Climate Action Plan includes a nearly identical requirement to that in the Yolo County CAP in terms of analyzing the potential for a CCA. The initial feasibility study, determination of potential city partners, and development of a detailed business plan is slated to be accomplished in the "medium term "(3-5 years).

Solano County has significant wind resources and currently produces about 3% of the state's wind energy, with the potential to increase this substantially.

Solano assumes an opt out rate of 25% of the customer base.

MASSACHUSETTS

The "Cape Light Compact" was established in 1997 in the wake of the 1997 Massachusetts Restructuring Act and serves 200,000 consumers in 21 towns on Cape Cod and Martha's Vineyard. The Compact purchases power, administers energy efficiency programs instead of the electric utility, and is committed to renewable energy. Customers can pay a premium (tax deductible) for energy that is 50 percent ($0.009 per kwh) or 100 percent ($0.016 per kwh) from renewable sources.

The Compact also provides whole house energy assessments and will pay 75 percent of the cost (up to $2,000) for installation of insulation.

OHIO

The Northeast Ohio Public Energy Council NOPEC) has a singular goal of using aggregated buying power to secure lower energy (gas and electricity) rates for customers to provide stability for its 535,000 consumers from 129 communities. NOPEC claims a 12 percent reduction in electricity bills in 2009 and 8 percent in 2010. In addition to energy NOPEC is investigating whether this method of bulk purchase to obtain more favorable rates can also be applied to services such as cable television or online Internet service.

OTHER

The list of cities and counties above considering forming a CCA is not inclusive: there are indications or hints that other jurisdictions (San Jose, Humboldt and San Luis Obispo counties) may also be in the process of evaluating this option. The landscape seems to be fluid.

Yolo/ccascopingreport4-0811

CITY OF
WINTERS
california
Est. 1875

TO:	Honorable Mayor and Council Members
DATE:	January 17, 2012
THROUGH:	John W. Donlevy, Jr., City Manager
FROM:	Shelly A. Gunby, Director of Financial Management
SUBJECT:	Consideration of Resolution 2012-02 of the City Council of the City of Winters, California, electing to serve as the successor agency to the Community Development Agency of the City of Winters pursuant to Part 1.85 of Division 24 of the California Health and Safety Code.

RECOMMENDATION:
Staff recommends that the City Council of the City of Winters adopt Resolution 2012-02 electing to serve as the successor agency to the Community Development Agency of the City of Winters.

BACKGROUND:
The Community Development Agency of the City of Winters ("Agency") was created by the City Council for the purposes of implementing redevelopment activities in the City. The City Council adopted the Redevelopment Plan for the Winters Redevelopment Project in accordance with the Community Redevelopment Law (Health and Safety Code § 33000 *et seq.*) ("CRL"). The Winters Redevelopment Project Area was found to have a significant number of physical and economic blighting conditions that necessitated adoption of the Redevelopment Plan. The Redevelopment Plan authorizes the Agency to receive tax increment revenue to pay for programs and projects that address these conditions consistent with the CRL.

In January, 2011, the Governor announced his intent to eliminate redevelopment agencies as a way to help balance the State budget. The Legislature then enacted and the Governor signed Assembly Bill 1X 26 ("AB 1X 26") and Assembly Bill 1X 27 ("AB 1X 27"). These bills took effect on June 29, 2011.

AB 1X 26 immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011. AB 1X 27 allowed a city or county that had a redevelopment agency to avoid dissolution by adopting an ordinance agreeing to make specified payments to reduce the State budget deficit.

A Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al.* v. *Ana Matosantos, et al.*, Case No. S194861),

challenging the constitutionality of AB 26 and AB 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement. On August 11, 2011, and August 17, 2011, the Supreme Court stayed portions of AB 1X 26, and stayed AB 1X 27 in its entirety during the pendency of the matter.

On December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012.

AB 1X 26 provides that the City will be the "successor agency" to the Agency and responsible for the wind down of the Agency's affairs. The activities of the City, as successor agency, will be overseen by an oversight board, comprised primarily of representatives of other affected taxing agencies, until such time as the debts of the Agency are paid off, all Agency assets liquidated and all property taxes are redirected to local taxing agencies.

AB 1X 26 designates the City as the successor agency, unless the City elects not to serve as successor agency. The election not to serve as the successor agency must be made by City Council resolution, and a copy of the resolution must be filed with the County Auditor-Controller by January 13, 2012 (within 15 days of the Supreme Court's decision). Although the City may adopt a resolution electing to be the successor agency, the City will automatically become the successor agency by operation of law, unless the City affirmatively elects not to serve as the successor agency by City Council resolution.

If the City elects not to serve as the successor agency, another local agency (such as the County or School District) will have the ability to serve as the successor agency and control the wind down of the Agency's affairs. The wind down process is likely to be time consuming and complex. There is risk that there will be disputes over the proper implementation of the wind down process. However, if the City chooses not to serve as the successor agency, it will have little or no control over the manner in which the existing obligations and agreements of the Agency are handled during the wind-down process.

The City should also be aware of certain potential risks involved in electing to be the successor agency, including not receiving reimbursement for administrative costs that exceed the City's budget, not receiving reimbursement if there are insufficient tax increment funds to cover higher priority costs, and defending lawsuits brought against the City, as successor agency, at its own cost. However, the City should also know that pursuant to AB 1X 26, each of these potential risks are subject to the statutory limitation on successor agency liability to the amount of property tax received by the successor agency and the value of assets transferred to the successor agency.

FISCAL IMPACT:
None

ATTACHMENTS:
Resolution 2012-02

RESOLUTION NO. 2012-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS, CALIFORNIA, ELECTING TO BECOME THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF WINTERS PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, the City Council of the City of Winters ("City") approved and adopted the Redevelopment Plan for the Winters Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"); and

WHEREAS, the Community Development Agency of the City of Winters ("Agency") has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL"); and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy; and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed , companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments; and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al.* v. *Ana Matosantos, et al.*, Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement; and

WHEREAS, on August 11, 2011, and modified on August 17, 2011, the Supreme Court stayed portions of AB 1X 26, and AB 1X 27 in its entirety during the pendency of the matter; and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012; and

WHEREAS, AB 1X 26 further provides that, upon their dissolution, any property taxes that would have been allocated to redevelopment agencies will no longer be deemed tax increment, and will be allocated first to successor agencies to make payments on the existing indebtedness of the

dissolved redevelopment agencies, with remaining balances allocated in accordance with applicable constitutional and statutory provisions; and

WHEREAS, AB 1X 26 provides that successor agencies be designated as successor entities to the former redevelopment agencies, and provides that, with certain exceptions, all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the CRL, are vested in the successor agencies; and

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

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

Section 1. **Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. **Election to be Successor Agency.** In accordance with Health and Safety Code Section 34173, and based on the Recitals set forth above, the City Council hereby elects and determines that the City of Winters shall become the "successor agency" to the former Community Development Agency of the City of Winters. Upon dissolution of the Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all authority, rights, powers, duties and obligations previously vested with the former Agency, under the CRL, shall be vested in the City as the successor agency to the Agency.

Section 3. **Implementation.** The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the Yolo County Auditor-Controller, the Controller of the State of California, and the California Department of Finance providing notice of the adoption of this Resolution and the City's election to be the successor agency to the Agency, in accordance with AB 1X 26.

Section 4. **Severability.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

Section 5. **Certification.** The City Clerk shall certify to the adoption of this Resolution.

Section 6. **Effective Date.** This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council on the 17th day of January, 2012, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
Woody Fridae, Mayor

ATTEST:

_____
Nanci G. Mills, City Clerk

CITY OF
WINTERS
California
Est. 1875

CITY COUNCIL
STAFF REPORT

TO: Mayor and City Council

DATE: January 17, 2012

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

SUBJECT: 314 Railroad- Sublease

RECOMMENDATION:

That the City Council:

1. Tentatively and conditionally approve a sublease of the kitchen facilities at 314 Railroad Ave.
2. Authorize the City Manager to approve and sign the sublease pursuant to conditions.

BACKGROUND:

Staff has received a request from our tenant at 314 Railroad Ave (Briggs) to sublease the kitchen portion of the property to TLC Catering. See attached memo.

DISCUSSION:

Staff is inclined to recommend accepting the sublease, under the following conditions:

- The term of the sublease will not be for a period extending beyond September 30, 2012.
- The sublease terms and contract be approved by the City prior to approval.
- The City be indemnified and supplied with and named on insurance certificates as required by out risk management authority.

FISCAL IMPACT:

None by this action.

From: Shaunie Briggs (shaunie128@gmail.com)
To: daniel.maguire@cityofwinters.org;
Date: Mon, January 9, 2012 9:39:49 AM
Cc: jwallaceesq@sbcglobal.net;
Subject: TLC Catering

Dan,

Theresa Linton and I have discussed the possibility of allowing TLC Catering to rent my kitchen occasionally for catering needs, as well as a small amount of food and supply storage. Currently we have a verbal agreement to allow TLC to finish jobs they had booked prior to Briggs taking over the lease. This was discussed with John Wallace, and others at City Hall. It is my understanding, according to the lease, that Theresa Linton would be required to "sub-lease" with The City of Winters to continue using 314 Railroad Ave kitchen for her business. If The City of Winters chooses to allow this, Theresa Linton and I will attempt to create an agreement between Briggs and TLC Catering.

Thank you,
Shaunie Briggs

CITY OF WINTERS
california
Est. 1875

WINTERS COMMUNITY DEVELOPMENT AGENCY
STAFF REPORT

TO:	Honorable Chair and Boardmembers
DATE:	January 17, 2012
THROUGH:	John W. Donlevy, Jr., City Manager/Executive Director
FROM:	Shelly A. Gunby, Director of Financial Management/Treasurer
SUBJECT:	Consideration of Resolution 2012-01 of the Winters Community Development Agency Amending its Enforceable Obligation Payment Schedule pursuant to AB1X 26.

RECOMMENDATION:

That the Winters Community Development Agency adopt the attached Resolution amending its Enforceable Obligation Payment Schedule in compliance with AB1X 26

SUMMARY:

In accordance with Health and Safety Code Section 34169, added by Assembly Bill 1X 26, the Community Development Agency of the City of Winters ("Agency") adopted an Enforceable Obligation Payment Schedule ("EOPS"), which serves as the basis for the payment of the Agency's outstanding financial obligations. Section 34169 allows that the EOPS may be amended at any public meeting of the Agency.

BACKGROUND:

The Community Development Agency of the City of Winters ("Agency") was created by the City Council for the purposes of implementing redevelopment activities in the City. The City Council adopted the Redevelopment Plan for the Winters Redevelopment Project in accordance with the Community Redevelopment Law (Health and Safety Code § 33000 *et seq.*) ("CRL"). The Winters Redevelopment Project Area was found to have a significant number of physical and economic blighting conditions that necessitated adoption of the Redevelopment Plan. The Redevelopment Plan authorizes the Agency to receive tax increment revenue to pay for programs and projects that address these conditions consistent with the CRL.

In January, 2011, the Governor announced his intent to eliminate redevelopment agencies as a way to help balance the State budget. The Legislature then enacted, and the Governor signed, Assembly Bill 1X 26 and Assembly Bill 1X 27, which took effect on June 29, 2011.

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AB 1X 26 immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011. AB 1X 27 allowed a city or county that had a redevelopment agency to avoid dissolution by adopting an ordinance agreeing to make specified payments to reduce the State budget deficit.

A Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al.* v. *Ana Matosantos, et al.*, Case No. S194861), challenging the constitutionality of AB 26 and AB 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement. On August 11, 2011, and August 17, 2011, the Supreme Court stayed portions of AB 1X 26, and stayed AB 1X 27 in its entirety during the pendency of the matter.

The portion of AB 1X 26 that was not stayed required that redevelopment agencies prepare and file an Enforceable Obligations Payment Schedule in August, 2011.

On December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012. Due to these extensions, the Agency must update the EOPS to reflect payments for Enforceable Obligations prior to the effective date of the Recognized Obligation Payment Schedule of May 1, 2012.

DISCUSSION

AB 1X 26 suspended all new redevelopment activities and incurrence of indebtedness by terminating virtually all otherwise legal functions of the Agency and mandating a liquidation of any assets for the benefit of local taxing agencies. Some debts are allowed to be repaid, but any such remittances are to be managed by a successor agency, that would function primarily as a debt repayment administrator. The successor agency cannot continue or initiate any new redevelopment projects or programs. The activities of the successor agency will be overseen by an oversight board, comprised primarily of representatives of other taxing agencies, until such time as the remaining debts of the former redevelopment agency are paid off, all Agency assets liquidated and all property taxes are redirected to local taxing agencies.

Under Health and Safety Code Section 34169, the EOPS must list all of the "enforceable obligations" of the Agency, and is subject to approval by the Department of Finance. "Enforceable obligations" include: bonds; loans legally required to be repaid pursuant to a payment schedule with mandatory repayment terms; payments required by the federal government, preexisting obligations to the state or obligations imposed by state law; judgments, settlements or binding arbitration decisions that bind the agency; legally binding and enforceable agreements or contracts; and contracts or agreements necessary for the continued administration or operation of the agency, including agreements to purchase or rent office space, equipment and supplies.

Section 34169 allows that the EOPS may be amended at any public meeting of the Agency. The Agency adopted an EOPS in accordance with AB 1X 26, and now desires to amend the EOPS to include all of the current enforceable obligations of the Agency.

FISCAL IMPACT:
None

ATTACHMENTS:
Enforceable Obligations Payment Schedule (EOPS)
Resolution 2012-01

AGENCY RESOLUTION NO. 2012-01

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF WINTERS AMENDING ITS ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO AB 1X 26

WHEREAS, in compliance with AB 1X 26, enacted by the California State Legislature and the Governor signed as part of the 2011-2012 State budget bill, the Community Development Agency of the City of Winters adopted an Enforceable Obligation Payment Schedule ("EOPS") to allow the Agency to make on debts and obligations listed on the EOPS; and

WHEREAS, Health and Safety Code Section 34169, added as part of AB 1X 26, allows that the EOPS may be amended at any public meeting of the Agency; and

WHEREAS, now desires to amend the EOPS to include all of the current enforceable obligations of the Agency;

NOW, THEREFORE, THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF WINTERS DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. **Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. **Amendment of EOPS.** The Agency hereby amends the Enforceable Obligation Payment Schedule, as set forth in the Amended Enforceable Obligations Payment Schedule attached hereto as Exhibit A, as authorized by Health and Safety Code Section 34169.

Section 3. **Posting; Transmittal to Appropriate Agencies.** The Executive Director is hereby authorized and directed to post a copy of the Amended EOPS on the City's website. The Executive Director is further authorized and directed to transmit, by mail or electronic means, to the Yolo County Auditor-Controller, the State Controller and the Department of Finance, notification providing the website location of the posted Amended EOPS and other information as required by AB 1X 26.

Section 4. **Effective Date.** Pursuant to Health and Safety Code Section 34169(i), the Agency's action to amend the EOPS as set forth herein shall not be effective for three (3) business days following adoption of this Resolution, pending a request for review of the Amended EOPS by the Department of Finance.

PASSED AND ADOPTED at a regular meeting of the Community Development Agency of the City of Winters on the 17 day of January, 2011, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Chair

ATTEST:

_____
Agency Secretary

EXHIBIT A

AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Name of Redevelopment Agency Winters Community Development Agency

Project Area(s) ALL

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (*)

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month: Aug**	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total
1)	2004 Tax Allocation Bonds	Bank of New York	Bond issue to fund non-housing projects	4,008,527.75	279,768.50	220,944.25						58,824.25					$ 279,768.50
2)	2004 Tax Allocation Bonds	Bank of New York	Bond issue to fund housing projects	4,780,845.00	200,124.25	138,059.00						62,065.25					$ 200,124.25
3)	2007 Tax Allocation Bonds	Bank of New York	Bond issue to fund non-housing projects	17,721,682.50	656,290.00	447,995.00						208,295.00					$ 656,290.00
4)	2007 Tax Allocation Bonds	Bank of New York	Bond issue to fund housing projects	3,060,810.00	83,770.00	49,535.00						34,235.00					$ 83,770.00
5)	City Loan 5/10/10	City of Winters	Loan for 5/10/10 SERAF due State	793,474.18	109,313.50		0.00		0.00	0.00	0.00	109,313.50					$ 109,313.50
6)	City Loan 9/3/2002	City of Winters	Loan for RDA portion of General Plan update	1,339,188.78	224,482.97		0.00		0.00	0.00	0.00	224,482.97					$ 224,482.97
7)	Employee Costs	Employees of Agency	Payroll for Employees	234,826.00	234,826.00	21,347.82	21,347.82	21,347.82	21,347.82	21,347.82	21,347.82	21,347.82	21,347.82	21,347.82	21,347.82	21,347.80	$ 234,826.00
8)	Pass Through Agreement	Yolo County	Payments per former CRL 33401	12,308,774.00	262,426.00						144,335.40				118,090.60		$ 262,426.00
9)	Pass Through Agreement	Solano Community College	Payments per former CRL 33401	1,233,574.00	26,599.94		26,599.94									0.00	$ 26,599.94
10)	Pass Through Agreement	Mosquito Vector District	Payments per former CRL 33401	260,428.00	7,485.24		7,485.24										$ 7,485.24
11)	Pass Through Agreement	Winters Cemetery District	Payments per former CRL 33401	783,348.00	602.00		602.00										$ 602.00
12)	Palms Playhouse Rent Subsidy	Winters Opera House	Contract for Rent for Space for Palms Playhouse	62,050.25	30,072.12		7,518.03			7,518.03			7,518.03			7,518.03	$ 30,072.12
13)	Rent for Visitor Center Space	Winters Opera House	Contract for Rent for Winters Visitor Center	28,000.00	11,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	$ 11,000.00
14)	Visitor Center Funding	Winters Chamber of Commerce	Contract for funding Operations of Visitor Center	69,600.00	28,800.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	2,400.00	$ 28,800.00
15)	Construction Contract	Bebe Construction	Construction of Police/Fire Facility	727,499.40	727,499.40	66,046.88	46,016.88	615,436.52									$ 727,499.40
16)	Contract for Consulting Services	Rick Engineering	Project Administration	22,915.00	22,915.00	7,638.00	7,638.00	7,639.00									$ 22,915.00
17)	Contract for Services	Construction Testing	Construction testing at Police Fire Facility	23,635.00	23,635.00		23,635.00										$ 23,635.00
18)	Construction Contract	Comtech	Construction of Police/Fire Facility	44,452.44	44,452.44	0.00	44,452.44										$ 44,452.44
19)	Contract for Equip & Services	Packet Fusion	Equipment for Police/Fire Facility	9,309.69	9,309.69	0.00	9,309.69										$ 9,309.69
20)	Contract for Consulting Services	Pentecle Enterprises	Project Administration	4,502.07	3,687.00	0.00	805.07	321.34	321.34	321.34	321.34	321.34	321.34	321.34	321.34	321.34	$ 3,687.00
21)	Contract for Equip & Services	Western Furniture Contractors	Equipment for Police/Fire Facility	230,229.43	230,229.43	0.00	230,229.43										$ 230,229.43
22)	Agency Allocated Expenditures	City of Winters	Staff and Overhead	296,577.00	296,577.00	24,714.75	33,714.75	33,714.75	33,714.75	33,714.75	22,833.67	22,833.67	22,833.67	22,833.67	22,833.67	22,833.60	$ 296,577.00
23)	Contract for Consulting Services	Bank of New York	Trustee Services for Bond 2004 Bond Issue	32,400.00	1,700.00		0.00			1,700.00							$ 1,700.00
24)	Contract for Consulting Services	Bank of New York	Trustee Services for Bond 2007 Bond Issue	42,500.00	1,700.00		0.00			1,700.00							$ 1,700.00
25)	Contract for Consulting Services	Urban Futures	Continuing Disclosure Reporting Services-04 Tabo	38,500.00	1,750.00					1,750.00							$ 1,750.00
26)	Contract for Consulting Services	Urban Futures	Continuing Disclosure Reporting Services-07 Tabo	43,750.00	1,750.00					1,750.00							$ 1,750.00
27)	Construction Contract	Don Jordan	426 Cottage Circle Affordable Rehab	22,208.00	22,208.00		22,208.00										$ 22,208.00
28)	Contract for Equip & Services	Spintar	AV Equipment for Police/Fire	56,687.00	56,687.00		56,687.00										$ 56,687.00
29)	Contract for Equip & Services	Home Depot	Refrigerators for Police/Fire	3,944.85	3,944.85		3,944.85										$ 3,944.85
30)	Contract for Equip & Services	Food Services Warehouse	Equipment for Police/Fire Facility	5,153.12	5,153.12		5,153.12										$ 5,153.12
	Totals - This Page			$ 48,885,493.42	$ 3,650,672.48	$ 979,679.82	$ 541,849.24	$ 681,859.43	$ 66,783.91	$ 73,201.94	$ 192,238.43	$ 796,119.00	$ 55,421.06	$ 47,903.03	$ 165,995.63	$ 55,421.07	$ 3,648,272.56
	Totals - Page 2			$ 13,650,281.62	$ 766,028.62	$ 10,598.00	$ 5,261.62	$ 2,600.00	$ 3,260.00	$ 7,735.00	$ 708,828.70	$ 310,500.00	$ 10,500.00	$ 10,500.00	$ 10,500.00	$ 105,305.30	$ 738,028.62
0.00	Totals - Page 3			$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
	Totals - Page 4			$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
	Totals - Other Obligations			$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
	Grand total - All Pages			$ 62,435,175.04	$ 4,416,701.10	$ 990,277.82	$ 546,650.86	$ 683,859.43	$ 62,043.91	$ 80,936.94	$ 390,167.13	$ 1,106,619.00	$ 65,921.06	$ 58,403.03	$ 176,495.63	$ 221,726.37	$ 4,386,301.18

* This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. It is valid through 12/31/11. It is the basis for the Preliminary Draft Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 11/30/11.) If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.

Name of Redevelopment Agency Winters Community Development Agency

Project Area(s) ALL

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (*)

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month											
						Aug**	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total
1)	Contract for Equip & Services	Pearson Appliance	Equipment for Police/Fire Facility	2,830.66	2,830.66		2,830.66										$ 2,830.66
2)	Contract for Equip & Services	Lowes	Equipment for Police/Fire Facility	1,963.96	1,963.96		1,963.96										$ 1,963.96
3)	Contract for Services	Urban Futures	Consulting on Redevelopment Issues	2,000.00	2,000.00			2,000.00									$ 2,000.00
4)	LMIHF Set Aside	Winters Community Redevelopment Agency	20% Set Aside for Life of Agency	11,928,457.00	346,234.00	0.00	0.00	0.00	0.00	0.00	190,428.70					155,805.30	$ 346,234.00
5)	314 Railroad Avenue	Rory and Theresa Linton	Relocation Assistance	30,000.00	30,000.00												$ -
6)	Contract for Services	Best, Best & Krieger	Legal Services Contract	60,000.00	60,000.00	598.00	407.00	0.00	3,260.00	7,735.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	$ 60,000.00
7)	Façade Improvement	L.S. Inc.	Façade Improvement Program	10,000.00	10,000.00	10,000.00											$ 10,000.00
8)	Water District Improvement	City of Winters Water Enterprise Fund	Water pipe replacement program within the redevelopment project area	1,500,000.00	300,000.00		0.00				0.00	300,000.00					$ 300,000.00
9)	City Attorney Fees	John Wallace	Legal Services	15,000.00	15,000.00						2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	$ 15,000.00
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	Totals This Page			$ 13,550,251.62	$ 768,028.62	$ 10,598.00	$ 5,201.62	$ 2,000.00	$ 3,260.00	$ 7,735.00	$ 200,928.70	$ 310,500.00	$ 10,500.00	$ 10,500.00	$ 10,500.00	$ 166,305.30	$ 738,028.62

* This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. It is valid through 12/31/11. It is the basis for the Preliminary Draft Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 11/30/11.) If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.

** Include only payments to be made after the adoption of the EOPS.