



Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, June 18, 2013

Members of the City Council

*Cecilia Aguiar-Curry, Mayor
Woody Fridae, Mayor Pro-Tempore
Harold Anderson
Wade Cowan
Bruce Guelden*

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

5:45 p.m. – Executive Session

AGENDA

Safe Harbor for Closed Session – Pursuant to Government Code Section 54954.5

Pursuant to Government Code Section 54957 - Public Employee Performance
Evaluation – City Attorney

6:30 p.m. – Regular Meeting

AGENDA (pp 1-4)

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, June 4, 2013 (pp 5-8)
- B. Yolo Federal Credit Union Purchase and Sale Agreement Extension (pp 9-13)
- C. Agreement with De Nova Planning Group for Preparation of the City's 2014-2022 Housing Element Update (pp 14-23)

PRESENTATIONS

Kim Trumbull, COO Kaiser Hospital, Vacaville

DISCUSSION ITEMS

1. Public Hearing and Adoption of Resolution 2013-16, a Resolution of the City Council of the City of Winters Amending and/or Approving the Annual Levy Report, and Ordering the Levy and Collection of Assessments within the City of Winters City-Wide Maintenance Assessment District, Fiscal Year 2013/2014 (pp 24-44)

2. Approval of City Park Rehabilitation Plan for the Play Courts, Restrooms, Infrastructure Park Interior and Play Structure and Appointment of a Committee to Study and Recommend Improvements to the Wooden Play Structure (pp 45-50)
3. Purchase of One (1) New Type I Urban Interface Fire Engine (pp 51-59)
4. Resolution 2013-21, A Resolution Granting Consent for the City of Winters to be Included within Yolo Community Facilities District 2013-1 (Clean Energy) (pp 60-65)
5. Award of Construction Agreement for Walnut Park – Phase 1, Project No. 11-03 (pp 66-67)
6. Wastewater Services Monthly Update (pp 68-74)
7. Appointment to Planning Commission (pp 75)

CITY OF WINTERS AS SUCCESSOR AGENCY TO THE WINTERS COMMUNITY
DEVELOPMENT AGENCY

CITY MANAGER REPORT

INFORMATION ONLY

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the June 18, 2013 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 June 13, 2013, and made available to the public during normal business hours.



Nanci G. Mills, City Clerk

Questions about this agenda – Please call the City Clerk's Office (530) 794-6701. Agendas and staff reports are available on the city web page www.cityofwinters.org/administrative/admin_council.htm

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

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

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

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View on the internet: www.cityofwinters.org/administrative/admin_council.htm Any attachments to the agenda that are not available online may be viewed at the City Clerk's Office or locations where the hard copy packet is available.

Email Subscription: You may contact the City Clerk's Office to be placed on the list. An agenda summary is printed in the Winters Express newspaper.

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

Winters Library – 708 Railroad Avenue

City Hall – Finance Office - 318 First Street

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

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

Wednesday at 10:00 a.m.

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



Minutes of the Winters City Council Meeting
Held on June 4, 2013

Mayor Cecilia Aguiar-Curry called the meeting to order at 6:30 p.m.

Present: Council Members Harold Anderson, Wade Cowan, Woody Fridae,
Bruce Guelden and Mayor Cecilia Aguiar-Curry
Absent: None
Staff: City Manager John Donlevy, City Clerk Nanci Mills and
Environmental Services Manager Carol Scianna.

Supervisor Don Saylor led the Pledge of Allegiance.

Approval of Agenda: Motion by Council Member Cowan, second by Council Member Fridae to approve the agenda with no changes. Motion carried unanimously.

COUNCIL/STAFF COMMENTS: Mayor Aguiar-Curry said that Winters hosted the Yolo Leaders meeting on 5/22, where there were 65 attendees. Thanks to staff for organizing and to the City for hosting; met with Betsy Marchand from Cache Creek Gaming on 5/24 to discuss activities in the Capay Valley and the surrounding region; met with Bonnie Chiu of the NewHomeCompany on 5/28 to discuss potential opportunities and is organizing a meeting with City Manager Donlevy; attended the Next Economy gathering in Sacramento on 5/29 to discuss economic activities in the Sacramento Region; attended a 2x2 meeting with Supervisors Chamberlain and Saylor on 5/29 to discuss potential economic development opportunities, including Rural Broadband Annexation. Also in attendance was City Manager Donlevy, Council Member Fridae and Pat Blacklock, the Yolo County CAO; represented the City at the Grand Opening of the Jess Jackson Winery Building on 5/29, which is an incredible building, containing a state-of-the-art processing plant; attended the Yocha Dehe Community Fund Luncheon on 5/30; attended the Grand Opening of the Turkovich Family Wines new facility on Buckeye Road on 5/31, where they also will be processing seeds; attended the Special School Board meeting on 6/3 to voice her concern over the perception that the City isn't being in touch with our schools and the Hispanic community. Explained all the things we are currently doing i.e. HAC, RISE, Social Services, Healthcare, Housing etc.; recently

accompanied the Kindergarten classes on their field trip to the Putah Creek Nature Trail; thanked City Manager Donlevy for a letter to Congressman Thompson for all the support for Lake Berryessa; the YCVB's Yolo County Guide Map is due out soon, and updates on the Road Trips, and an advertisement has been included in the 2013 CA Road Trips publication. One million print copies have been produced or you can visit their link, VisitCalifornia.com; Supervisor Don Saylor has an opening on the Children's Alliance of Yolo County whose purpose is to assess and coordinate the community's efforts to strengthen families, coordinate the community's efforts to prevent child abuse, respond to child abuse and neglect, provide prevention and intervention services and resources for children and their families; the Winters PD and Fire will host a car seat inspection event at the Fire Dept. on 6/15; the Quilt Show is on 6/22 and it is FREE; waste collection event at the City Corp Yard on 6/29; the swimming pool is now open and swim lessons are available; the Fireworks Celebration is on 7/4, including a pancake breakfast hosted by the Fire Department. Fireworks donations may be taken to City Hall; the Dept. of Employment and Social Services will be at the Winters Library from 10-12:30 and 1:30-4:30 on 6/17; the Grand Opening of the Arco/BK will be held on 6/7 – 6/9, with the ribbon cutting ceremony at noon on 6/7.

Council Member Guelden attended a Yolo Natural Heritage Program JPA meeting in Woodland.

Council Member Cowan attended the Yolo Leaders meeting on 5/22 regarding broadband needs; attended the grand opening of the Turkovich Wines new out-of-town facility on 5/31; attended the Planning Commission meeting last night regarding the Taco Bell Design Review, which was approved by all. The Commission and City Manager agreed that more work needs to be done regarding the sign ordinance, which will be brought back soon; on 6/19 the Planning Commission will review the Façade Improvement for Lester Farms.

Council Member Fridae also attended the Yolo Natural Heritage Program JPA meeting in Woodland and Petrea Marchand will be giving an update to Council tonight; attended the Yolo Leaders meeting on 5/22, which is a great start for us to come together in a cooperative way with other agencies to get broadband established and to make internet connections possible beyond the City limits; Crop Swap will begin tomorrow, 6/5 and continue every other Wednesday through the summer; attended the opening at new mural/ribbon cutting ceremony at High School campus.

Council Member Anderson attended the Yolo Leaders meeting on 5/22 to discuss wireless broadband issues; attended the Memorial Day services at the Winters Cemetery on 5/27; attended the Clean Air Awards lunch at Sacramento State with Supervisor Don Saylor on 5/29.

PUBLIC COMMENTS: Debra DeAngelo, speaking on behalf of the Chamber of Commerce, said there are Winters articles in Sunset and the San Francisco Examiner; the next chamber mixer will be held at Canyon Creek on 6/10 and co-hosted by Nichelini Winery, focusing on the Hwy. 128 eastern entrance to the lake; the Earthquake Festival will be held on Friday, August 23; dog issues were brought up and Mayor Aguiar-Curry said the subject will be addressed by Council in August. Debra added that animals are being abandoned at an alarming rate.

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, May 21, 2013

Motion by Council Member Fridae, second by Council Member Guelden to approve the consent calendar. Motion carried unanimously.

PRESENTATIONS

Don Saylor, Board Chairman of the Yolo Natural Heritage Program's Natural Communities Conservation Plan/Habitat Conservation Plan (NCP/HCP)/Yolo Habitat JPA, thanked the City of Winters for their partnership and its' two active members in Council Members Fridae and Guelden. There have been some important changes and habitat plan conservation efforts, with significant financial changes and strict standards in how the activities of the JPA staff are controlled. There was no malfeasance with the finances, but clean-up was necessary. They have received support and ongoing planning funds from agencies at the State and Federal level to keep the project sustainable and are exploring the possibilities with the active participants. Moving forward, some activities are non-refundable. They have submitted a solid, baseline document, or first draft (1st draft) to the consultants on the project, who will release it on July 1st. The board will have their first opportunity to review it on July 17th and must come to a decision by August 12th whether to recommend the project. If they do recommend the project, planning funds have already been applied for. If not, the project will be discontinued and they will turn their attention to ongoing activities in the habitat conservation arena and close out the JPA.

Petrea Marchand, Executive Director of the Yolo Habitat JPA, also gave an update and said the JPA board did agree to move forward through at least the first draft of a county-wide conservation plan, which is on schedule and under-budget. The goal is a county-wide permit that will both streamline the process for private and public projects & to provide a conservation vision for the County. The first draft contains 19,000 acres of impacts to habitat countywide over a 50-year planning period, or 16,000 acres of mitigation.

The conservation component proposes 60,000 acres of conservation and the JPA staff thinks there may be insufficient funding to meet these levels of conservation. Petra Marchand spoke extensively about finances and grant funding. The JPA has two other activities: collect swainsons hawk mitigation fees and purchase easements for swainsons hawk habitat. They currently have \$750K in funding and the priority is for those projects submitted by member agencies. City Manager Donlevy asked about the database and if it was available to members of the agency and whether Fish and Wildlife have reviewed it. Petrea said it would be a useful tool. Supervisor Saylor said this is a very unique plan. Most plans are developer driven, but this is not. Council Member Fridae said the goal is to make it more efficient for a variety of different developments by offering a one-stop shop to see what mitigation is.

DISCUSSION ITEMS

1. None
-

CITY OF WINTERS AS SUCCESSOR AGENCY TO THE WINTERS
COMMUNITY DEVELOPMENT AGENCY

1. None
-

CITY MANAGER REPORT: Taco Bell was approved last night by the Planning Commission and staff will be working on changes to the sign ordinance. Congressman Mike Thompson sent a letter indicating all resorts except for two will be open on Lake Berryessa. The Catholic Church is in full throttle. Met with Jeff Roberts today and said the Hostettler piece is looking at an annexation. Met with a group interested in a hotel at the freeway. Council Member Anderson asked about the round-about. City Manager Donlevy said we're down to crunch time and that City Engineer Alan Mitchell is working on positioning, which is the last piece of the puzzle.

ADJOURNMENT: Mayor Aguiar-Curry adjourned the meeting at 7:28 p.m.

Cecilia Aguiar-Curry, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: June 18, 2013
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Dan Maguire, Economic Development and Housing Manager *DM*
SUBJECT: Yolo Federal Credit Union Purchase and Sale Agreement Extension

RECOMMENDATIONS:

Staff recommends that the City Council authorize the City Manager to extend by ninety (90) days the Purchase and Sale Agreement with Yolo Federal Credit Union ("YFCU") regarding the City Sale of Portions of Real Property as follows: Grant Avenue Commercial Property (APN #'s 003-370-028, 003-370-029, and 003-370-030).

BACKGROUND:

In May 2009, the Winters CDA ("Redevelopment Agency") purchased the Grant Avenue lot on the south side of Grant Avenue between East Street and Morgan Street formerly known as Granite Bay Commercial. The CDA subsequently authorized the issuance of an RFP for potential developers to offer proposals for development of the site. Although the CDA did enter into an Exclusive Negotiation Agreement ("ENA") with the Yackzan Group, that ENA did not result in any development on the property.

In March 2011, the City Council adopted Resolution 2011-15 approving a Purchase and Sale Agreement with the Winters CDA with respect to the property. The Resolution laid out the findings for the transfer of this property in consideration of the debt owed to the City by the Winters CDA, and authorized staff to contract with Bartholomew and Associates to have the property appraised to determine fair market value. The appraised value for the 4.5 acre property was determined to be \$980,000 as of the date of the appraisal. This appraised value calculates to approximately \$4.97 per square foot.

At the October 16, 2012 City Council meeting, the City Council authorized the City Manager to execute a Purchase and Sale Agreement ("Agreement") with YFCU for commercial development on the property, consistent with the original intent of the

acquisition. The Agreement allowed for up to 150 days from the opening of escrow (1/16/2013) for YFCU to complete their due diligence review, and 180 days for the close of escrow, with the purchase to be completed by July 14, 2013. YFCU has requested the Agreement be extended by an additional 90 days. The property is being purchased for the development of a Yolo Federal Credit Union branch.

FISCAL IMPACTS:

The City's costs associated with selling the properties are to-be-determined; however, at the proposed sales price, the City stands to realize approximately \$264,000.00 from the transaction.

ATTACHMENTS:

Request for 90 day Extension correspondence
First Addendum to Real Property & Sale Agreement

Daniel Maguire

From: Clyde Brooker [cbrooker@yolofcu.org]
Sent: Wednesday, June 05, 2013 3:11 PM
To: Daniel Maguire
Subject: RE: Winters Commercial and Yolo Federal Credit Union
Attachments: 1stAdd-PurchAgmt-6-5-13.doc

Good Afternoon Dan,

Thank you for your help and cooperation Dan. As you know I ran the idea past our attorney, David Janes and he drafted the attached that has the 90 day extension language. If it is OK with you, please let me know if I need to do anything and if it would be helpful to show up for the Council meeting.

Clyde

From: Daniel Maguire [mailto:daniel.maguire@cityofwinters.org]
Sent: Tuesday, June 04, 2013 3:22 PM
To: Clyde Brooker
Subject: RE: Winters Commercial and Yolo Federal Credit Union

Clyde:
The City granted a ninety day extension to Cross Development for the Dollar General project. I think City Council would be very receptive to that request, if that would serve your needs (**Please advise by 6/11 and I will put it on the 6/18 City Council agenda**). I have attached a copy of the extension for Cross/DG to see if the same format would work for YFCU. The engineer for the round-about is Bryan Bonino of Laugenour & Meikle, 662-1755.
Dan

Dan Maguire
Economic Development and Housing Manager
City of Winters
(530) 795-4910 Ext. 118

From: Clyde Brooker [mailto:cbrooker@yolofcu.org]
Sent: Tuesday, June 04, 2013 9:57 AM
To: Daniel Maguire
Subject: Winters Commercial and Yolo Federal Credit Union

Hi Dan,

I appreciated your call on the status of the round-a-about and escrow and the possible need to extend the escrow. As a result I reviewed our deadlines in the agreement and find our due diligence period of 150 days ends the middle of the month. That deadline concerns me since the final round a bout may need to expand due to cal trans decision and it could affect our property plans. This change is unexpected and the short time for our due diligence does not allow me time to employ an engineer or to get the final word from Cal Trans.

Would the City agree to an extension of the due diligence period to hear the Cal Trans decision and us to have time for an evaluation by an engineer?

I would also appreciate the name of the engineer that drew the round- a- bout so that I might contact him which would expedite our inquiry.

Thanks Dan for your cooperation.

Clyde

**FIRST ADDENDUM TO REAL PROPERTY
PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

This FIRST ADDENDUM to the January 16, 2013, REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS by and between the CITY OF WINTERS and YOLO FEDERAL CREDIT UNION, is entered into this ____ of June, 2013, by and between the CITY OF WINTERS ("Seller"), and YOLO FEDERAL CREDIT UNION ("Buyer").

WHEREAS, SELLER and BUYER entered into a REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (hereinafter the "PSA"), DATED JANUARY 16, 2013; and

WHEREAS, the Escrow Closing Date is defined in the PSA as one hundred eighty (180) calendar days following the Escrow Opening Date, or such other agreed date; the parties understand the Escrow Opening Date to be January 16, 2013; and

WHEREAS, SELLER and BUYER acknowledge that further time is needed to finalize the Project due to delays in receiving definitive information from CAL TRANS regarding roadway improvement in the immediate vicinity of the Project;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Section 1.1.22 of the PSA is amended to provide that the Escrow Closing Date is *"The date that is not later than two hundred seventy (270) calendar days following the Escrow Opening Date; or such other date mutually agreed upon in writing between the Parties for the Close of Escrow"*.

2. Section 1.1.17 of the PSA is amended to provide that the Due Diligence Period shall be defined as *"The time period of two hundred forty (240) continuous days commencing on the date immediately following the Escrow Opening Date"*.

In all other respects the Real Property Purchase and Sale Agreement of January 16, 2013, is ratified and reaffirmed by the parties.

SELLER:

CITY OF WINTERS, a California
municipal corporation

By: _____

BUYER:

YOLO FEDERAL CREDIT UNION, a
not-for-profit financial cooperative

By: _____



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: June 18, 2013
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Dan Maguire, Economic Development and Housing Manager *DM*
SUBJECT: Agreement with De Nova Planning Group for preparation of the City's 2014-2022 Housing Element Update

RECOMMENDATION:

Approve Agreement with De Nova Planning Group for preparation of the City's 2014-2022 Housing Element Update

BACKGROUND:

The Housing Element of the General Plan is a comprehensive statement by the City of Winters of its current and future housing needs and proposed actions to facilitate the provision of housing to meet those needs at all income levels. The policies contained in the Housing Element are an expression of the statewide goal of "attaining decent housing and a suitable living environment of every California family" as well as a reflection of the unique concerns of the community. The purpose of the Housing Element is to establish specific goals, policies, and objectives relative to the provision of housing, and to adopt an action plan toward this end. In addition, the Element identifies and analyzes housing needs, and resources and constraints to meeting those needs. In accordance with State law, the Housing Element is to be consistent and compatible with other General Plan elements. The City's Housing Element Update is due October 30, 2013.

DISCUSSION:

Staff contacted various entities to solicit proposals to assist in the preparation of the housing element update for the City's 2014 Update. De Nova provided the response with the ability to meet the tight time schedule for the update process, as well as the ability to minimize the budget impact based on providing their technical assistance on a time and materials basis.

FISCAL IMPACT:

De Nova's estimated budget to complete the work is \$15,000. The attached agreement provides for a not to exceed amount of \$15,000, which will be from the Community Development Planning Budget.

ATTACHMENTS:

De Nova Planning Group Proposal
Consultant Services Agreement



June 6, 2013

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

SUBJECT: Proposal to Provide Technical Assistance for the Housing Element Update

Dear Mr. Donlevy,

De Novo Planning Group is pleased to submit this proposal to provide the City with technical assistance for the Housing Element Update.

Our assistance would focus on revising the adopted Housing Element to meet HCD's requirements for the Streamlined Housing Element Review Process. The update would not be comprehensive, but rather focus on specific issues, including:

- Changes to State law, including SB 812 which addresses persons with developmental disabilities.
- Revising the Housing Needs Assessment to reflect current conditions, including the updated Regional Housing Needs Allocation for the City. For this effort, we will use the data provided by SACOG that has already been reviewed and approved by HCD and will augment the SACOG data with other existing data, where necessary.
- Changes to governmental (e.g., land use controls, building codes, site improvement requirements, fee programs, etc.) and non-governmental (e.g., availability of financing, price of land, cost of construction) constraints. We will coordinate with City staff to identify whether any of the governmental constraints have changed since adoption of the current Housing Element.
- Working with City staff to update the list of available housing sites to reflect the City's current inventory sites available for residential development and to reflect any changes to the number of units on each site that may result from the revised Inclusionary Housing Ordinance.
- Working with City staff to update the Housing Element goals, policies, and programs to address any changes to the City's housing needs and to address programs that have been implemented since adoption of the current Housing Element.
- Analyzing the City's adopted densities to determine whether the adopted densities are adequate to accommodate very low and low income housing.
- Filling out the Completeness Checklist and Streamlined Update forms required by HCD for the streamlined review process.

To: Mr. John Donlevy
Subject: Proposal to Provide Technical Assistance for the Housing Element Update
Date: June 6, 2013
Page: 2 of 2

De Novo Planning Group will provide this technical assistance on a time and materials basis. Our rate is \$115 per hour for the Project Manager (Beth Thompson) and \$100 per hour for any of our principal planners.

We understand that the City wishes to have the Housing Element Update prepared as expeditiously as possible and wishes for the focus to be solely on those changes necessary to achieve HCD certification. We look forward to working with the City on this project. If you have any questions, please do not hesitate to contact me at (916) 812-7927 or at bthompson@denovoplanning.com.

Sincerely,



DE NOVO PLANNING GROUP

DE NOVO PLANNING GROUP
4630 BRAND WAY | SACRAMENTO, CA 95819
bthompson@denovoplanning.com | (916) 812-7927



CONSULTANT SERVICES AGREEMENT
AGREEMENT No. _____

THIS AGREEMENT is made at Winters, California, as of _____, by and between the City of Winters ("the CITY") and De Nova Planning Group "CONSULTANT)", who agree as follows:

1. **SERVICES.** Subject to the terms and conditions set forth in this Agreement, CONSULTANTS shall provide to the City the Services described in Exhibit "A", which is the CONSULTANT'S Proposal dated June 6, 2013. Consultant shall provide said services at the time, place, and in the manner specified by the Agreement and Exhibit "A" (Consultant Proposal).
2. **PAYMENT.** The Consultant shall be paid for the actual costs, for all time and materials expended, in accordance with the Schedule of Fees included in Exhibit "A", but in no event shall total compensation exceed fifteen thousand dollars and zero cents (\$ 15,000.00), without the City's prior written approval. City shall pay consultant for services rendered pursuant to the Agreement and described in Exhibit "A".
3. **FACILITIES AND EQUIPMENT.** CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
4. **GENERAL PROVISIONS.** The general provisions set forth in Exhibit "C" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control only insofar as it is inconsistent with general Provisions.
5. **EXHIBITS.** All exhibits referred to therein are attached hereto and are by this reference incorporated herein.

EXECUTED as of day first above-stated.

CITY OF WINTERS
a municipal corporation

By: _____
John W. Donlevy, Jr., City Manager

CONSULTANT

By: _____

ATTEST:
By: _____
Nanci G. Mills, CITY CLERK

June 6, 2013

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

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To: Mr. John Donlevy
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Sincerely,

A handwritten signature in black ink, appearing to read 'Beth Thompson', with a long horizontal line extending to the right.

DE NOVO PLANNING GROUP

DE NOVO PLANNING GROUP
4630 BRAND WAY | SACRAMENTO, CA 95819
bthompson@denovoplanning.com | (916) 812-7927

EXHIBIT "C"

GENERAL PROVISIONS

(1) INDEPENDENT CONTRACTOR. At all times during the term of this Agreement, CONSULTANT shall be an independent contractor and shall not be an employee of CITY. CITY shall have the right to control CONSULTANT only insofar as the results of CONSULTANT'S services rendered pursuant to this Agreement; however, CITY shall not have the right to control the means by which CONSULTANT accomplishes services rendered pursuant to this Agreement.

(2) LICENSES; PERMITS; ETC.. CONSULTANT represents and warrants to CITY that CONSULTANT has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONSULTANT to practice CONSULTANT'S profession. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice his profession.

(3) TIME. CONSULTANT shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT'S obligations pursuant to this Agreement.

(4) INSURANCE.

(a) WORKER'S COMPENSATION. During the term of this Agreement, CONSULTANT shall fully comply with the terms of the law of California concerning worker's compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against any liability CONSULTANT may have for worker's compensation.

(b) GENERAL LIABILITY AND AUTOMOBILE INSURANCE. CONSULTANT shall obtain at its sole cost and keep in full force and effect during the term of this agreement broad form property damage, personal injury, automobile, employer, and comprehensive form liability insurance in the amount of \$1,000,000 per occurrence; provided (1) that the CITY, its officers, agents, employees and volunteers shall be named as additional insured under the policy; and (2) that the policy shall stipulate that this insurance will operate as primary insurance; and that (3) no other insurance effected by the CITY or other names insured will be called upon to cover a loss covered there under; and (4) insurance shall be provided by an, at least, A-7 rated company.

(c) PROFESSIONAL LIABILITY INSURANCE. During the term of this Agreement, CONSULTANT shall maintain an Errors and Omissions Insurance policy in the amount of not less than \$1,000,000.

(d) CERTIFICATES OF INSURANCE. CONSULTANT shall file with CITY'S City Clerk upon the execution of this agreement, certificates of insurance which shall provide that no cancellation, major change in coverage, expiration, or non-renewal will be made during the term of this agreement, without thirty (30) days written notice

to the CITY'S City Clerk prior to the effective date of such cancellation, or change in coverage.

(5) CONSULTANT NOT AGENT. Except as CITY may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement, to bind CITY to any obligation whatsoever.

(6) ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

(7) PERSONNEL. CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. In the event that CITY, at its sole discretion, at anytime during the term of this Agreement, desires the removal of any person or persons assigned by CONSULTANT to perform services pursuant to this Agreement, CONSULTANT shall remove any such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person or persons.

(8) STANDARD OF PERFORMANCE. CONSULTANT shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged in the geographical area in which CONSULTANT practices his profession. CITY pursuant to this Agreement shall be prepared in a substantial, first-class, and workmanlike manner, and conform to the standards of quality normally observed by a person practicing in CONSULTANT'S profession. CITY shall be the sole judge as to whether the product of the CONSULTANT is satisfactory.

(9) CANCELLATION OF AGREEMENT. This Agreement may be canceled at any time by CITY for its convenience upon written notification to CONSULTANT. CONSULTANT shall be entitled to receive full payment for all services performed and all costs incurred to the date of receipt of written notice to cease work on the project. CONSULTANT shall be entitled to no further compensation for work performed after the date of receipt of written notice to cease work. All completed and uncompleted products up to the date of receipt of written notice to cease work shall become the property of the CITY.

(10) PRODUCTS OF CONSULTING. All products of the CONSULTANT resulting from this Agreement shall be the property of the CITY.

(11) INDEMNIFY AND HOLD HARMLESS. CONSULTANT shall indemnify, hold harmless the CITY, its officers, agents and employees from all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property to the extent arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by the CONSULTANT or any person directly or indirectly employed by or acting as agent for CONSULTANT in the performance of this Agreement, including the concurrent or successive passive negligence of the City, its officers, agents or employees.

It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

(12) PROHIBITED INTERESTS. No employee of the CITY shall have any direct financial interest in this agreement. This agreement shall be voidable at the option of the CITY if this provision is violated.

(13) LOCAL EMPLOYMENT POLICY. The City of Winters desires wherever possible, to hire qualified local residents to work on city projects. Local resident is defined as a person who resides in Yolo County.

The City encourages an active affirmative action program on the part of its contractors, consultants, and developers.

When local projects require, subcontractors, contractors, consultants, and developers will solicit proposals from qualified local firms where possible.

As a way of responding to the provisions of the Davis-Bacon Act and this program, contractor, consultants, and developers will be asked to provide no more frequently than monthly, a report which lists the employee's residence, and ethnic origin.

(14) CONSULTANT NOT PUBLIC OFFICIAL. CONSULTANT is not a "public official" for purposes of Government Code §87200 et seq. CONSULTANT conducts research and arrives at conclusions with respect to his or her rendition of information, advise, recommendation or counsel independent of the control and direction of the CITY or any CITY official, other than normal contract monitoring. In addition, CONSULTANT possesses no authority with respect to any CITY decision beyond the rendition of information, advice, recommendation or counsel.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members

DATE : June 18, 2013

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

FROM : Nanci G . Mills, Director of Administrative Services/City Clerk

SUBJECT: Public Hearing and Adoption of Resolution 2013-16, A Resolution of the City Council of the City of Winters, Approving the Annual Levy Report, and Ordering the Levy and Collection of Assessments Within the City of Winters City-Wide Maintenance Assessment District, Fiscal Year 2013/2014

RECOMMENDATION:

1. Conduct a Public Hearing approving the levy of assessments for the Citywide Maintenance Assessment District
2. Adopt Resolution 2013-16, a Resolution of the City Council of the City of Winters, Approving the Annual Levy Report, and Ordering the Levy and Collection of Assessments Within the City of Winters City-Wide Maintenance Assessment District, Fiscal Year 2012/2013

BACKGROUND

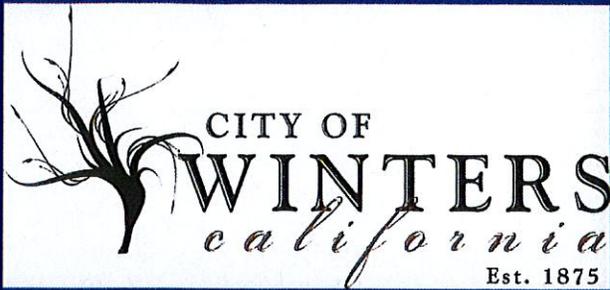
As provided in the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500 and by previous Resolution, the City Council initiated proceedings for the "City of Winters Citywide Maintenance Assessment District" for the annual levy and collection of assessments to pay for the operation, maintenance and servicing of landscaping and lighting and all appurtenant facilities and ordering the preparation of an Engineer's Annual Levy Report regarding the District and assessment for Fiscal Year 2013/2014, pursuant to Chapter 1, Section 22565 of the Act.

The Citywide Maintenance Assessment District pays for street lighting and park and landscape maintenance. Funds reside in the Citywide Maintenance Assessment

District fund. The Assessment District budget for Fiscal Year 2013/2014 is \$198,026.25. The Engineer (Willdan Financial Services) selected by the City Council has prepared and filed with the City Clerk said Report in conjunction with the District and the levy of assessments for Fiscal Year 2013/2014 (beginning July 1, 2013 and ending on June 30, 2014) in accordance with Chapter 3, Section 22623 of the Act.

ALTERNATIVE: None

FISCAL IMPACT: None by this action.



City of Winters

City-Wide Maintenance Assessment District

2013/2014 ENGINEER'S ANNUAL LEVY REPORT

Intent Meeting: May 21, 2013
Public Hearing: June 18, 2013

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ENGINEER'S REPORT AFFIDAVIT
City of Winters Maintenance District formed pursuant to the
Landscaping and Lighting Act of 1972

City of Winters
Yolo County, State of California

This Report contains the complete Engineer's Annual Levy Report for the City of Winters Maintenance District including the boundaries, improvements, budgets and assessments to be levied for Fiscal Year 2013/2014, as they existed at the time of the passage of the Resolution of Intention. Reference is hereby made to the Yolo County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District.

The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this _____ day of _____, 2013.

Willdan Financial Services
Assessment Engineer

By: _____

Richard Kopecky
R. C. E. # 16742

TABLE OF CONTENTS

I. OVERVIEW.....	1
A. INTRODUCTION.....	1
B. APPLICABLE LEGISLATION	2
II. DESCRIPTION OF THE DISTRICT & IMPROVEMENTS	4
A. THE DISTRICT	4
B. THE IMPROVEMENTS	5
III. METHOD OF APPORTIONMENT	5
A. GENERAL	5
B. BENEFIT ANALYSIS	7
C. ASSESSMENT METHODOLOGY.....	9
IV. DISTRICT BUDGET.....	11
A. DESCRIPTION OF BUDGET ITEMS	11
B. DISTRICT BUDGET.....	14
APPENDIX A - DISTRICT BOUNDARY MAPS	A-1
APPENDIX B — 2013/2014 ASSESSMENT ROLL.....	B-1

I. OVERVIEW

A. Introduction

The City of Winters ("City") annually levies and collects special assessments in order to maintain the improvements within the City of Winters City-Wide Maintenance Assessment District ("District"). The District was formed in 1993 and is annually levied pursuant to the *Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code* ("1972 Act"). The boundary of the District is coterminous with the City limits.

This Engineer's Annual Levy Report ("Report") has been prepared in accordance with the provisions of *Chapter 3, Section 22622* of the 1972 Act. This Report describes the District, the improvements therein, any annexations or other modifications to the District including any substantial changes to the improvements, the method of apportionment, the boundaries of the District, and financial information including the district budgets and proposed annual assessments for Fiscal Year 2013/2014. The proposed assessments are based on the historic and estimated costs to maintain the improvements that provide a special benefit to properties within the District. The costs of improvements and the annual levy including all expenditures, deficits, surpluses, revenues, and reserves are assessed to each parcel within the District proportionate to the parcel's special benefits.

For the purposes of this Report, the word "parcel" refers to an individual property assigned its own Assessment Number by the County of Yolo Assessor's Office. The County of Yolo Auditor/Controller uses Assessment Numbers and specific fund numbers to identify properties assessed for special district benefit assessments on the tax roll.

Pursuant to *Chapter 3, beginning with Section 22620* of the 1972 Act, the City Council shall conduct a noticed annual public hearing to consider all public comments and written protests regarding the District. Following the annual public hearing and review of the Engineer's Annual Levy Report, the City Council may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report and confirmation of the assessments contained therein, the City Council will by resolution: order the improvements to be made and confirm the levy and collection of assessments pursuant to *Chapter 4, Article 1, beginning with Section 22640* of the 1972 Act. The assessment rate and method of apportionment described in this Report as approved or modified by the City Council defines the assessments to be applied to each parcel within the District for Fiscal Year 2013/2014.

The assessments as approved will be submitted to the County Auditor/Controller to be included on the property tax roll for each parcel within the District. If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the current fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County. The assessment amount to be levied and

collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rate contained in this Report as approved by the City Council.

B. Applicable Legislation

The District has been formed and is annually levied pursuant to the *Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, beginning with Section 22500*. The assessments and methods of apportionment described in this Report utilize commonly accepted assessment engineering practices and have been calculated and proportionately spread to each parcel based on the special benefits received.

Compliance with the California Constitution

All assessments described in this Report and approved by the City Council are prepared in accordance with the 1972 Act and are in compliance with the provisions of the *California Constitution Article XIID ("Article XIID")*, which was added to the California Constitution with the passage of statewide Proposition 218 in 1996.

In compliance with the substantive and procedural requirements of *Article XIID*, the City initiated and conducted a property owner Validation Vote. At the conclusion of the Public Hearing on June 3, 1997, all property owner ballots returned were opened and tabulated and confirmed in resolution 97-24. The maximum assessment rate of \$82.50 per Equivalent Residential Dwelling Unit and \$26.25 per Non-Residential parcel was approved by the majority of property owners in the District. Any assessment rate levied that is less than the maximum assessment rate is considered an exempt assessment pursuant to *Article XIID Section 5(b)*. The proposed assessment for any fiscal year may be increased over the previous fiscal year provided the assessment rate does not exceed the maximum assessment rate of \$82.50 per Equivalent Residential Dwelling Unit and \$26.25 per Non-Residential parcel. Any proposed new or increased assessment that exceeds the current maximum assessment shall comply with all provisions of *Article XIID Section 4* including a property owner protest proceeding (property owner assessment balloting).

Provisions of the 1972 Act (Improvements and Services)

As generally defined, the improvements and the associated assessments for any District formed pursuant to the 1972 Act may include one or any combination of the following:

- 1) The installation or planting of landscaping.
- 2) The installation or construction of statuary, fountains, and other ornamental structures and facilities.

- 3) The installation or construction of public lighting facilities, including, but not limited to streetlights and traffic signals.
- 4) The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof; including but not limited to, grading, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.
- 5) The installation of park or recreational improvements including, but not limited to the following:
 - a) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.
 - b) Lights, playground equipment, play courts and public restrooms.
- 6) The maintenance or servicing, or both, of any of the foregoing including the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including, but not limited to:
 - a) Repair; removal, or replacement of all or any part of any improvements;
 - b) Grading, clearing, removal of debris, the installation, repair or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities;
 - c) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury;
 - d) The removal of trimmings, rubbish, debris, and other solid waste;
 - e) The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.
 - f) Electric current or energy, gas, or other agent for the lighting or operation of any other improvements.
 - g) Water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.
- 7) The acquisition of land for park, recreational or open-space purposes, or the acquisition of any existing improvement otherwise authorized by the 1972 Act.
- 8) Incidental expenses associated with the improvements including, but not limited to:
 - a) The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;
 - b) The costs of printing, advertising, and the publishing, posting and mailing of notices;
 - c) Compensation payable to the County for collection of assessments;

- d) Compensation of any engineer or attorney employed to render services;
- e) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements; and,
- f) Costs associated with any elections held for the approval of a new or increased assessment.

II. DESCRIPTION OF THE DISTRICT & IMPROVEMENTS

The location, boundaries and specific improvements provided within the District are described in this section. The determination and calculation of special benefit is discussed in the Method of Apportionment and the corresponding expenses, revenues and assessments are summarized in the District Budget.

A. The District

The boundary of the District is coterminous with the City limits. The City is located in the southwestern corner of Yolo County. The southern boundary of the City is Putah Creek. The City is bordered to the west by Dry Creek and a view of the Vaca Mountain Range. The eastern limit is Highway 505 while the northern boundary runs to vast tracts of farmland. The City is approximately 10 miles west of the City of Davis and 10 miles north of the City of Vacaville. Winters' urban limit line contains approximately 1,980 acres, of which 1,277 are currently within the incorporated limits.

The principle highways near the City are Interstate 505 and State Highway 128. I-505 forms the eastern boundary of the City limits and connects to Interstate 80 ten miles to the south and Interstate 5 twenty-three miles to the north. State Highway 128 passes directly through the City and is a major access route from Sacramento and Davis to Lake Berryessa and the Napa Valley.

B. The Improvements

All improvements within the District are maintained and serviced on a regular basis. City staff will determine the frequency and specific maintenance operations required. The District assessments may fund all necessary utilities, operations, services, administration and maintenance costs associated with the improvements. The annual cost of providing the improvements within the District are spread among all benefiting parcels in proportion to the benefits received. The expenditures and assessments set forth in this report are based upon the City's estimate of the costs associated with the improvements including all labor, personnel, equipment, materials and administrative expenses.

The following is a brief description of the improvements to be maintained and operated:

1. City Park, Rotary Park, Valley Oak Park, Blue Oak Park (formerly Putah Creek Hamlet Park), Winters Highlands Park (upon dedication and construction), and the grounds of City Hall and the Community Center: includes maintenance of sidewalks, curbs and gutters, walkways, trees, shrubs, groundcover, grass, irrigation system, park lighting, play equipment and structures, ball fields, fencing, restrooms, drinking fountains, benches, tables, drainage facilities, slopes, signs, parking lot and street frontage improvements, and other related improvements and facilities.
2. Street Lighting: street, park and trail lighting within the entire District.
3. Median Island Landscaping: public landscaping and irrigation improvements in the median islands within the District.
4. Curbside Landscaping: public landscaping and fencing, behind the curb on collector and arterial streets, where the street is not fronted by a residence or business.

III. METHOD OF APPORTIONMENT

A. General

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the construction, maintenance and servicing of public lights, landscaping and appurtenant facilities. The 1972 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value:

“The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.”

The formula used for calculating assessments in the District therefore reflects the composition of the parcels, and the improvements and services provided, to fairly apportion the costs based on estimated benefit to each parcel.

In addition, pursuant to the *Article XIID Section 4*, a parcel’s assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel and provides that only special benefits are assessable and the District must separate the general benefits from the special benefits.

PROPOSITION 218 BENEFIT ANALYSIS

In conjunction with the provisions of the 1972 Act, the California Constitution Article XIID addresses several key criteria for the levy of assessments, notably:

Article XIID Section 2d defines District as follows:

“District means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service”;

Article XIID Section 2i defines Special Benefit as follows:

“Special benefit” means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute “special benefit.”

Article XIID Section 4a defines proportional special benefit assessments as follows:

“An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.”

This District was formed to establish and provide for the improvements that enhance the presentation of the surrounding properties and developments. These improvements will directly benefit the parcels to be assessed within the District. The assessments and method of apportionment is based on the premise

that the assessments will be used to construct and install landscape and lighting improvements within the existing City-Wide Maintenance Assessment District as well as provide for the annual maintenance of those improvements, and the assessment revenues generated by District will be used solely for such purposes.

The costs of the proposed improvements have been identified and allocated to properties within the District based on special benefit. The improvements to be provided by this District and for which properties will be assessed have been identified as an essential component and local amenity that provides a direct reflection and extension of the properties within the District which the property owners and residents have expressed a high level of support.

The method of apportionment (method of assessment) set forth in the Report is based on the premise that each assessed property receives special benefits from the landscape and lighting improvements within the District, and the assessment obligation for each parcel reflects that parcel's proportional special benefits as compared to other properties that receive special benefits.

To identify and determine the proportional special benefit to each parcel within the District, it is necessary to consider the entire scope of the improvements provided as well as the properties that benefit from those improvements. The improvements and the associated costs described in this Report, have been carefully reviewed and have been identified and allocated based on a benefit rationale and calculations that proportionally allocate the net cost of only those improvements determined to be of special benefit to properties within the District. The various public improvements and the associated costs have been identified as either "general benefit" (not assessed) or "special benefit".

B. Benefit Analysis

Each of the improvements and the associated costs have been carefully reviewed by the City and the corresponding assessments have been proportionately spread to each parcel based on special benefits received from the improvements.

Special Benefits — The method of apportionment (assessment methodology) is based on the premise that each of the assessed parcels within the District receives benefit from the improvements maintained and financed by annual assessments. Specifically, the assessments are for the maintenance of local street lighting and landscaped improvements. The desirability and security of properties within the District are enhanced by the presence of street lighting and well-maintained landscaping in close proximity to those properties.

The special benefits associated with the local landscaping improvements are specifically:

- Enhanced desirability of properties through association with the improvements.
- Improved aesthetic appeal of properties within the District providing a positive representation of the area.
- Enhanced adaptation of the urban environment within the natural environment from adequate green space and landscaping.
- Environmental enhancement through improved erosion resistance, and dust and debris control.
- Increased sense of pride in ownership of property within the District resulting from well-maintained improvements associated with the properties.
- Reduced criminal activity and property-related crimes (especially vandalism) against properties in the District through well-maintained surroundings and amenities including abatement of graffiti.
- Enhanced environmental quality of the parcels within the District by moderating temperatures, providing oxygenation and attenuating noise.

The special benefits of street lighting are the convenience, safety, and security of property, improvements, and goods. Specifically:

- Enhanced deterrence of crime and the aid to police protection.
- Increased nighttime safety on roads and highways.
- Improved ability of pedestrians and motorists to see.
- Improved ingress and egress to property.
- Reduced vandalism and other criminal acts and damage to improvements or property.
- Improved traffic circulation and reduced nighttime accidents and personal property loss.
- Increased promotion of business during nighttime hours in the case of commercial properties.

The assessments have been apportioned proportionate to the benefit received. Although the District contains a mixture of residential and non-residential uses, it is the belief of the City that residential properties benefit from all of the maintained improvements and commercial and other non-residential properties receive only benefits from street lighting. The improvements maintained serve to increase the quality of life in the community and therefore all residents benefit, without regard to lot size, occupancy, etc. The assessments are therefore apportioned equally to all residential dwelling units within the City. Commercial and other non-residential properties have been assessed an equivalent share of the cost of energy and maintenance of the street lighting system.

Properties owned by other agencies and City-owned lands were reviewed to establish benefit. The Winters Unified School District receives a proportional benefit and has entered into a Joint Use Facilities Agreement with the City, which offsets the benefits received by the School District through the equitable use of School facilities. Therefore the School District properties have been assigned a zero assessment.

In prior years there was an added assessment for bank stabilization for those parcels that receive direct benefit from the repair of said creek banks. Unused money for bank stabilization is held in reserve and there are no new or additional assessments for bank stabilization.

There has been a provision made by the City Council to allow for reimbursement of the assessment. This reimbursement is to be made to all property owners who can prove that they have paid the assessment and can show a household income that falls below the City Council approved minimums. It is estimated that approximately 5% of the assessed residential property owners would qualify for this reimbursement. Consequently, some refunds will be made that will result in a net reduction of revenues.

C. Assessment Methodology

Equivalent Benefit Units: To assess benefits equitably, it is necessary to correlate the different type of parcels within the District to each other as well as their relationship to the improvements. The Equivalent Benefit Unit method of apportioning benefit is typically seen as the most appropriate and equitable assessment methodology for districts formed under the 1972 Act, as the benefit to each parcel from the improvements are typically apportioned as a function of land use type, size and development.

The Equivalent Benefit Unit method of assessment apportionment uses the single-family home site as the basic unit of assessment. A single-family home site equals one Equivalent Benefit Unit (EBU). Every other land use is typically converted to EBU's based on an assessment formula that equates the property's specific development status, type of development (land use), and size of the property, as compared to a single-family home site.

For the purposes of relating a single-family unit to other residential properties within the District, all residential units were considered as equivalent, i.e. single-family residences are equivalent to apartment units and other multi-family dwelling units. Commercial and other non-residential properties have been assessed per parcel.

The following formulas are used to calculate the annual assessments. The Balance to Levy represents the total amount to be collected through the

annual assessments. The Levy per EBU (Assessment Rate) is the result of dividing the total Balance to Levy by the total District EBU. This Assessment Rate multiplied by each parcel's individual EBU determines each parcel's levy amount.

Street Lighting & Administration

Street Lighting & Administration Costs / Total EBU = Levy per EBU

Levy per EBU x Parcel's EBU = Parcel's Levy Amount-Lighting & Administration

Other Budget Items

Remaining Costs / Residential EBU = Levy per Residential EBU

Levy per Residential EBU x Residential Parcel's EBU = Parcel's Levy Amount-Other

A parcel's total levy amount is calculated by adding together the *Parcel's Levy Amount -Lighting and Administration* and the *Parcel's Levy Amount-Other*.

IV. DISTRICT BUDGET

A. Description of Budget Items

The following describes the services and costs that are funded through the District, shown in the District Budget, Section IV B.

DIRECT COSTS:

Park Maintenance — Includes general operation, maintenance, water, electrical costs, repairs, removals and replacements, spraying, trimming and treatments, debris and other related expenses.

Street Lighting — Includes all costs for removal, replace and/or repair of street/trail lights and appurtenant facilities, power and related costs, pole painting and other related expenses.

Median Island Landscape Maintenance — Includes maintenance, replacements, repairs of irrigation and landscaping, power costs, median curb repairs, trimming, spraying, treatments and other related expenses.

Curbside Landscape Maintenance— Includes maintenance, replacements, repairs of irrigation and landscaping, power costs, sidewalk replacement, trimming, spraying, treatments and other related expenses.

ADMINISTRATION COSTS:

District Administration — The cost to all particular departments and staff of the City for providing the coordination of District maintenance, operations and services of the District, response to public concerns and education, and procedures associated with the levy and collection of assessments. Also, the costs of contracting with professionals to provide any additional administrative, legal, or engineering services specific to the District.

County Administration Fee — The costs to the District for the County to collect assessments on the property tax bills.

LEVY BREAKDOWN:

Reserve Collection/ (Transfer) — The 1972 Act pursuant to *Chapter 1, Article 4 Section 22569 (a)*, provides for a District Reserve Fund. This Reserve Fund provides for the collection of funds to operate the District from the time period of July 1 (beginning of the Fiscal Year) through December 10th or when the County provides the City with the first installment of assessments collected from the property tax bills (typically January or February). Negative amounts shown for this budget item represent transfers from the Reserve

Fund that reduces the Balance to Levy. Maintaining a fully funded Reserve eliminates the need for the City to transfer funds from non-District accounts to pay for operational expenses during the first half of the fiscal year and also provides the District with sufficient funds to address any unforeseen or unusual expenditures that may occur during the year.

Capital Improvement Fund Collection/(Transfer) — The 1972 Act pursuant to *Chapter 5, beginning with Section 22660*, provides for the District to establish by resolution an assessment installment plan for proposed improvements and expenditures that are greater than can be conveniently raised from a single annual assessment. Depending on the nature of the planned improvements, the collection of funds necessary to complete the project may be collected over a period up to thirty years, but typically not more than five years. The funds collected shall be accumulated in a separate improvement fund commonly referred to as a Capital Improvement Fund (CIF) and are not considered part of the regular maintenance of the improvements or the Reserve Fund.

Because the money accumulated in the Capital Improvement Fund is for a specific planned project (budgeted separately), the amount shown for this item in the annual budget will typically be a positive number representing the amount being collected that year as part of the Balance to Levy. A negative number (Transfer) should only occur after the project has been completed and excess funds are being credited back to the District's regular accounts. The actual fund balances and expenditures for Capital Improvements are clearly identified under the Fund Balance Information section of the Budget.

Although the Budget shown in this Report contains CIF line items, a Capital Improvement Plan has not been established for this District.

Contribution Replenishment — This item represents repayments of amounts that had been temporarily advanced to the District from other revenue sources (usually the General Fund) or represents funds being loaned to the District for the current Fiscal Year that must be repaid by future assessments. Similar to the Reserve Collection/ (Transfer) line item, this item directly impacts the Reserve Fund Balances either positively or negatively.

Repayments are shown as a positive number and represent additional monies being collected in the current annual assessment to repay a prior loan. These loans are typically for capital improvement expenditures or unforeseen expenditures incurred in prior years and Reserve Fund monies were not sufficient to cover the expenses. To ensure the ongoing operation and maintenance of the improvements, the City may advance funds to the District as a temporary loan to meet current expenditures, and collect repayment of the loan through the annual assessments the following year or possibly over several years. Generally, all available Reserve Funds are

exhausted before a temporary loan is advanced to the District and the Beginning Reserve Fund Balance will be a negative number indicating the loan amount still outstanding.

A loan for the current fiscal year (Contribution) is shown as a negative number. If the District is expected to incur significant expenditures in the current fiscal year for special services or capital improvements (upgrades or refurbishing of the improvements) and the proposed assessment revenues (annual assessments) and/or available Reserve Funds are not sufficient to cover the expenditures, the City may advanced funds to the District as a temporary loan to meet the proposed expenditures. Generally, all available Reserve Funds must be exhausted before a temporary loan is advanced to the District and any funds temporarily loaned in excess of the available Reserve Funds will be reflected as a negative Ending Reserve Fund Balance. This negative Reserve Fund Balance will be repaid and replenished through future assessment revenues.

Other Revenue Source/General Fund Contribution — This item includes additional funds designated for the District that are not annual assessments. These funds are added to the District account to reduce assessments, and may be from non-District or District sources including City General Fund Contributions and/or interest earnings. Any funds indicated on this line will be shown as a negative number indicating a reduction in the amount to be levied and represent funds that do not have to be repaid.

Balance to Levy — This is the total amount to be collected for the current fiscal year through the annual assessments (for special benefits). The Balance to Levy represents the sum of Total Direct and Administration Costs, Reserve Fund Contributions or Transfers, Contributions from Other Revenue Source, and the Contribution Replenishment. Only those costs related to the improvements identified as special benefits are levied and collected on the tax roll.

B. District Budget

Fiscal Year 2013/2014 District Budget

City of Winters	
City-Wide	
2013/14 Budget	
Levy Components	Total Budget
DIRECT COSTS	
Park Maintenance	\$178,259.00
Street Lighting	62,000.00
Riparian Area Maintenance	0.00
Median Island Landscape Maintenance	800.00
Curbside Landscape Maintenance	1,000.00
Bank Stabilization	0.00
TOTAL DIRECT	\$242,059.00
ADMINISTRATION COSTS	
District Administration	\$20,777.00
County Administration Fee	2,000.00
TOTAL ADMIN	\$22,777.00
COLLECTIONS/(CREDITS) APPLIED TO LEVY	
TOTAL DIRECT AND ADMIN COSTS	\$264,836.00
Reserve Collection	0.00
Capital Improvement Fund Collection/(Transfer)	0.00
Contribution Replenishment	0.00
General Fund (Contributions)	(66,809.75)
TOTAL ADJUSTMENTS	(\$66,809.75)
Balance to Levy (Budgeted)	\$198,026.25
Total Revenue at Maximum Rate	\$198,026.25
Variance above/(below) Maximum Revenue	\$0.00
Levy at Applied Rate	\$198,026.25
Applied Charge	198,026.25
DISTRICT STATISTICS	
Total Parcels	2,100
Total Residential Parcels Levied	1,896
Total Non-Residential Parcels Levied	133
Total Parcels Levied	2,029
Total Equivalent Residential Benefit Units	2,358
Total Equivalent Non-Residential Benefit Units	133
Applied Residential Levy per Benefit Unit	\$82.50
Applied Non-Residential Levy per Benefit Unit	\$26.25
Maximum Levy per Residential Benefit Unit (Current Year)	\$82.50
Maximum Levy per Non-Residential Benefit Unit (Current Year)	\$26.25

APPENDIX A - DISTRICT BOUNDARY MAPS

The boundary map for the District has been previously approved and submitted to the City in the format required by the 1972 Act. The map is on file in the Office of the City Clerk and by reference made part of this Report.

The boundary for the District is contiguous with the boundary of the City and defined as the corresponding parcels identified on the Yolo County Assessor's Map. The parcel identification, lines, and dimensions of each parcel within the District are those lines and dimensions shown on the Yolo County Assessor's Map for the year in which this Report was prepared and by reference are incorporated and made part of this Report.

APPENDIX B — 2013/2014 ASSESSMENT ROLL

Parcel identification, for each lot or parcel within the District, shall be the parcel as shown on the Yolo County Assessor's map for the year in which this Report is prepared.

A listing of parcels assessed within this District, along with the assessment amounts, is included on the following pages. If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the current fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County Auditor/Controller. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rate approved in this Report. Therefore, if a single parcel has changed to multiple parcels, the assessment amount applied to each of the new parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment.

Non-assessable lots or parcels include areas of public streets and other roadways (typically not assigned an APN by the County); dedicated public easements, open space areas and rights-of-ways including public greenbelts and parkways; utility rights-of-ways; common areas; landlocked parcels, small parcels vacated by the County, bifurcated lots, and any other property that cannot be developed or has specific development restrictions. These types of parcels are considered to receive little or no benefit from the improvements and are therefore exempted from assessment.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: June 18, 2013
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Eric Lucero, Public Works Operations Manager
Mary Jo Rodolfa, Management Analyst
SUBJECT: Approval of City Park Rehabilitation Plan for the Play Courts, Restrooms, Infrastructure Park Interior and Play Structure and Appointment of a Committee to Study and Recommend Improvements to the Wooden Play Structure

RECOMMENDATIONS:

Staff recommends that the City Council approve the City Park Rehabilitation Plan for the play courts, restrooms, infrastructure, park interior and play structure and that the City Council appoint a committee to study and recommend improvements to the wooden play structure.

BACKGROUND:

On October 24, 2011, the City of Winters received notification of a grant award of \$192,750 from the Department of Housing and Community Development Housing-Related Parks Program. On January 26, 2012 the City received the State's Housing-Related Parks (HRP) Program Standard Agreement to be completed and returned to the State for approval. The City received notice on March 8, 2012 that the agreement had been approved (Contract No. 11-HRPP-7851). The term of the agreement runs from March 8, 2012 through September 30, 2016. The grant funds were awarded for improvements at City Park including but not limited to upgrading and/or replacing portions of the park picnic area, playground and existing play structure.

The Winters City Park sits on approximately 3.4 acres of land and is bounded by Main, Haven, Abbey and Fourth Streets. The park consists of a baseball playing field in the northwest corner and a narrow strip used for picnicking and horseshoes along the southwest corner. Two concrete basketball courts are located just off Main Street near the midway point of the park. Directly north of the courts is the park's irrigation and

electrical system located adjacent to and in the old restroom building. To the north of that, extending to Abbey Street, are the current restrooms which were constructed in 1990 and have had minor renovations made to them over the years. The southeast portion of the park consists of picnic areas with grass and large shade trees and the remaining northeast portion contains the wooden play structure designed by Robert Leathers with community input and built as a community project in 1989.

The park, though used often, is in dire need of repairs and upgrades to maintain it as a desirable park for use by all of the citizens of Winters as both an active and passive recreational area. Although the baseball field, with the support of Winters Little League, maintains a well kept appearance other areas of the park appear shabby and worn. New lights were installed at the basketball courts in 2011, however the basketball hoops and backboards are in poor condition and the court markings on the concrete surface are no longer clearly visible. Several tables in the interior of the park are missing benches and there is no interior park access by sidewalk. Several of the play elements of the play structure have broken and many have been removed or need to be replaced.

Staff has identified renovations that need to be made to the park to address necessary repairs and the enhancement of the entire park. The proposed renovation work has been separated into two sections: 1) play courts, restrooms, infrastructure and park interior and 2) wooden play structure.

PROJECT DESCRIPTION:

Section 1: This portion of the project includes work that City staff has identified as necessary for the rehabilitation and enhancement of the play courts, restrooms, infrastructure and park interior. Elements include the following:

- Construction of a 5' wide sidewalk from Fourth Street through the interior of the park to the restrooms.
- Installation of decomposed granite along Abbey Street from Fourth Street to the restrooms/dumpster area.
- Installation of a BBQ grill to replace missing grill
- Repair and upgrade of restroom plumbing fixtures
- Painting of park restrooms
- Replacement of 4 basketball hoops
- Installation of a Calsense irrigation controller
- Installation of 4 new tables and benches for park interior
- Installation of 2 benches near the play courts area
- Installation of an ADA compliant drinking fountain
- Removal of old restroom building (storage shed & electrical building)
- Relocation of the irrigation control system
- Relocation of park electrical panel
- Relocation of electrical poles
- Installation of 4 new play court lights
- Removal of concrete courts and installation of larger asphalt court area to accommodate 3 play courts
- Painting of 3 play court areas on the asphalt court area
- Installation of color coated fence surrounding one play court for futsal use

- Installation of gates into court area

The total cost of Section 1 is estimated to be \$155,132 (see Attachment A for budget detail).

Section 2: This portion of the project involves the renovation and upgrade of the wooden play structure. Staff has identified the minimum work that is necessary and recommends that the City Council appoint a committee to make recommendations beyond the staff identified minimum work and coordinate the repair and upgrade of the structure. The following elements have been identified by staff as the minimum renovation that needs to be completed:

- Safety repair work
- Replacement of all swings – anchors, chains and seats
- Replacement of two slides
- Installation of steering wheel play item
- Addition of two ADA compliant swings with pads – one adaptive swing in the toddler area and one wheelchair swing in the older child area
- Installation of a toddler ADA compliant play structure with pad
- Installation of security lighting in the interior of the play structure

The total amount of funds estimated as available to complete the above work and additional upgrades identified by the appointed committee is \$66,631.41. This amount is calculated as follows: \$37,618 amount of grant funds remaining after Section 1 work (\$192,750 – \$155,132); \$15,000 recycled materials funds to be used for materials to repair the play structure; \$2,700.41 City Park play structure maintenance funds and \$11,313 in Non-Housing Tax Allocation Bond proceeds. The necessary work identified by staff for Section 2 has a projected cost of \$24,579, thus leaving \$42,052.41 available for additional amenities and upgrades to the play structure.

Staff is recommending that members of the appointed committee include representation from the Friends of Winters Parks and the Public Works Operations Manager.

FISCAL IMPACTS:

The City has received a grant in the amount of \$192,750.00 for the rehabilitation of the park. Additionally, \$2,700.41 is available in the park maintenance fund established for the maintenance of the wooden play structure and an additional \$15,000 in recycled materials funds is available for the play structure repair. The City will also commit \$11,313 in Non-Housing Tax Allocation Bond Proceeds to the rehabilitation of the wooden play structure. Staff is pursuing possible funding sources for the painting of the court area and for the poured in place surface areas of the play structure however the project is not relying on the receipt of those funds. In the event that additional funds are received through a donation or grant program then a recommendation for the best use of the funds that are freed up will be brought to the City Council for approval.

ATTACHMENTS:

- A. City Park Rehabilitation Project Spreadsheet
- B. City Park Aerial Photo/Current Site Plan
- C. City Park Proposed Site Plan

6/12/2013 1:10 pm

Abbey Street

Restrooms

Play Stucture

Old Restrooms

Haven Street

Fourth S

Picnic Area

Play Courts

Horseshoe Pits

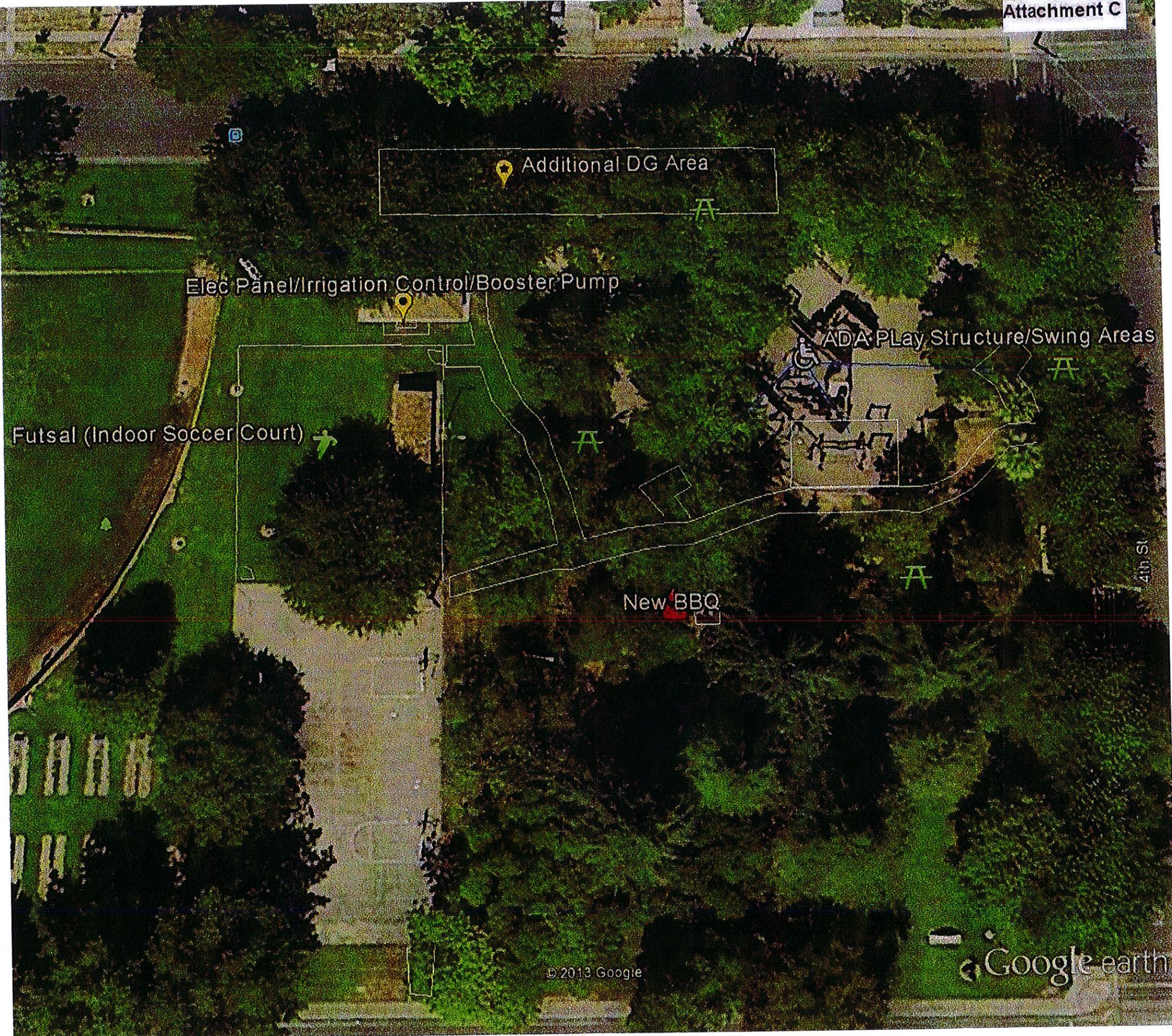
Main Street

© 2013 Google

Google earth

1993

Imagery Date: 9/1/2012 38°31'10.86" N 121°58'32.88" W elev 137 ft eye alt 554 ft





**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: June 10, 2013
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Aaron McAlister, Fire Chief
Ron Karlen, Fire Division Chief
Art Mendoza, Fire Captain
SUBJECT: Purchase of one new Type I Urban Interface Engine

RECOMMENDATION:

Adopt a resolution authorizing the suspension of competitive bidding for the purchase of one new fire engine and approve the purchase from Golden State Fire Apparatus utilizing cooperative purchase pricing from the Houston-Galveston Area Council (H-GAC), for one new Type 1 Urban Interface Engine and approve a budget amendment to the Fire capital outlay budget not to exceed \$75,617.00. This amount includes the original matching FEMA AFG portion of \$25,233.00 and the additional amount of \$50,384.00 requested to complete the project.

BACKGROUND:

In March of 2013 the Winters Fire Department received an Assistance to Firefighters Grant (AFG) through FEMA. The Fire Department has researched different vendors for building the specific type of fire engine needed to fit the Fire Department's need.

This new Type 1 Urban Interface Engine will be built to handle the all-risk disciplines the Fire Department responds to including normal day to day type calls, wildland fires and technical rescue.

The FEMA portion of the grant is for \$479,430.00 and the total proposed budget amount for this project is estimated at \$563,047.00, which would include the engine purchase and loose equipment. This amount also includes a \$5,000.00 contingency for the overall project.

The additional \$50,384.00 is in addition to the previous amount requested. The Fire Department was not willing to give up on some important features available in fire apparatus in order to meet the needs of the community it serves. Some features that increased the price of the engine included Tac-4 suspension for better turning radius, side roll and frontal impact protection for firefighter safety, aluminum body instead of steel and rear differential interlock for traction in soft ground conditions. In addition to the engine cost, the Department is in need of purchasing items for the engine such as deluge "deck gun" monitor and mounting equipment.

New Vehicle Specifications

Specifications for new vehicles are developed based on minimum standards established by the National Fire Protection Association (NFPA). As recognized standards, these guidelines incorporate new technology and safety features, which are also considered in the rating of local fire services capabilities.

The general specifications call for a standard enclosed cab with seating for up to five firefighters, 620 to 730 gallon water tank, 1,500 gallon per minute fire pump, hydraulically driven auxiliary (back-up) fire pump. LED scene lighting strategically placed around the engine for better visibility and safety. Some equipment carried on the engine can be transferred from the older engine, however some ancillary items, such as pike poles, mounting hardware, a master stream appliance, and a smoke ejector, will need to be purchased as part of the project. Additional equipment that is not carried on the older unit, due to current space restrictions, may also be required.

Actual specifications, being quite lengthy, are not attached to this report, however, are on file with the City Clerk and available for review. Additionally, the RFP and associated bid documents from the HGAC will be available for inspection in the City Clerk's Office.

The immediate action before council is to accept the suspension of competitive bidding in order to take advantage of discounted pricing and time savings. Given the relative size of Winters and time sensitive nature of this project; staff is not recommending a Request for Proposal (RFP) process for this purchase. The most appropriate option is a "tag-on" or "piggy-back" purchasing agreement to another entity who has already conducted a competitive bidding process. After research, staff recommends using the Houston-Galveston Area Council (H-GAC).

The H-GAC is a "Government-to-Government" procurement service available nationwide. Governmental entities have been procuring products and services through H-GAC for over 30 years. As a unit of local government assisting other local governments, H-GAC strives to make the governmental procurement process more efficient by establishing competitively priced contracts for goods and services, and providing the customer service necessary to help its members achieve their procurement goals. All contracts available to members of H-GAC have been awarded

by virtue of a public competitive procurement process compliant with state statutes.

Through researching options of vendors for fire apparatus, the fire department has chosen to purchase a Pierce engine through Golden State Fire Apparatus located in Modesto. The purchase is permitted utilizing the H-GAC. The Fire Department has met with representatives from Golden State Fire Apparatus and have developed specifications for the new engine.

FISCAL IMPACT:

The city would pay 5% of matching funds as part of the FEMA AFG agreement at a total of \$25,233.00. The city would also contribute an additional \$50,384.00 toward the project, which is the difference of the purchase price of the engine and equipment needed to install on the new engine above what the FEMA AFG grant will provide. The total contributions on behalf of the city would total an amount up to \$75,617.00. The Fire Department has a donation fund account in the amount of \$8,000.00, which will be used toward the loose equipment cost for the engine and is included in the \$27,000.00 loose equipment line item. The price breakdown is as follows:

Fire Engine Purchase	\$531,047.00
Loose Equipment	\$27,000.00
Contingency	\$5,000.00
Total Project not to Exceed	\$563,047.00

One (1) 1500 GPM Pumper ("tag-on" to HGAC)	\$485,198.00
Factory Inspection Trips (1 trip, 2 WFD representatives)	\$2,756.00
Delivery / Dealer Preparation	\$4,600.00
Performance Bond	\$1,442.00
APPARATUS COST	\$493,997.00
State Sales Tax @ 7.50%	\$37,049.00
TOTAL PURCHASE PRICE	\$531,047.00

ATTACHMENTS:

1. Resolution
2. Golden State Fire Apparatus Quote
3. HGCA contract

Resolution No. 2013-22

A Resolution of the City Council of the City of Winters Authorizing the Suspension of Competitive Bidding for the Purchase of One New Fire Engine, Approve the Purchase from Golden State Fire Apparatus Utilizing Cooperative Purchase Pricing from the Houston-Galveston Area Council (H-GAC) for One New Type 1 Urban Interface Engine, and Approve a Budget Amendment to the Fire Capital Outlay Budget Not to Exceed \$75,617.00. This Amount Includes the Original Matching FEMA AFG Portion of \$25,233.00 and the Additional Amount of \$50,384.00 Requested to Complete the Project.

WHEREAS, The City of Winters Fire Department received a FEMA AFG award in the amount of \$479,430.00 for a new fire engine and,

WHEREAS, Staff is recommending to suspend competitive bidding and utilize the H-GAC in order to get reduced pricing and time savings and,

WHEREAS, the Fire Chief has recommended to the City Council that it suspend competitive bidding for this fire engine and to purchase a Pierce Fire Engine (Pumper), with equipment specified, at a fixed price; and

WHEREAS, the City of Winters will allocate funds from the equipment replacement fund in the amount of \$25,233.00 for the matching FEMA AFG funds plus an additional \$50,384.00 to complete the remaining portion of the engine and loose equipment project for a total of \$75,617.00.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters, that the City Manager John Donlevy is authorized to suspend the competitive bidding process on behalf of the City and through the City Manager, the Fire Chief is directed to finalize a contract with Golden State Fire Apparatus for the purposes of purchasing a new fire engine (Pumper) and loose equipment necessary for the new engine.

DULY AND REGULARLY ADOPTED this 16th day of April, 2013 by the following vote:

Ayes:
Noes:
Absent:
Abstain:

CITY OF WINTERS

Cecilia Aguiar Curry, Mayor

ATTEST:

Nanci G. Mills, City Clerk



PROPOSAL FOR PIERCE® FIRE APPARATUS

Winters Fire Department
700 Main Street
Winters, California 95694

DATE	May 30, 2013
QUOTE NO.	90530-13
EXPIRES	July 14, 2013
SALES REP.	Ryan Wright

The undersigned is prepared to manufacture for you, upon an order being placed by you, for final acceptance by Pierce Manufacturing, Inc., at its home office in Appleton, Wisconsin, the apparatus and equipment herein named and for the following prices:

#	Description	Each
A	One (1) Pierce Impel, 4-Door, Full-Tilt, Aluminum Cab, Aluminum Body, Single Axle, 1500 GPM Pump, Mid-Mounted Pumper (HGAC contract number FS12-11, WC04)	485,198.60
B	Factory Inspection Trips (1 trip, 2 WFD representatives)	2,756.00
C	Delivery / Dealer Preparation	4,600.00
D	Performance Bond	1,442.89
E	APPARATUS COST	493,997.49
F	State Sales Tax @ 7.50%	37,049.81
G	TOTAL PURCHASE PRICE	531,047.30

Said apparatus and equipment are to be built and shipped in accordance with the specifications hereto attached, delays due to strikes, war, or intentional conflict, failures to obtain chassis, materials, or other causes beyond our control not preventing, within about 230 calendar days after receipt of this order and the acceptance thereof at our office at Appleton, Wisconsin, and to be delivered to you at WINTERS, CALIFORNIA.

The specifications herein contained shall form a part of the final contract, and are subject to changes desired by the purchaser, provided such alterations are interlined prior to the acceptance by the company of the order to purchase, and provided such alterations do not materially affect the cost of the construction of the apparatus.

The proposal for fire apparatus conforms with all Federal Department of Transportation (DOT) rules and regulations in effect at the time of bid, and with all National Fire Protection Association (NFPA) Guidelines for Automotive Fire Apparatus as published at the time of bid, except as modified by customer specifications. Any increased costs incurred by first party because of future changes in or additions to said DOT or NFPA standards will be passed along to the customers as an addition to the price set forth above.

Unless accepted by July 14, 2013, the right is reserved to withdraw this proposition.

Respectfully Submitted,

Authorized Sales Representative

1237 Doker Drive • Modesto, CA 95351-2868
 (209) 522-0422 • Fax (209) 522-0464
 www.goldenstatefire.com

A CONTRACT BETWEEN
HOUSTON-GALVESTON AREA COUNCIL
Houston, Texas
AND
PIERCE MANUFACTURING INC
Appleton, Wisconsin

This Contract is made and entered into by the **Houston-Galveston Area Council of Governments**, hereinafter referred to as **H-GAC**, having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, AND, **Pierce Manufacturing Inc**, hereinafter referred to as the **CONTRACTOR**, having its principal place of business at 2600 American Drive, Appleton, Wisconsin 54912.

ARTICLE 1: **SCOPE OF SERVICES**

The parties have entered into a **Fire Service Apparatus (All Types)** Contract to become effective as of December 1, 2011, and to continue through November 30, 2013 (the "Contract"), subject to extension upon mutual agreement of the **CONTRACTOR** and **H-GAC**. **H-GAC** enters into the Contract as Agent for participating governmental agencies, each hereinafter referred to as **END USER**, for the purchase of **Fire Service Apparatus (All Types)** offered by the **CONTRACTOR** in states other than Texas. The **CONTRACTOR** agrees to sell **Fire Service Apparatus (All Types)** through the **H-GAC** Contract to **END USERS** in states other than Texas.

ARTICLE 2: **THE COMPLETE AGREEMENT**

The Contract shall consist of the documents identified below in order of precedence:

1. The text of this Contract form, including but not limited to, Attachment A
2. General Terms and Conditions
3. Bid Specifications No: **FS12-11**, including any relevant suffixes
4. **CONTRACTOR's** Response to Bid No: **FS12-11**, including but not limited to, prices and options offered

All of which are either attached hereto or incorporated by reference and hereby made a part of this Contract, and shall constitute the complete agreement between the parties hereto. This Contract supersedes any and all oral or written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Contract cannot be modified without the written consent of both parties.

ARTICLE 3: **LEGAL AUTHORITY**

CONTRACTOR and **H-GAC** warrant and represent to each other that they have adequate legal counsel and authority to enter into this Contract. The governing bodies, where applicable, have authorized the signatory officials to enter into this Contract and bind the parties to the terms of this Contract and any subsequent amendments thereto.

ARTICLE 4: **APPLICABLE LAWS**

The parties agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, directives, issuances, ordinances, and laws in effect or promulgated during the term of this Contract.

ARTICLE 5: **INDEPENDENT CONTRACTOR**

The execution of this Contract and the rendering of services prescribed by this Contract do not change the independent status of **H-GAC** or **CONTRACTOR**. No provision of this Contract or act of **H-GAC** in performance of this Contract shall be construed as making **CONTRACTOR** the agent, servant or employee of **H-GAC**, the State of Texas or the United States Government. Employees of **CONTRACTOR** are subject to the exclusive control and supervision of **CONTRACTOR**. **CONTRACTOR** is solely responsible for employee payrolls and claims arising therefrom.

ARTICLE 6: **END USER AGREEMENTS**

H-GAC acknowledges that the **END USER** may choose to enter into an End User Agreement with the **CONTRACTOR** through this Contract and that the term of said Agreement may exceed the term of the **H-GAC** Contract. However this acknowledgement is not to be construed as **H-GAC's** endorsement or approval of the End User Agreement terms and conditions. **CONTRACTOR** agrees not to offer to, agree to or accept from **END USER** any terms or conditions that conflict with or contravene those in **CONTRACTOR's H-GAC** contract. Further, termination of this Contract for any reason shall not result in the termination of the underlying End User Agreements entered into between **CONTRACTOR** and any **END USER** which shall, in each instance, continue pursuant to their stated terms and duration. The only effect of termination of this Contract is that **CONTRACTOR** will no longer be able to enter into any new End User Agreements with **END USERS** pursuant to this Contract. Applicable **H-GAC** order processing charges will be due and payable to **H-GAC** on any End User Agreements surviving termination of this Contract between **H-GAC** and **CONTRACTOR**.

ARTICLE 7:**SUBCONTRACTS & ASSIGNMENTS**

CONTRACTOR agrees not to subcontract, assign, transfer, convey, sublet or otherwise dispose of this Contract or any right, title, obligation or interest it may have therein to any third party without prior written notice to **H-GAC**. **H-GAC** reserves the right to accept or reject any such change. **CONTRACTOR** shall continue to remain responsible for all performance under this Contract regardless of any subcontract or assignment. **H-GAC** shall be liable solely to **CONTRACTOR** and not to any of its Subcontractors or Assignees.

ARTICLE 8:**EXAMINATION AND RETENTION OF CONTRACTOR'S RECORDS**

CONTRACTOR shall maintain during the course of its work, complete and accurate records of items that are chargeable to **END USER** under this Contract. **H-GAC**, through its staff or its designated public accounting firm, the State of Texas, or the United States Government shall have the right at any reasonable time to inspect copy and audit those records on or off the premises of **CONTRACTOR**. Failure to provide access to records may be cause for termination of this Contract. **CONTRACTOR** shall maintain all records pertinent to this Contract for a period of not less than five (5) calendar years from the date of acceptance of the final contract closeout and until any outstanding litigation, audit or claim has been resolved. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. **CONTRACTOR** further agrees to include in all subcontracts under this Contract, a provision to the effect that the subcontractor agrees that **H-GAC'S** duly authorized representatives, shall, until the expiration of five (5) calendar years after final payment under the subcontract or until all audit findings have been resolved, have access to, and the right to examine and copy any directly pertinent books, documents, papers, invoices and records of such subcontractor involving any transaction relating to the subcontract.

ARTICLE 9:**REPORTING REQUIREMENTS**

CONTRACTOR agrees to submit reports or other documentation in accordance with the General Terms and Conditions of the Bid Specifications. If **CONTRACTOR** fails to submit to **H-GAC** in a timely and satisfactory manner any such report or documentation, or otherwise fails to satisfactorily render performance hereunder, such failure may be considered cause for termination of this Contract.

ARTICLE 10:**MOST FAVORED CUSTOMER CLAUSE**

If **CONTRACTOR**, at any time during this Contract, routinely enters into agreements with other governmental customers within the State of Texas, and offers the same or substantially the same products/services offered to **H-GAC** on a basis that provides prices, warranties, benefits, and or terms more favorable than those provided to **H-GAC**, **CONTRACTOR** shall notify **H-GAC** within ten (10) business days thereafter of that offering and this Contract shall be deemed to be automatically amended effective retroactively to the effective date of the most favorable contract, wherein **CONTRACTOR** shall provide the same prices, warranties, benefits, or terms to **H-GAC** and its **END USER**. **H-GAC** shall have the right and option at any time to decline to accept any such change, in which case the amendment shall be deemed null and void. If **CONTRACTOR** is of the opinion that any apparently more favorable price, warranty, benefit, or term charged and/or offered a customer during the term of this Contract is not in fact most favored treatment, **CONTRACTOR** shall within ten (10) business days notify **H-GAC** in writing, setting forth the detailed reasons **CONTRACTOR** believes aforesaid offer which has been deemed to be a most favored treatment, is not in fact most favored treatment. **H-GAC**, after due consideration of such written explanation, may decline to accept such explanation and thereupon this Contract between **H-GAC** and **CONTRACTOR** shall be automatically amended, effective retroactively, to the effective date of the most favored agreement, to provide the same prices, warranties, benefits, or terms to **H-GAC**.

The Parties accept the following definition of routine: A prescribed, detailed course of action to be followed regularly; a standard procedure.

EXCEPTION: This clause shall not be applicable to prices and price adjustments offered by a bidder, or contractor, which are not within bidder's control [example; a manufacturer's bid concession], or to any prices offered to the Federal Government and its agencies.

ARTICLE 11:**SEVERABILITY**

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

ARTICLE 12:**DISPUTES**

Any and all disputes concerning questions of fact or of law arising under this Contract, which are not disposed of by agreement, shall be decided by the Executive Director of **H-GAC** or his designee, who shall reduce his decision to writing and provide notice thereof to **CONTRACTOR**. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such notice, **CONTRACTOR** requests a rehearing from the Executive Director of **H-GAC**. In connection with any rehearing under this Article, **CONTRACTOR** shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. **CONTRACTOR** may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, **CONTRACTOR** shall proceed diligently with the performance of this Contract and in accordance with **H-GAC'S** final decision.

ARTICLE 13: LIMITATION OF CONTRACTOR'S LIABILITY

Except as specified in any separate writing between the CONTRACTOR and an END USER, CONTRACTOR's total liability under this Contract, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, but excluding its obligation to indemnify H-GAC described in Article 14, is limited to the price of the particular products/services sold hereunder, and CONTRACTOR agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. In no event will CONTRACTOR be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. CONTRACTOR understands and agrees that it shall be liable to repay and shall repay upon demand to END USER any amounts determined by H-GAC, its independent auditors, or any agency of State or Federal government to have been paid in violation of the terms of this Contract.

ARTICLE 14: LIMIT OF H-GAC'S LIABILITY AND INDEMNIFICATION OF H-GAC

H-GAC's liability under this Contract, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to its order processing charge. In no event will H-GAC be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor agrees, to the extent permitted by law, to defend and hold harmless H-GAC, its board members, officers, agents, officials, employees, and indemnities from any and all claims, costs, expenses (including reasonable attorney fees), actions, causes of action, judgments, and liens arising as a result of CONTRACTOR's negligent act or omission under this Contract. CONTRACTOR shall notify H-GAC of the threat of lawsuit or of any actual suit filed against CONTRACTOR relating to this Contract.

ARTICLE 15: TERMINATION FOR CAUSE

H-GAC may terminate this Contract for cause based upon the failure of CONTRACTOR to comply with the terms and/or conditions of the Contract; provided that H-GAC shall give CONTRACTOR written notice specifying CONTRACTOR'S failure. If within thirty (30) days after receipt of such notice, CONTRACTOR shall not have either corrected such failure, or thereafter proceeded diligently to complete such correction, then H-GAC may, at its option, place CONTRACTOR in default and the Contract shall terminate on the date specified in such notice. CONTRACTOR shall pay to H-GAC any order processing charges due from CONTRACTOR on that portion of the Contract actually performed by CONTRACTOR and for which compensation was received by CONTRACTOR.

ARTICLE 16: TERMINATION FOR CONVENIENCE

Either H-GAC or CONTRACTOR may cancel or terminate this Contract at any time by giving thirty (30) days written notice to the other. CONTRACTOR may be entitled to payment from END USER for services actually performed; to the extent said services are satisfactory to END USER. CONTRACTOR shall pay to H-GAC any order processing charges due from CONTRACTOR on that portion of the Contract actually performed by CONTRACTOR and for which compensation is received by CONTRACTOR.

ARTICLE 17: CIVIL AND CRIMINAL PROVISIONS AND SANCTIONS

CONTRACTOR agrees that it will perform under this Contract in conformance with safeguards against fraud and abuse as set forth by H-GAC, the State of Texas, and the acts and regulations of any funding entity. CONTRACTOR agrees to notify H-GAC of any suspected fraud, abuse or other criminal activity related to this Contract through filing of a written report promptly after it becomes aware of such activity.

ARTICLE 18: GOVERNING LAW & VENUE

This Contract shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with this Contract shall lie exclusively in Harris County, Texas. Disputes between END USER and CONTRACTOR are to be resolved in accord with the law and venue rules of the state of purchase. CONTRACTOR shall immediately notify H-GAC of such disputes.

ARTICLE 19: PAYMENT OF H-GAC ORDER PROCESSING CHARGE

CONTRACTOR agrees to sell its products to END USERS based on the pricing and other terms of this Contract, including, but not limited to, the payment of the applicable H-GAC order processing charge. On notification from an END USER that an order has been placed with CONTRACTOR, H-GAC will invoice CONTRACTOR for the applicable order processing charge. Upon delivery of any product/service by CONTRACTOR and acceptance by END USER, CONTRACTOR shall, within thirty (30) calendar days or ten (10) business days after receipt of payment, whichever is less, pay H-GAC the full amount of the applicable order processing charge, whether or not CONTRACTOR has received an invoice from H-GAC. For sales made by CONTRACTOR based on this contract, including sales to entities without Interlocal Contracts, CONTRACTOR shall pay the applicable order processing charges to H-GAC. Further, CONTRACTOR agrees to encourage entities who are not members of H-GAC's Cooperative Purchasing Program to execute an H-GAC Interlocal Contract. H-GAC reserves the right to take appropriate actions including, but not limited to, contract termination if CONTRACTOR fails to promptly remit H-GAC's order processing charge. In no event shall H-GAC have any liability to CONTRACTOR for any goods or services an END USER procures from CONTRACTOR.

ARTICLE 20: LIQUIDATED DAMAGES

Any liquidated damages terms will be determined between CONTRACTOR and END USER at the time END USER's purchase order is placed.

ARTICLE 21: PERFORMANCE BONDS FOR INDIVIDUAL ORDERS

Except as described below for fire apparatus, CONTRACTOR agrees to provide a Performance Bond at the request of END USER within ten (10) days of receipt of END USER's purchase order.

It shall be standard procedure for every order received for fire apparatus that a Performance Bond in the amount of the order be provided to the END USER. Failure of CONTRACTOR to provide such performance bond within ten (10) days of receipt of END USER's order may constitute a total breach of contract and shall be cause for cancellation of the order at END USER's sole discretion. END USER may choose to delete the requirement for a Performance Bond at END USER's sole discretion. If the bond requirement is waived, END USER shall be entitled to a price reduction commensurate with the cost that would have been incurred by CONTRACTOR for the bond.

ARTICLE 22: CHANGE OF CONTRACTOR STATUS

CONTRACTOR shall immediately notify H-GAC, in writing, of ANY change in ownership, control, dealership/franchisee status, Motor Vehicle license status, or name, and shall also advise whether or not this Contract shall be affected in any way by such change. H-GAC shall have the right to determine whether or not such change is acceptable, and to determine what action shall be warranted, up to and including cancellation of Contract.

ARTICLE 23: LICENSING REQUIRED BY TEXAS MOTOR VEHICLE BOARD /IF APPLICABLE/

CONTRACTOR will for the duration of this Contract maintain current licenses that are required by the Texas Motor Vehicle Commission Code. If at any time during this Contract period, any CONTRACTOR'S license is not renewed, or is denied or revoked, CONTRACTOR shall be deemed to be in default of this Contract unless the Motor Vehicle Board issues a stay or waiver. Contractor shall promptly provide copies of all current applicable Texas Motor Vehicle Board documentation to H-GAC upon request.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their duly authorized representatives.

Signed for **Houston-Galveston**
Area Council, Houston, Texas:

Jack Steele, Executive Director

Attest for **Houston-Galveston**
Area Council, Houston, Texas:

Deidre Vick, Director of Public Services

Date: _____, 20__

Signed for **Pierce Manufacturing Inc**
Appleton, Wisconsin:

Printed Name & Title: _____

Date: _____, 20__

Attest for **Pierce Manufacturing Inc**
Appleton, Wisconsin:

Printed Name & Title: _____

Date: _____, 20__



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: June 18, 2013
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Carol Scianna, Environmental Services Manager
SUBJECT: Resolution 2013-21, A Resolution of the City Council of the City of Winters Granting Consent for City of Winters to be Included within the Yolo Community Facilities District 2013-1(Clean Energy).

RECOMMENDATION:

Adopt Resolution 2013- 21, which will enable the City of Winter's inclusion in Community Facilities District (CFD) to finance or refinance the acquisition, installation and improvement of energy efficiency, water conservation and renewable energy improvements (Clean Energy Improvements) to or on real property, including homes and commercial buildings. This CFD is authorized under the Mello-Roos Community Facilities Act of 1982 as amended by Senate Bill No. 555 (SB 555). This type of program is often referred to as "Property Assessed Clean Energy" (PACE) financing. PACE financing is completely voluntary: only property owners that choose to seek financing through the CFD for energy and water-related improvements to their property and unanimously vote to annex their property into the CFD will be subject to this program. No property will be annexed into the CFD or subject to any part of this program without the express willing unanimous consent of the property owner(s).

BACKGROUND:

Recent changes to state law (AB 811 and SB 555) enable cities and counties to set up property supported financing in which property owners may obtain financing for the acquisition, installation and improvement of energy efficiency, water conservation and renewable energy improvements to or on their real property, including homes and commercial buildings. Property owners that choose to obtain such financing would repay it through assessments or special taxes on their property tax bills over a set period of time. PACE financing is completely

voluntary: only property owners that choose to seek financing through the CFD for energy- and water-related improvements to their property and unanimously vote to annex their property into the CFD will be subject to this program. No property will be annexed into the CFD or subject to any part of this program without the express willing unanimous consent of the property owner(s).

PACE financing addresses two major financial hurdles to capital-intensive energy efficiency and renewable energy projects: the high up-front cost and the potential that those costs will not be recovered upon sale of the property. With PACE financing, there is little or no up-front cost to the property owner, and if the property is sold before the investors are repaid, the new owner will, unless a prepayment is arranged, assume responsibility for the remaining assessments or special taxes as part of the property's annual tax bill. By overcoming these barriers, PACE financing presents an unparalleled opportunity to stimulate construction and building activity, reduce peak energy demand, increase property values, and generate savings on utility bills for property owners. Building industry and environmental advocacy representatives have both spoken in favor of PACE financing districts.

Recognizing these benefits, the Yolo County Board adopted a Resolutions 2013-45 and 2013-46 on April 23, 2013 to establish a CFD and levy special taxes therein (only on properties where the County receives a voluntarily request from a property owner to annex into the CFD) to finance or refinance acquisition, installation and improvement of energy efficiency, water conservation and renewable energy improvements.

On February 26, 2013, the Board also authorized the County Administrator to execute a contract with Ygrene Energy Fund California, LLC (Ygrene) to design, fund, implement and market the County's program. Ygrene is a nationwide third-party PACE administrator that provides program design, implementation, funding, contractor certification, marketing, administrative software, and support at no cost to the participating jurisdiction. Ygrene's compensation for performing these services will be derived from the interest rate spread between the cost of funds and the interest rate they provide to property owners who voluntarily obtain financing through the program, as well as fees paid by applicants.

CFD District Formation Process

State law prescribes the process by which a jurisdiction may create a CFD for purposes of offering financing for Clean Energy Improvements. This process requires two public hearings. At the first public hearing held on February 26, 2013, the Board adopted a resolution declaring the County's intention to establish a CFD (Resolution 2013-25). April 23, 2013 was the second of the two required public hearings. Actions taken:

- Adopting Local Policies and Procedures. The Mello-Roos Act requires cities and counties to consider and adopt "Local Policies and Procedures" before initiating proceedings to establish CFDs (Gov. Code, §53312.7.)
- Holding a Public Hearing and taking testimony. Determined a majority protest did not exist.
- Adopted a Resolution of Formation (ROF) of the CFD. The ROF establishes the Future Annexation Area/CFD, authorizes the Orrick firm to file validation action, and approves the forms of Unanimous Approval Agreement and Assignment Agreement contained in the

Hearing Report (attached). The Hearing Report is incorporated into the ROF by reference. It describes how the program will function and acts as a user guide, providing information on program benefits, requirements and parameters, eligible improvements, how property owners and contractors can participate, etc.

Prior to program launch, County staff will work with Ygrene to:

- File and prosecute to judgment a validation suit (including CFD formation documents, program documents, validity of special tax, and lien priority of special tax). A validation action is a summary legal proceeding brought to confirm the legal validity of certain types of documents associated with a public agency's financial transaction. Validation actions serve the important purpose of quickly providing certainty to the agency and other parties involved in the agency's transaction that a subsequent legal challenge will not invalidate or unwrap the transaction. Since PACE financing is a new form of financing, a validation action is desirable to give the County and the other transaction participants certainty, before embarking on the transaction, that a subsequent legal challenge will not invalidate or unwrap the transaction.
- Establish annual tax levy and collection procedures.
- Engage trustee to receive and administer tax collections.

Residential Participation

The following is a paraphrased excerpt from the California Office of the Attorney General's web site that describes the Federal Housing Finance Agency actions related to residential participation in PACE programs:

On July 6, 2010, just as new PACE programs across the state were set to begin operation, the Federal Housing Finance Agency (FHFA) took action to prevent Fannie Mae and Freddie Mac from purchasing mortgages for properties participating in PACE.

Since Fannie Mae and Freddie Mac own or guarantee more than one-half of residential mortgages in the U.S., FHFA's action effectively stopped PACE in its tracks. The Attorney General had no option but to file suit against FHFA. Sonoma County, joined by Placer County, the Sierra Club, and the City of Palm Desert, each also filed suit. All of the California cases were consolidated.

On August 9, 2012, the district court granted the plaintiffs' motion for summary judgment. The Court held that FHFA failed to comply with federal notice-and-comment procedures under the Administrative Procedure Act before taking its anti-PACE action and issued an injunction requiring the agency to complete a rulemaking on PACE and issue a final rule.

The rulemaking process was underway when, on March 19, 2013, the U.S. Court of Appeals for the Ninth Circuit overturned the District Court ruling and dismissed the case against the FHFA related to the court-ordered rulemaking procedure. Basically the court found that FHFA does not have to abide by any rules making process and is free to act at its own discretion as to what constitutes a conforming mortgage.

In response to this situation, the County's PACE program is being created to legally permit both residential and non-residential properties to participate in the program, but requires the Board of Supervisors to affirmatively authorize Ygrene to begin including residential properties in the program. County Staff will consult with County Counsel and participating cities and return to the Board once they receive additional information or clarity regarding the viability of residential PACE.

FISCAL IMPACT: None

RESOLUTION No. 2013-21

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS GRANTING
CONSENT TO INCLUSION OF LAND WITHIN THE TERRITORIAL JURISDICTION
OF THE CITY IN THE COUNTY OF YOLO
COMMUNITY FACILITIES DISTRICT 2013-1 (CLEAN ENERGY)**

WHEREAS, in 2011 the California Legislature passed, and the Governor signed, Senate Bill No. 555, which became effective on January 1, 2012 (Stats. 2011, Ch. 493) and amended the Mello Roos Community Facilities Act of 1982 (California Government Code §§ 53311 and following, the “Act”) to authorize the establishment of community facilities districts for use in financing the installation of energy-efficiency, water-conservation, and renewable-energy improvements to residential, commercial, industrial, or other property; and

WHEREAS, the Board of Supervisors (the “Board”) of the County of Yolo (the “County”) has formed its Community Facilities District No. 2013-1 (Clean Energy) (the “District”) pursuant to the Act with particular reference to Section 53328.1 thereof and its provision that the only means by which a parcel may be included in the District is through the unanimous written consent of all of the owners of that parcel; and

WHEREAS, Section 53315.8 of the Act provides that the County may not form a district within the territorial jurisdiction of a city without the consent of the legislative body of the city; and

WHEREAS, the County has designated the entire jurisdictional territory of the County as territory proposed for annexation to the District in the future, subject to the requirement that before any parcel within incorporated territory may annex to the District, the city council of the incorporated city must consent to annexations from within its territory; and

WHEREAS, the City Council (the “Council”) of the City of Winters (the “City”) wishes to grant its consent to the annexation, to the District, of any parcel within the territorial jurisdiction of the City; and

WHEREAS, the Council is fully advised in this matter;

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

- The above recitals are true and correct, and the Council so finds and determines.
- The Council, as the legislative body of the City, hereby grants its consent to the Board of Supervisors of the County to annex property within the territorial jurisdiction of the City to the District.
- The inclusion of any parcel of land within the City in the District shall be in accordance with the Unanimous Approval Agreement that must be executed by all of the owners of that parcel, and that parcel shall be treated by the County in respect of the District on the same basis and under all the same terms and conditions as if the parcel were not within the territorial jurisdiction of the City but, instead, were located in unincorporated territory of the County.

- This consent is intended to fulfill the requirements of Section 53315.8 of the Act.
- This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 18th day of June 2013, by the following vote:

AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members:

Cecilia Aguiar-Curry, Mayor

ATTEST:

Nanci Mills, City Clerk

County of Yolo

Community Facilities District No. 2013-1 (Clean Energy) County of Yolo State of California

Hearing Report

April 23, 2013

Contents

1. Introduction
2. Program Requirements & Parameters
3. Authorized Improvements
4. Surveys, Site Checks, and Documentation of Energy Savings
5. The Financial Strategy
6. Consumer Protection
7. Changes to the Report

Appendix A – Map of the County Program Area

Appendix B – Authorized Improvements

Appendix C – Summary of Financing Process

Appendix D – County Program Charges

Appendix E – Form of Unanimous Approval Agreement

Appendix F – Form of Notice to Lender of Proposed Special Tax

Appendix G – Form of Assignment Agreement

Appendix H – Property Owner’s Acknowledgment of Sole Responsibility to Deal with Lenders

Appendix I – Notice of Special Tax Lien

1. Introduction

Senate Bill 555 (Statutes of 2011, chapter 493) amended the Mello-Roos Community Facilities Act of 1982 (Government Code sections 53311 and following) (the “**Act**”) to enable public agencies in California to establish voluntary special-tax programs to reduce the upfront costs associated with energy-efficiency, renewable-energy, and water-conservation projects that are affixed to real property and proposed by property owners. The California Legislature declared that a public purpose would be served by such programs, which authorize local governments to finance the installation of such improvements that are permanently affixed to real property. The County of Yolo (the “**County**”) intends to use this financing authority to establish Community Facilities District No. 2013-1 (Clean Energy), County of Yolo, State of California (the “**District**”). The County will use the District to implement its Clean Energy Program (the “**County Program**”). The District and County Program were formed and will be judicially validated to serve all properties legally permitted pursuant to Government Code Section 53313.5(l); provided, however, that residential properties of four units or less will not be allowed to participate in the County Program until such time as the Board of Supervisors permits their participation. In this report, eligible energy-efficiency and renewable-energy improvements and water-conservation measures are collectively referred to as “**Authorized Improvements.**” The District and Program may include both incorporated and unincorporated territories of Yolo County consistent with the terms and conditions adopted by the Board of Supervisors. Any incorporated territories joining the District and County Program shall comply with all terms and conditions of the County Program as adopted by the Board of Supervisors.

The County Program is voluntary and requires the full consent of all of the owners of any property seeking to finance the installation of Authorized Improvements using voluntary special taxes. As with other types of land-secured public-financing programs (such as sewer-assessment districts), property owners will repay the cost of the Authorized Improvements advanced through the County Program, and the costs of the County Program, by means of an annual special tax levied against their properties. This special tax is payable in semi-annual installments and appears as a separate line item on the property-tax bills of the participating parcels.

Goals

The County Program will help owners of improved real property make principled investments in the long-term health of the local, state, and national economies, as well as in the global environment, by providing a voluntary long-term financing mechanism for Authorized Improvements. At the same time, the County Program will enable other jurisdictions within the boundaries of the County to make substantial strides towards implementing existing energy savings and water-conservation plans.

Program Benefits

The County Program is a strategic investment opportunity that can assist the region in achieving significant benefits, primarily in two categories: (1) economic development and (2)

quality of life. The economic-development benefits of the County Program are multifaceted. By enabling property owners to take responsible energy- and water-conservation actions, the County Program promotes reduced utility usage, which translates into direct consumer savings and an increase in discretionary income. The multiplier effect attributable to such savings will benefit businesses and households throughout the region, encouraging job growth and bolstering local-government revenues. In addition, extrapolations from the most recent ECONorthwest study have shown that investment in energy efficiency leads to direct job growth: the study estimates that up to 60 new jobs are created for every \$4 million invested in energy-efficiency improvements. Moreover, the County Program provides an innovative form of financing for property owners. Particularly in economic cycles where credit and lending standards are very restrictive, the ability to obtain alternative sources of capital is extremely important. Accordingly, the County Program provides a safe, no-money-down means of financing Authorized Improvements, with a fixed interest rate and terms that may not readily be available through equity loans and other traditional means.

The County Program catalyzes broader impacts to the regional quality of life through speeding investments into smarter energy- and water-conservation practices. For example, the County Program financing complements other incentives, including utility rebates, federal credits, and state programs, aimed at lowering the upfront costs of Authorized Improvements. This leveraging of resources will accelerate a reduction in communitywide energy and water use, translating directly into reduced GHG emissions and helping to secure our collective energy and water future. This enables the region to address climate change while also ensuring that scarce resources remain available for future generations. On a very tangible level, improvements to the building stock enabled through the County Program will increase building comfort and safety, thereby promoting public health, employee productivity, and overall wellbeing. Additionally, the possibility remains that carbon offsets and credits attributable to energy improvements financed by the County Program may be available. In this case, unless the improvements qualify for an incentive program that requires transfer of credits to the participating property owner, the offsets and credits would be owned by the County or participating city and could generate revenue that would be used in coordination with participants to promote the County Program's sustainability.

Program Administration

The County is contracting with Ygrene Energy Fund California, LLC (the **“Program Administrator”**) to administer and fund the County Program. If the County's contract with the Program Administrator expires without renewal or is terminated, the County may thereafter appoint another third-party to administer and fund the District. The County Administrator or their designee will be authorized to enter into **“Unanimous Approval Agreements”** on behalf of the County. The Program Administrator will oversee professionals associated with implementation of the County Program, including staff, contractors, and any other organizations assisting in the implementation.

The Program Administrator's duties include, but are not limited to, the following:

- Setting up the County Program and coordinating with County staff
- Selecting the site of an outreach center and operating the center

- Providing a source of financing for the County Program
- Developing marketing plans and programs
- Providing an interactive website for the County Program
- Reaching out to the community and marketing the County Program
- Processing and underwriting applications
- Certifying contractors
- Coordinating administration of the County Program
- Managing County Program data
- Acting as a liaison between the County, the property owners, and the contractors hired by property owners to install the Authorized Improvements

2. Program Requirements & Parameters

Hearing Report

The Yolo County Board of Supervisors stated its intention to establish the County Program on February 26, 2013 by adopting its Resolution No. 2013-25 (the “**Resolution of Intention**”), which directed preparation of this report. This Hearing Report explains how the County Program will function (the “**Hearing Report**”). This Hearing Report includes the following:

- A map showing the boundaries of the territory proposed for annexation to the District in the future and within which voluntary special taxes may be implemented (attached as Appendix A). This territory is exactly the entire jurisdictional limits of the County.
- Policies concerning participation in the District (see this Section 2), including a list of the Authorized Improvements (attached as Appendix B); identification of the County official authorized to enter into Unanimous Approval Agreements on behalf of the County (see the paragraph titled “Unanimous Approval Agreement” in Appendix C, which summarizes the County Program’s financing process); and the maximum aggregate dollar amount of Authorized Improvements that may be financed under the County Program (see “Eligible Property Owners and Eligible Properties” below in this Section 2).
- Information on the County’s incidental, financing, and administrative costs and the cost of placing special taxes on the tax roll (see Appendix D).
- A plan for funding the County Program (see Section 5).
- A draft Unanimous Approval Agreement (the “**Unanimous Approval Agreement**”) between a property owner and the County (attached as Appendix E).
- A draft Notice to Lender of Proposed Special Tax (the “**Lender Notification Letter**”) to be sent to all secured lenders on a property at the time its owners apply to participate in the County Program (attached as Appendix F).
- A draft Assignment Agreement (attached as Appendix G).
- A draft Property Owner’s Acknowledgment of Sole Responsibility to Deal with Lenders (attached as Appendix H).

- A draft Notice of Special Tax Lien (attached as Appendix I)

Boundaries of Program Area

A map showing the County boundaries is attached as Appendix A. Pursuant to SB 555, the District initially contains the entire County territory designated as Future Annexation Area (FAA). Property owners within the FAA interested in obtaining financing would voluntarily request, and under the Mello Roos law effectively vote, to be annexed to the CFD via the unanimous written approval of the parcel owner(s). Property owners not interested in obtaining financing will not be annexed into the CFD. Properties within incorporated cities may be annexed to the District only after consent of the legislative body (i.e. City Council) of such incorporated area. Incorporated cities within the County may opt into the County Program by adopting and delivering to the County and the Program Administrator a Resolution referencing the intent to opt into the District and ratifying the County's contract with the Program Administrator.

Eligible Property Owners and Eligible Properties

Property owners eligible to participate in the County Program include, but are not necessarily limited to, individuals, associations, business entities, and cooperatives. Certain eligibility or underwriting criteria must be satisfied, and financing may be approved only if the following criteria are met:

- The property is located within the County.
- If the property is also located within any incorporated city, the legislative body of the city has consented to the annexation to the District of properties within the city.
- Property taxes and other special taxes on the tax bill are current.
- There are no involuntary liens on the property, including construction liens.
- No notices of default or other evidence of debt delinquency have been recorded during the preceding three years or the entire term of ownership of the current owner, whichever is shorter.
- Payments on all mortgage debt secured by the property are current.
- The total of all existing secured indebtedness on the property does not exceed 85% of the value of the property (determined using assessed or appraised value or an estimate of value based upon data supplied by a reputable real estate information service) unless the property owner secures the consent to the financing by all secured lenders of record.
- The proposed principal amount to be financed does not exceed 10% of the value of the property (determined using assessed or appraised value or an estimate of value based upon data supplied a reputable real estate information service.)
- Each holder of a fee-simple interest in the property has signed the Unanimous Approval Agreement and any other documents required by the County Program.
- The total annual property taxes and assessments on the property (including the County Program special taxes) will not exceed five percent (5%) of the property's market value

(determined using assessed or appraised value or an estimate of value based upon data supplied by a reputable real estate information service.)

- Each lender with a recorded lien on the property has been sent a Lender Notification Letter.

Authorized Improvements

The County Program enables owners of qualified property within the County to finance a wide range of Authorized Improvements consistent with the following provisions:

- County Program financing is available for retrofit activities to replace outdated, inefficient equipment and to install new equipment that reduces energy consumption, produces renewable energy, or increases water conservation.
- County Program financing is also available for improvements on new construction, including, if the property will be occupied by the owner, new residential construction.
- The County Program provides financing only for Authorized Improvements that are permanently affixed to real property.
- The County Program provides financing for Authorized Improvements specified in Appendix B (which the County may change from time to time). Appendix B groups the improvements into four categories:
 - Energy-efficiency improvements
 - Renewable-energy improvements
 - Water-conservation improvements
 - Custom measures
- County Program financing is also available for projects that combine Authorized Improvements or bundle energy-efficiency, water-conservation, and renewable-energy improvements. For instance, a property owner may choose to install weather stripping, replace an aging and inefficient furnace, install low-flow toilets, and install a solar photovoltaic system.
- County Program participants will be required to obtain and submit necessary building permits and inspections before receiving financing.
- The Program Administrator will certify the contractors who are eligible to install Authorized Improvements financed through the County Program (each, a **“Certified Contractor”**), require that they have appropriate bonding and/or licensing, ensure that they complete applicable training, and require that they meet other program requirements.

Eligible Project Costs and Administrative Costs

Project Costs. Eligible costs of the Authorized Improvements include the costs of equipment, materials, supplies, and installation. Installation costs may include the costs of energy and water-survey consultations and audits; labor, design, drafting, and engineering costs; permit fees; and inspection charges. The value of any rebates or incentives received by participating

property owners prior to completion of the project will be deducted from the amount that may be disbursed through the County Program. Property owners who elect to engage in broader projects such as general remodeling may only receive that portion of the cost expended for Authorized Improvements. Repairs do not qualify for County Program financing except to the extent that the construction is required for a specific Authorized Improvement.

Administrative Costs. The intent of the County Program is to minimize upfront costs associated with the application process to the extent feasible while also supporting program sustainability. Accordingly, the County Program may impose charges in accordance with the schedule attached as Appendix D. Any annual charges will be included in the annual special tax. All other fees will be added into the amount to be financed by the property owner or may be paid directly when incurred.

Minimum Energy Financing Amount

The minimum size for an amount to be financed under the County Program is \$2,500. Unless progress disbursements are authorized, County Program financing will be disbursed directly to the property owner or to the property owner's designee after Authorized Improvements are completed and final inspection and other documentation is submitted to the Program Administrator.

Duration of Special Tax

Unanimous Approval Agreements are available for up to 20-year terms to accommodate a wide range of energy-efficiency, water-conservation, and renewable-energy investments. The duration of special taxes will be tied to the useful life of financed Authorized Improvements but cannot exceed 20 years.

County Program Interest Rate

The Program Administrator will provide oversight to ensure that the interest rate offered to County Program participants is responsive to market conditions and supports program sustainability. The Program Administrator will set the interest rate to determine the maximum special-tax at the time the County and a property owner enter into a Unanimous Approval Agreement. The interest rate will be fixed at that point for 180 days, and will not go up unless the property owner does not submit a valid funding request within this rate-lock period. The Program Administrator will make periodic changes to the County Program interest rate and the duration of the rate-lock in response to conditions in the financial markets.

Property Special Tax Lien

All property owners must sign a Unanimous Approval Agreement and have their signatures notarized. Execution of the Unanimous Approval Agreement will authorize a lien on the property that secures the payment of the special taxes levied in accordance with the

agreement. See Appendices C, E, F, H, and I for more information on the special tax lien, the property owner's obligation to notify its lenders of such tax lien, and the property owner's sole responsibility to deal with its lenders regarding the special tax lien.

Delinquent Special Tax Collections

Delinquent special taxes will be collected using the laws and powers authorized under California law for collecting property taxes and special taxes, subject to any additional procedural or other limitations that the County may elect to establish in its discretion. One remedy available to collect any delinquent installment of the special tax is accelerated judicial foreclosure of the special tax lien against the delinquent property.

First Levy of Special Tax

If funds are disbursed to property owners by June 30 of any year, then the first year's special taxes will appear on the next tax bill. For disbursements made on or after July 1 of any year, the first levy of the special tax will not appear on the tax bill until the following tax year. Interest on deferred installments will be capitalized and added to the amount to be financed under the Unanimous Approval Agreement, or they may be paid directly at the property owner's election, at the time of funding.

Reserve Fund

The amount to be financed under the Unanimous Approval Agreement may include an amount to fund a reserve from which payments can be made if the property owner fails to pay the annual special tax. The amount of the reserve will be specified in the Unanimous Approval Agreement and may not exceed the amount of one year's special tax. The property owner will be required to replenish any funds advanced from the reserve to pay delinquent special taxes in the year following such advancement. Property owners may utilize available reserve funds to pay the special taxes in the last year of the levy.

3. Authorized Improvements

There are four categories of Authorized Improvements that may be financed through the County Program. A complete list of Authorized Improvements is set out in Appendix B.

Energy Efficiency Improvements

Energy-efficiency improvements comprise a wide range of energy-efficiency fixtures from windows and doors to attic insulation and HVAC equipment. Such measures will help facilitate achievement of County targets, including a reduction in building-energy use through energy-efficiency measures.

Renewable Energy Improvements

Renewable-energy improvements primarily include solar photovoltaic installations designed to replace utility-generated electrical power with renewable solar power for all or a major portion of a property's energy needs. Also included are wind-generation, solar-thermal, geothermal, and hydroelectric installations, as well as emerging technologies for renewable-energy generation.

Water Conservation Improvements

Water-conservation improvements comprise a wide range of water-conservation improvements designed to reduce demand. Included are recirculation systems, gray-water systems, low-flow fixtures, waterless urinals, deionization equipment, and filter upgrades.

Custom Improvements

The County Program encourages the development of innovative technologies that will diversify and expand the County's energy sources. Applicants who seek program financing for custom improvements should consult with the Program Administrator to determine eligibility and obtain directions for submitting engineering plans and specifications. The Program Administrator will approve custom improvements on a case-by-case basis. While applicants would be expected to bear the up-front cost of outside consultations, if any, reimbursement through County Program would be discussed with applicants before projects are reviewed.

4. Surveys, Site Checks, and Documentation of Energy Savings

Property owners who participate in the County Program are investing in the community's future by helping to reduce energy usage or by conserving water. The same owners are making financial investments in their properties, and careful consideration of the costs and benefits of Authorized Improvements is important to ensure cost-effectiveness and satisfactory outcomes. Objective analysis can be a useful tool, and County Program participants are encouraged to take advantage of standards such as those promulgated by the Building Performance Institute (BPI).

An energy audit is required under the County Program. For small projects (\$2,500 to \$249,999), audits will be performed at modest cost to the property owner by contractors or local utility companies. Large projects (\$250,000 to \$499,999) and very large projects (\$500,000 or more) will require more formal audit procedures. The cost of audits may be financed through the annual special tax. Water-conservation improvements do not require an audit.

5. The Financial Strategy

The annual special taxes will be authorized in accordance with the Act and the Unanimous Approval Agreements. The annual special taxes will be collected through the County property-tax system. The County will assign the special-tax revenues to the Program Administrator, or to a trustee as directed by the Program Administrator. The Program Administrator may enter into agreements with multiple local and regional banks and other funding sources to provide both interim and long-term financing for the County Program. The Program Administrator has also represented to the County that through these means it will be able to purchase, hold, repackage, and remarket (or any combination thereof) the revenue stream of special-tax payments in such a way as to provide all necessary resources to fund the Authorized Improvements contemplated by the County Program. The Program Administrator will manage the County Program, establish the program budget, and be responsible for funding program operations. The Program Administrator will indemnify and hold harmless the County from and against any claims to the special-tax revenues associated with the Unanimous Approval Agreements. County staff designated by the County Administrator will have audit authority over the accounting structure developed by the Program Administrator to run the County Program. The County will conduct yearly audits of the Program Administrator. The Program Administrator will reimburse County for all costs related to program administration, including cost of any audit performed.

6. Consumer Protection

The Program Administrator will disclose relevant financing information to property owners and give participating residential property owners the opportunity to cancel their Unanimous Approval Agreements, without penalty, during the three-day period following execution. Each single-family residential property owner will be required to sign an acknowledgment that includes the substance of the following disclosure:

Many banks that make home loans desire to preserve the option to sell those loans to U.S. government-sponsored enterprises (called “GSEs”) that are regulated by the Federal Housing Finance Agency (“FHFA”). The FHFA may have instructed its GSEs not to purchase home loans where there is a superior lien for clean-energy improvements, such as the special-tax lien. Thus, in order to refinance your home loan, or for a prospective purchaser of your property to obtain a loan secured by the property, you may need to remove the special-tax lien by prepaying the special-tax obligation in full. You thus should consider the likelihood and timing of a possible refinancing or sale of your property, and the costs to prepay the special-tax obligation, in deciding whether to annex your property to the district. Appendix C includes information on prepayment penalties.

The Program Administrator, on behalf of the County, will comply with all applicable state and federal laws, including but not limited to consumer protection and lending laws in connection with the operation of the County Program.

7. Changes to Report

The County Administrator or his/her designee may make changes to this Hearing Report that the County and/or the Program Administrator reasonably determine are necessary to clarify its provisions or to effectuate the purposes of the County Program. Changes to this Hearing Report that materially modify the County Program will require approval by the Board of Supervisors. Whether approved by the County Administrator or his designee or approved by the Board of Supervisors, changes may not affect the special taxes payable under then-existing Unanimous Approval Agreements between property owners and the County.

Appendix B – Authorized Improvements

The County Program offers financing for a variety of energy-efficiency improvements, water-conservation improvements, solar systems, and distributed-generation renewable-energy systems. In each case, any rebates that are available to the property owner must be applied to the purchase price, and the rebate amount must be deducted from the amount of financing requested.

Energy-Efficiency Improvements

- Air sealing and ventilation
- Air filtration
- Building envelope
- Duct leakage and sealing
- Bathroom, ceiling, attic, and whole-house fans
- Insulation
- Defect correction
- Attic, floor, walls, roof, ducts
- Weather-stripping
- Sealing
- Geothermal exchange heat pumps
- HVAC systems
- Evaporative coolers (coolers must have a separate ducting system from ducting for air-conditioning systems and heating systems)
- Natural-gas-storage water heater
- Tank-less water heater
- Solar-water-heater system
- Reflective insulation or radiant barriers
- Cool roof
- Windows and glass doors (U value of 0.40 or less and solar-heat-gain coefficient of 0.40 or less)
- Window filming
- Skylights
- Solar tubes
- Additional building openings to provide additional natural light
- Lighting (fixture retrofits only)
- Pool equipment (circulating pumps, etc.)

Other Non-residential Building Improvements

- Occupancy-sensor lighting fixtures
- SMART parking-lot bi-level fixture

- SMART parking-garage bi-level fixtures
- SMART pathway lighting
- SMART wall-pack fixtures
- Task ambient office lighting
- Classroom lighting
- Refrigerator case LED lighting with occupancy sensors
- Wireless daylight-lighting controls
- Kitchen exhaust variable air-volume controls
- Wireless HVAC controls & fault detection

Improvements not specifically listed that nevertheless provide energy efficiency in excess of Title 24 requirements, may be installed and financed under the County Program.

Renewable-Energy Improvements (Photovoltaic and Solar-Thermal Equipment)

- Solar thermal hot-water systems
- Solar thermal systems for pool heating
- Photovoltaic systems (electricity)
- Emerging technologies

Water-Conservation Improvements

- Faucet aerators
- Core-plumbing systems
- Gray-water systems
- Instantaneous hot-water heaters
- Recirculation hot-water systems
- Demand initiated hot-water systems
- Hot-water pipe insulation
- Irrigation-control systems
- Irrigation systems
- Rainwater cisterns
- Low-flow showerheads
- High-efficiency toilets
- Demand water softeners
- Whole-house water-manifold systems

The following water-conservation improvements are approved for non-residential applications:

- Cooling-condensate reuse
- Cooling-tower conductivity controllers

- Deionization equipment
- Filter upgrades
- Foundation drain water
- Industrial-process water-use reduction
- Pre-rinse spray valves
- Recycled water sources
- Urinals
- Waterless urinals

Custom Improvements

The Program Administrator can evaluate and approve financing for Authorized Improvements that are not “off the shelf” (“**Custom Improvements**”). Custom Improvements may involve large-scale industrial or commercial energy-efficiency improvements; processing or industrial mechanical systems; and renewable energy-generation from sources such as geothermal and fuel cells. Custom Improvements that will be considered for County Program funding include the following:

- Building energy-management controls
- HVAC duct zoning-control systems
- Irrigation pumps and controls
- Lighting controls
- Industrial- and process-equipment motors and controls
- Fuel cells
- Wind-turbine power systems
- Natural gas
- Hydrogen fuel
- Other fuel sources (emerging technologies)
- Co-generation (heat and energy)

Appendix C – Summary of Financing Process

The County Program provides financing for the installation of Authorized Improvements on qualifying property within the County. A participating property owner will repay the financing through the payment of special taxes levied against the owner's property that are payable in semi-annual installments on property-tax bills.

Project Scoping

Property owners work directly with Certified Contractors to determine the scope of their projects. As a project is defined, the property owner obtains a Certified Contractor's bid to determine the cost of the Authorized Improvements.

Application Process

The application process can be completed on-line or by a paper application. It is a two-step process to (1) qualify for funding and then, after installation of the improvements, (2) to request the release of funds. All approved or denied applicants will receive written confirmation of the status of their applications. The Program Administrator will answer all questions, respond to concerns, and help to mediate disputes except as provided below.

Initial Application

Property owners considering the County Program must submit an application, either through the Program Administrator's on-line system or by submission of the written application form. The following information must be provided at the time an application is submitted:

1. Property owner(s) name(s).
2. Property address.
3. Assessor's parcel number.

Application Fee

The Program Administrator will collect application fees based on the table in Appendix D at the time of submittal, though the application fee may, at the request of the property owner, be reimbursed through the financing at the time of funding.

Lender Notification

Concurrently with submitting the application to the Program Administrator, the applicant must send a Lender Notification Letter to each secured record lender on the property (Appendix F). The applicant must also sign a Property Owner's Acknowledgment of Sole Responsibility to Deal with Lenders (Appendix H).

Application Review

Within three business days of receipt of an application, the Program Administrator will review the application; determine whether it is approved, incomplete, denied, or requires additional approval; and notify the applicant in writing of that determination.

1. *Approved.* An application will be approved if the Program Administrator has verified that the application is complete and meets all applicable eligibility and underwriting criteria.

Once an application is approved, the property owner will be required to execute a Unanimous Approval Agreement authorizing the County to record a Notice of Special Tax Lien (Appendix I) on the subject property. Once the Notice of Special Tax Lien is recorded, the Program Administrator will issue a Notice to Proceed to the property owner. Upon receipt of this notice, the property owner may sign installation contracts with a Certified Contractor and authorize commencement of the project. If installation begins prior to receipt of a Notice to Proceed, then the property owner bears the risk of not receiving financing under the County Program.

2. *Incomplete.* An application will be deemed incomplete if it is missing any required information or attachments. Incomplete applications may be resubmitted. The Program Administrator will process resubmitted applications on a first-come, first-served basis following re-submittal.
3. *Denied.* An application will be denied if the Program Administrator cannot verify that it meets all of the requirements for approval. In the event of denial, the Program Administrator will provide a written denial notice, outlining the reasons for the action. Property owners may re-submit denied applications.
4. *Additional Approvals.* With respect to an application to finance Custom Improvements, the Program Administrator reserves the right to require appropriate engineering documentation and energy studies verifying the energy savings and energy-generation capabilities of the proposed project. If allowed by law, the Program Administrator may also charge an additional administrative fee to review technical reports but will discuss any such fee with the property owner before proceeding.

Unanimous Approval Agreement

All property owners of record must sign the Unanimous Approval Agreement, the current form of which is attached as Appendix E, and have their signatures notarized. The County Administrator or his designee will sign the Unanimous Approval Agreement on behalf of the County.

Permits

After receiving the Notice to Proceed, and before commencing installation, the property owner (or Certified Contractor) must obtain a building permit or other permits necessary from the appropriate jurisdiction. Final inspection by the designated building official for the property jurisdiction will be required to ensure that the Authorized Improvements were completed and properly installed, and a valid, signed-off building permit is required before the Program Administrator will approve release of financing.

Time Limit

Except for large projects (\$250,000 or more), installation of the Authorized Improvements must be completed within 180 days after the date of recording of the Notice of Special Tax Lien on the affected property. If the property owner fails to meet this deadline, then the interest rate available through the County Program may change. Prior to expiration of the 180-day period (or other rate-lock period that may be established by the Program Administrator from time to time), property owners may request an extension for good cause. Schedules for large projects must be determined and agreed upon before issuance of a Notice to Proceed.

A property owner may cancel a funding reservation during the 180-day period. The property owner will thereafter be ineligible for funding under that application but may reapply.

Special Tax Lien

Upon execution of the Unanimous Approval Agreement, the Program Administrator will record a Notice of Special Tax against the subject property. If funds are disbursed to property owners before the first business day in July, then the first special-tax levy will appear on the next tax bill. For disbursements after that date, the first year's interest on the amount financed will be capitalized at the program interest rate from the funding date to the tax roll date, and the special-tax levies will not begin until the following year. The lien will secure each annual special-tax levy. The Unanimous Approval Agreement uses a principal amount to be financed, an interest rate on that principal amount, and an ongoing administrative amount, to arrive at the maximum annual special tax as illustrated below:

1. *Principal Amount to be Financed.* The principal amount to be financed may include the following:
 - a. *Eligible Costs.* The County Program may finance the costs of installing Authorized Improvements and conducting energy and water-survey consultations. All federal, state, and local incentives and rebates approved for and/or received by the property owner at the time of funding will be deducted from the principal amount to be financed before approval and property owners are required as a condition of participation in the Program to notify Administrator and/or their Certified Contractor of any such incentives received. The amount of any federal income-tax credit that the property owner may be eligible to receive does not need to be deducted from the principal amount to be financed.
 - b. *Capitalized Interest on the Principal Amount to be Financed.* Because the Yolo County Tax Collector has established a deadline for placing special taxes on the County property-tax bill, the principal amount to be financed may also include necessary capitalized interest thereon if the deadline is missed in any year.
 - c. *Administrative Costs and Costs of Issuance.* Initial administrative costs may include, but are not limited to, (i) the fee charged by the County to record the Notice of Special Tax Lien in the real property records, (ii) financing origination and bond costs, (iii) reserve funds (not to exceed one year's special taxes), and (iv) financing closing costs, including the costs specified in Appendix D.
2. *Interest Rate.* The rate of interest paid by the property owner on the principal amount to be financed will be a fixed rate – though the County Program may establish an option for property owners to elect a variable rate at some point in the future. The rate offered to property owners will vary from time to time depending on the Program Administrator's cost of funds. The interest rate in the Unanimous Approval Agreement will be fixed for the term of the tax levy.
3. *Ongoing Administrative Costs.* Ongoing administrative costs, including any costs charged by Yolo County for the collection of the special taxes on the County property-tax bill, will be included in the administrative-expense component of the annual special tax.

Assignment of Special Tax Revenues

After each Unanimous Approval Agreement is fully subscribed, the County will assign to the Program Administrator the County's rights to receive the resulting special-tax revenues. The current form of the assignment agreement is attached as Appendix G.

Installation of Improvements

Property owners enter into contractual arrangements directly with Certified Contractors for the installation of the Authorized Improvements. All work is subject to appropriate County and/or City Building Department permit requirements and inspections, and all other applicable federal, state, and local laws and regulations.

Final Inspections & Disbursement of County Program Financing

Contractors installing improvements must be Certified Contractors registered through the Program Administrator for the County Program, must comply with all state and local licensing laws, and must obtain building permits and arrange all required inspections. After Authorized Improvements are completed, the Certified Contractor must obtain final inspection and permit sign-off from the appropriate County and/or City Building Department and fulfill any required permit-completion requirements prior to submitting the project for funding. The Certified Contractor then notifies the Program Administrator that all work has been completed and submits final documentation, including verification of permit completion, invoices reflecting all costs less rebates and incentives, and any applicable survey documentation.

Disbursement of the County Program financing will be in accordance with the disbursement procedures set forth in the Unanimous Approval Agreement.

If financing is canceled for any reason after recordation of the Notice of Special Tax Lien has been recorded – whether at the property owner's request or because the project is not completed – then all expenses incurred by the Program Administrator and the County for recording and removing the Special Tax Lien will be the responsibility of the property owner. The Program Administrator will arrange for removal of the lien evidenced by recordation of the Notice of Special Tax Lien upon receipt of payment from the property owner for these expenses.

Payment Terms

Payment of the County Program annual special taxes is made through the addition of a line item on the property-tax bill. The County Program offers payment terms of 10 and 20 years, depending on the preference of the property owner and the expected useful life of the installed Authorized Improvements. Depending on market conditions, a three to five percent (3%-5%) prepayment penalty, clearly identified in the Unanimous Approval Agreement and included in all disclosures to property owners, may apply.

Appendix D – County Program Charges

The following charges will apply to the County Program. The Program Administrator, with the consent of the County, may change these charges from time to time in response to increases or decreases in the cost of providing County Program services.

Description	Amount	Collected
Application	\$50 for residential properties \$200 for commercial properties	Upon application submittal May be financed*
Processing & underwriting	Not to exceed \$250	At disbursement*
County Program cost recovery	Estimated to be \$100	At disbursement*
Recording & disbursement	Not to exceed \$250	At disbursement*
Escrow	Third-party cost based on project size	At disbursement*
Title insurance	Third-party cost based on project size	At disbursement*

* These charges may be included in the principal amount to be financed.

The County Auditor-Controller's normal fees for placing direct levies on the property-tax roll will apply.

Appendix E - Form of Unanimous Approval Agreement

County of Yolo Community Facilities District No. 2013-1 (Clean Energy)

Unanimous Approval Agreement

This Unanimous Approval Agreement, dated _____, 20__, is between the County of Yolo, a political subdivision of the State of California (the “**County**”), and all of the persons or entities identified on the signature page below as owners of the real property identified in Background paragraph E (collectively, the “**Owner**”).

Background

- A. In connection with its Clean Energy Program (the “**Program**”), the County has established its *County of Yolo Community Facilities District No. 2013-1 (Clean Energy)* (the “**CFD**”) for the purpose of levying special taxes against certain developed properties in the County. The tax revenues will be used to finance, refinance, or lease the acquisition and installation on those properties of qualifying renewable-energy systems and energy- and water-efficiency improvements.
- B. The CFD was formed by the County under the Mello-Roos Community Facilities Act of 1982, set forth in sections 53311 through 53368.3 of the California Government Code (the “**Act**”), and particularly under sections 53313.5(l) and 53328.1, which the California Legislature added to the Act in 2011 to promote energy- and water-efficiency improvements needed to address global climate change (see Statutes 2011, chapter 493 (Senate Bill No. 555)). As the Legislature declared in the Act, “a public purpose will be served by providing the legislative body of a local agency with the authority to use special taxes pursuant to the Mello-Roos Community Facilities Act of 1982 to finance the installation of energy efficiency and renewable energy improvements that are affixed, as specified in section 660 of the Civil Code, to residential, commercial, industrial, or other property.” The purpose and method of administration of the special taxes under the CFD are further described in the CFD Hearing Report submitted to the Clerk (the “**Clerk**”) of the Board of Supervisors (the “**Board**”) of the County in conjunction with the public hearing concerning the formation of the CFD held by the Board on April 23, 2013, as it may be amended from time to time (the “**Report**”).
- C. The County has initially contracted with Ygrene Energy Fund California, LLC (the “**Program Administrator**”) to administer the Program and to arrange financing for the acquisition and installation of qualifying renewable-energy systems and energy- and water-efficiency improvements through the CFD.

- D. To participate in the Program, a property must annex to the CFD. The Act permits annexation to the CFD only with the unanimous approval of all of the property's owners. One purpose of this Unanimous Approval Agreement is to memorialize the unanimous approval required by the Act, but this agreement also specifies the terms under which the Property (as defined in paragraph E below) will participate in the Program.
- E. Owner holds title to the real property described in Exhibit A to this agreement (the "**Property**") and has submitted an application to participate in the Program, dated _____, 20__, (the "**Application**"). The Application is incorporated in this agreement and made a part hereof by this reference. Among other things, the Application directs the Owner to review the list of renewable-energy systems, water-efficiency improvements, and energy-efficiency improvements set forth in the Report and authorized to be financed through the Program, and Owner will select from the list the systems and improvements to be installed on the Property. The selected systems and improvements, together with their acquisition and installation on the Property, are referred to as the "**Improvements.**"
- F. The Owner wishes to participate in the Program by entering into this agreement with the County and using the moneys obtained through the Program Administrator to finance, refinance, or lease the Improvements.

The County and the Owner agree as follows:

1. **Contract Documents.** This agreement and the documents attached to it as exhibits, together with the Application, are collectively referred to as the "**Contract Documents.**" All of the Owner's declarations and warranties in the Application are incorporated into this agreement.
2. **Term.** The term of this agreement begins on the date, after the County and the Owner have signed this agreement, when the Notice of Special Tax Lien substantially in the form attached to this agreement as Exhibit B (the "**Notice of Special Tax Lien**") is recorded against the Property (the "**Effective Date**") in the records of the County Recorder of the County. The term of this agreement ends when the entire special- tax obligation (as described in section 7(a), below), plus any applicable penalties, costs, fees, and other charges, has been paid in full.
3. **Special Tax and Lien.**
 - (a) As of the Effective Date, the Property will be annexed to the CFD for all purposes and will be subject to the annual special tax that will be levied against the Property in accordance with the terms of the CFD, this agreement, the Act, and any other applicable law and will be secured by the special-tax lien imposed by the recorded Notice of Special Tax Lien (the "**Special Tax**"). The Owner hereby consents to the

levy of the Special Tax on, and to the recordation of the Notice of Special Tax Lien against, the Property.

- (b) Failure to pay any installment of the Special Tax, like failure to pay any property taxes on the Property, will result in penalties and interest accruing on the amounts due. In addition, the lien of any delinquent Special Tax plus penalties, interest, and costs, as set forth in section 7(d) below may be foreclosed upon as provided in the Act. In that regard, the County and the Owner hereby agree that the obligation to pay the Special Tax is for the purpose of repaying funds disbursed under the Program to the Owner or on the Owner's behalf; that this agreement constitutes the Owner's binding obligation to pay or repay a sum of money through the payment of the Special Tax; and that upon disbursement of the Disbursement Amount (defined in section 4 below) a "debt" will be "outstanding" for purposes of sections 53317(d) and 53356.1 of the Act.

- 4. **Disbursement Amount.** The County shall authorize disbursement of moneys to the Owner or on the Owner's behalf based on the amount of the actual cost of the Improvements (the "**Disbursement Amount**"), subject to this limit: the Disbursement Amount may not exceed \$ _____ (the "**Maximum Disbursement**"). The Program Administrator will determine the Disbursement Amount based on invoices and other relevant documents submitted by the Owner. The Owner's use of the Disbursement Amount is limited as described in section 8, below. If the actual cost of the Improvements exceeds the Maximum Disbursement, then the Owner will be solely responsible for the payment of all improvement-completion costs that exceed the Maximum Disbursement and shall complete the Improvements and fund all costs that exceed the Maximum Disbursement.
- 5. **Authorization of Special Tax, Indebtedness, and Appropriations Limit.** The Owner acknowledges that this agreement constitutes the Owner's election to annex the Property to the CFD, to authorize the Special Tax and the debt described in section 3(b) above, and to establish the contribution of the Property towards the appropriations limit for the CFD (as defined by section 8(h) of Article XIII B of the California Constitution). The Owner hereby waives any notice, protest, and hearing procedures and provisions of any law other than the Act with respect to the annexation of the Property, the levy and collection of the Special Tax, the authorization of debt, or the establishment of the appropriations limit. The Owner further acknowledges that the annexation, the Special Tax, the debt, and the appropriations limit are being authorized on the Property at the Owner's request, and the Owner waives any right to contest the annexation, the authorization of the Special Tax or the debt, the establishment of the appropriations limit, or the imposition of the Special Tax in accordance with this agreement.

6. Commencement and Completion of Improvements.

- (a) *Consent and Authorization.* This agreement constitutes consent and authorization for the Owner to purchase directly the related equipment and materials for the Improvements and to contract directly for the installation of the Improvements on the Property.
- (b) *Date of completion of the Improvements.* Subject to section 17(g) below, the Owner shall complete installation of the Improvements no later than 180 days after the Effective Date unless the Improvements cost \$500,000 or more and the Owner and the Program Administrator have agreed on a later completion date. The Owner and the Program Administrator may agree to an extension of the completion date for good cause shown.

7. Collection of Special Tax on Property Tax Bill; Other Remedies.

- (a) Annual installments of the Special Tax will be collected through the property-tax bill for the Property. The Special Tax will be payable and become delinquent and will bear the same penalties and interest after delinquency, at the same times and in the same manner, and in the same installments, as general taxes on real property within the County are payable. The maximum amount of the Special Tax that will be placed on the tax roll each year is set forth in Exhibit C to this agreement. In accordance with California Law, delinquent Special Taxes bear late charges and interest at the same rates that apply to delinquent ad valorem taxes.
- (b) The Special Tax lien will be coequal to, and independent of, the lien for general taxes and, except as provided in California Government Code section 53936, will not be subject to extinguishment by the sale of the Property on account of the nonpayment of any taxes. The Special Tax lien will be prior and superior to all liens, claims, and encumbrances on or against the Property except (1) the lien for general taxes or ad valorem assessments in the nature of taxes that are levied and collected by the State of California or by any county, city, special district, or other local agency; (2) the lien of any special assessment or assessments; (3) easements constituting servitudes upon or burdens to the Property; (4) water rights, the record title to which is held separately from the title to the Property; and (5) restrictions of record.
- (c) The Special Tax may include an amount to pay costs that are incurred by the County or the Program Administrator including, but not limited to, the following: administration and collection of the Special Tax; administration of the CFD; administration of the debt or financing arrangement, as described in the Report; or administration of any reserve fund and other related funds.

- (d) As a cumulative remedy, if any installment of the Special Tax or any related interest, penalties, costs (including reasonable attorneys' fees), or other charges accruing under applicable taxation provisions are not paid when due, then an action may be brought in the Superior Court of Yolo County to foreclose the lien of the Special Tax to the extent permitted by, and in the manner provided by, the Act and applicable law.
- (e) The County intends to have all Special Tax revenues the County collects applied in accordance with a Master Assignment Agreement, a form of which is set forth in the Hearing Report.

8. Use of Proceeds. The Owner shall use the Disbursement Amount in compliance with all requirements of the Contract Documents and for the sole purpose of paying the reasonable costs and expenses of the Improvements, including the costs of energy audits, architectural and engineering fees, insurance costs, prepaid or amortized interest, Program costs, and other costs as may be approved by the County and the Program Administrator.

9. Disbursement Procedures.

- (a) Notwithstanding anything to the contrary elsewhere in this agreement, no funds will be disbursed to the Owner or on the Owner's behalf unless and until the Program Administrator determines that each of the following conditions has been satisfied, except that the Program Administrator may expressly waive one or more of these conditions in writing on the County's behalf:
 - (1) The Program Administrator has received a written request to disburse the Disbursement Amount.
 - (2) The Program Administrator (A) has received a building permit with respect to the Improvements signed by the applicable jurisdiction; or (B) has established criteria for processing progress disbursements, and those criteria have been satisfied.
 - (3) If requested, the Program Administrator has received from the Owner and, if applicable, from the contractor or contractors that installed the Improvements, a document certifying that installation is complete and setting forth the actual cost of the Improvements. The certification must be acceptable to the Program Administrator in form and substance.
 - (4) The Program Administrator has received such other documents as the Program Administrator may require, including, if applicable, documents required by consumer-protection laws, the sworn statements of contractors, and releases or waivers of liens, all in compliance with applicable law.

- (5) The Owner has, as appropriate, signed and delivered to the Program Administrator the Contract Documents and such other documents pertaining to the Disbursement Amount or the Improvements as the Program Administrator may reasonably require.
 - (6) The Program Administrator has determined that, as of the date of disbursement, the Owner's representations in the Contract Documents are true and that no Default (defined in section 17 below) has occurred and is continuing.
 - (7) As of the date of the disbursement, no stop payment or mechanic's lien notice pertaining to the Improvements has been filed and remains in effect, except such as will be removed through a close of an escrow that includes the payment of some or all of the Disbursement Amount.
 - (8) If required, the Program Administrator has received a title policy with regard to the funds to be disbursed to the Owner.
- (b) The Program Administrator will notify the County when all of the conditions described in section 9(a) above have been satisfied or waived, and the County will have three business days after receipt to review the notice. The Program Administrator will disburse the funds as soon as practicable following the end of the three-day review period unless the County has objected to one or more of the determinations or waivers set out in the notice.

10. Prepayment of Special Tax Obligation. The Owner may prepay the entire Special Tax obligation by paying the present value of the future scheduled installments of the Special Tax using a discount rate of 5%, plus reasonable administrative costs and a prepayment premium that may not exceed 5% of the calculated present value. Interest on the calculated present value may accrue only for the first ten years of the Special Tax obligation. The redemption date may not exceed 240 days from the date of prepayment. The Owner shall notify the Program Administrator in writing of the Owner's determination to prepay the Special Tax obligation at least 10 business days before the date the Owner intends to make prepayment. The Special Tax obligation may only be prepaid in full.

11. The Owner's Representations and Warranties. Based on the Owner's actual knowledge after a reasonable investigation, the Owner represents and warrants that each of the statements set forth in sections 11(a) through 11(f) below is true and complete as of the Effective Date. By accepting the Disbursement Amount, the Owner is deemed to have reaffirmed, as of the date of disbursement, the truth and completeness of the statements in sections 11(a) through 11(f) and of each declaration the Owner makes in the

Application. If the Owner is one or more trustees of a trust, then the following statements also pertain to the trustor or trustors of the trust.

- (a) *Formation; Authority.* Each person who signs this agreement (other than the County's signatory) represents the following:
 - (1) The signature page of this agreement identifies all persons and entities holding title to the Property.
 - (2) The Contract Documents are binding upon, and enforceable against, the Owner in accordance with their terms.
 - (3) No consent or approval of any third party is required for the Owner's execution of the Contract Documents or the Owner's performance of its obligations under the Contract Documents except for the consents and approvals, if any, that the Owner has already obtained.
 - (4) If the person is signing for himself or herself, then he or she is authorized and able to perform the Owner's obligations under the Contract Documents and under all other documents the Owner delivers to the County or the Program Administrator in connection with the Contract Documents.
 - (5) If the person is signing on behalf of a corporation, partnership, limited-liability company, or other entity that is not a natural person, then (A) he or she is authorized to sign and deliver this agreement on that entity's behalf; (B) the entity for which he or she signs is authorized and able to perform the Owner's obligations under the Contract Documents and under all other documents the Owner delivers to the County or the Program Administrator in connection with the Contract Documents; and (C) the entity has complied with all laws and regulations concerning its organization and existence and the transaction of its business and is in good standing in each state in which it conducts its business.
- (b) *Compliance with Law.* Neither the Owner nor the Property is in violation of, and the terms and provisions of the Contract Documents do not conflict with, any regulation or ordinance, any order of any court or governmental entity, or any building restrictions or governmental requirements affecting the Property.
- (c) *Other Information.* All documents, information, and forms of evidence that have been delivered to the Program Administrator in connection with the Owner's application for Program funding are accurate and sufficiently complete to provide accurate and complete knowledge of their subject matter.

- (d) *Lawsuits.* There are no lawsuits, tax claims, actions, proceedings, investigations, or other disputes pending or threatened against the Owner or the Property that may impair the Owner's ability to perform its obligations under this agreement or may impair the County's ability to levy and collect the Special Tax or any other amounts owing under the Program.
- (e) *No Event of Default.* There is no event that is, or with notice or lapse of time or both would be, a Default (defined in section 17 below) under this agreement.
- (f) *Accuracy of Declarations.* The Owner's declarations in the Application are true and complete.

12. The Owner's Covenants.

- (a) *Installation and Maintenance of Improvements.* The Improvements must be installed by contractors on the Program Administrator's list of Certified Contractors unless the Program Administrator, in writing and with the County's approval, authorizes the Owner to install the Improvements. The Owner shall cause its contractor or contractors to do the following: promptly obtain all required building permits; thereafter promptly begin installation the Improvements and diligently continue the work to completion, in a good and workmanlike manner and in accordance with sound installation practices. The same standard applies if the Owner installs the Improvements. The Owner shall maintain the Improvements in good condition and repair.
- (b) *Compliance with Law.* The Owner shall complete all Improvements, or cause the Improvements to be completed, in conformity with all applicable laws, including all applicable federal, state, and local occupation, safety, and health laws, rules, regulations, and standards. The Owner shall comply with and keep in effect all permits, licenses, and approvals required to install and operate the Improvements.
- (c) *Site Visits.* The Owner hereby grants to the County's and the Program Administrator's agents and representatives the right to enter and visit the Property at any reasonable time during construction and for six (6) months thereafter, after giving reasonable notice to the Owner, for the purpose of observing the Improvements. The agents and representatives will make reasonable efforts, during any site visit, to avoid interfering with Owner's use of the Property. The Owner shall also allow the County's and the Program Administrator's agents and representatives to examine and copy the Owner's records and other documents that relate to the Improvements. Any site visit, observation, or examination under this section 12(c) shall not result in any responsibility or obligation of the County with respect to the Improvements.

- (d) *Protection Against Lien Claims.* The Owner shall promptly pay or otherwise discharge any claims and liens for labor done and materials and services furnished to the Property in connection with the Improvements. The Owner may contest in good faith any claim or lien but must do so diligently and without delay in completing the Improvements.
- (e) *Notice to Successors in Interest.* The Owner shall provide any subsequent purchaser of the Property with written notice that the Property is subject to the Special Tax lien.
- (f) *Insurance.* If the Maximum Disbursement exceeds \$60,000, then the Owner shall provide, maintain, and keep in force at all times until the Improvements are completed, a policy of builder's "all risk" property-damage insurance on the Property, with a policy limit equal to the amount of the Maximum Disbursement. Alternatively, the Owner may require that each Certified Contractor installing the Improvements provides, maintains, and keeps such insurance in force. Upon request, the Owner shall provide the Program Administrator with documents (e.g., a certificate of insurance) confirming compliance with this section 12(f).
- (g) *Notices.* Owner shall promptly notify Program Administrator in writing of any Default (defined in section 17 below) under this agreement and of any event that, with notice or lapse of time or both, would constitute a Default.

13. Mechanic's Lien and Stop Notices. If a stop notice or a mechanic's lien related to the Improvements is filed or recorded in accordance with California law, then the Program Administrator may summarily refuse to disburse any funds to the Owner. In addition, if the Owner fails to furnish the Program Administrator with a bond causing such notice or lien to be released within ten days of notice from the Program Administrator to do so, then that failure will constitute a Default under this agreement (see section 17 below). The Owner shall promptly deliver to the Program Administrator copies of all such notices or liens.

14. Owner Responsibility; Indemnification.

- (a) The Owner acknowledges that the County has established the Program solely for the purpose of assisting the owners of property in the County with financing for the acquisition and installation of qualifying renewable-energy systems and energy- and water-efficiency improvements. The Program is a financing program only. The County; the County's officers, employees, or agents; and the Program Administrator are not responsible for the selection of the Improvements or for the installation, performance, or maintenance of the Improvements. Any issues related to installation, performance, or maintenance of the Improvements should be discussed with the Owner's contractors and with the manufacturers or distributors of the Improvements.

- (b) To the maximum extent permitted by law, the Owner shall indemnify, defend, protect, and hold harmless the County and the County's officers, employees, and agents (collectively, the "**County Parties**"), as well as the Program Administrator, from and against all liabilities, claims, demands, damages (including consequential damages), and costs (including all reasonable out-of-pocket litigation costs and reasonable attorneys' fees through final resolution on appeal) that are related directly or indirectly to, or arise in any way out of, or in connection with, any fact, circumstance, or event related to the approval of the Disbursement Amount or the payment to the Owner of the Disbursement Amount, including any of the following: the Contract Documents; the Owner's performance of (or failure to perform) its obligations under the Contract Documents; the Owner's breach or Default (see section 17 below) under the Contract Documents; disbursement of the Disbursement Amount; the selection, acquisition, installation, operation, or maintenance of the Improvements; the levy and collection of the Special Tax; and the imposition of the Special Tax lien. The Owner's obligations under this section 14(b) apply whether they accrue or are discovered before or after the disbursement of the Disbursement Amount to the Owner or the Owner's designee.
- (c) The indemnity obligations described in this section 14 will survive the disbursement of the Disbursement Amount to the Owner or the Owner's designee, the payment of the Special Tax obligation in full, the transfer or sale of the Property by Owner, and the termination of this agreement.

15. Waiver of Claims.

- (a) Acting for itself; for its successors-in-interest to the Property; and for anyone claiming by, through, or under the Owner, the Owner hereby waives the right to recover from, and fully and irrevocably releases the County Parties and the Program Administrator from, all claims, obligations, liabilities, causes of action, or damages, including attorneys' fees and court costs, that the Owner may now have or later acquire against any of the County Parties or the Program Administrator, and accruing from, or related to, any of the following:
 - (1) the Contract Documents;
 - (2) the advance of or failure to advance the Disbursement Amount;
 - (3) the levy and collection of the Special Tax;
 - (4) the imposition of the Special Tax lien;

- (5) the issuance and sale of any bonds or other evidences of indebtedness, or other financial arrangements entered into by the County or the Program Administrator pursuant to the Program;
 - (6) the performance of the Improvements;
 - (7) the Improvements;
 - (8) any damage to or diminution in value of the Property that may result from installation or operation of the Improvements;
 - (9) any personal injury or death that may result from installation or operation of the Improvements;
 - (10) the selection of manufacturers, dealers, suppliers, contractors, or installers, or their action or inaction with respect to the Improvements;
 - (11) the merchantability and fitness of the Improvements for any particular purpose, use, or application;
 - (12) the amount of energy or water savings resulting from the Improvements;
 - (13) the workmanship of any third parties; and
 - (14) any other matter with respect to the Program.
- (b) This release includes claims, obligations, liabilities, causes of action, and damages of which the Owner is not currently aware or which the Owner does not suspect to exist, and which, if known by the Owner, would materially affect the Owner's release of the County Parties or the Program Administrator or both.

- (c) **The Owner hereby acknowledges that it has read and is familiar with California Civil Code section 1542 ("Section 1542"), which is set forth below:**

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

By initialing below, the Owner hereby waives the provisions of Section 1542 solely in connection with the matters that are the subject of the foregoing waivers and releases.

Owner's initials: _____

- (d) The Owner's waivers and releases in this section 15 will survive the disbursement of the Disbursement Amount, the payment of the Special Tax obligation in full, the Owner's transfer or sale of the Property, and the termination of this agreement. The Owner's waivers and releases in this section 15 apply to the Owner's successors-in-interest to the Property and to anyone claiming by, through, or under the Owner.

16. Further Assurances. The Owner shall execute any additional documents that are consistent with this agreement, including documents in recordable form, as the County or the Program Administrator may from time to time find necessary or appropriate to effectuate its purposes in entering into this agreement and disbursing funds to the Owner.

17. Events of Default.

- (a) Remedies with respect to the nonpayment of the Special Tax or any other amounts payable by the Owner under this agreement are governed by section 3 above and California law, including the Act.
- (b) The failure of any of the Owner's representations or warranties to be correct in all material respects, or the Owner's failure to perform or delay in performing any of its obligations under the Contract Documents (other than failures or delays with respect to payment of the Special Tax or any other amount payable by the Owner), will each constitute a non-monetary default (each, a "**Default**"). Upon receiving a notice of Default given under section 17(c) below, the Owner shall immediately start to cure the Default and shall complete the cure with reasonable diligence, but in any event no later than the time set forth in section 17(c).
- (c) If a Default occurs, then before exercising any rights or remedies under the Contract Documents or California law, including the Act, the Program Administrator, on the County's behalf, must give the Owner a written notice of Default. If the Default is reasonably capable of being cured within 30 days, then the Owner will have 30 days after receiving the notice to effect a cure before the County may exercise any rights or remedies. If the Default is reasonably capable of being cured, but not within 30 days, and if the Owner begins corrective action within 30 days after receiving the notice and diligently, continually, and in good faith works to complete the cure as soon as is practicable, then the Owner will have such additional time as is reasonably necessary to cure the Default before the County may exercise any rights or remedies. In no event, however, will the County be precluded from exercising any rights or remedies if its security becomes or is about to become materially jeopardized by the Owner's failure to cure a Default or if the Default is not cured within 120 days after the first notice of Default is given.

- (d) If a Default occurs, then, subject to section 17(c) above, the County may exercise any or all of the rights and remedies available to it under applicable law, at equity, or as otherwise provided in this agreement. If, at the time of the Default, there has been no disbursement of the Disbursement Amount, then the County may elect to terminate this agreement, and, except as otherwise expressly provided in this agreement, upon such termination the parties will have no further obligations or rights under this agreement.
- (e) All costs and expenses the County or the Program Administrator incurs in pursuing its remedies under this agreement will be additional indebtedness of the Owner.
- (f) Except as otherwise expressly stated in this agreement or as otherwise provided by applicable law, the County's rights and remedies are cumulative, and the exercise of one or more of those rights or remedies will not preclude the exercise, at the same time or different times, of any other rights or remedies for the same Default or any other Default. The County's failure or delay in asserting any of its rights and remedies as to any Default will not operate as a waiver of any Default or of any such rights or remedies and will not deprive the County of its rights to institute and maintain any actions or proceedings it may consider necessary to protect, assert, or enforce its rights or remedies.
- (g) With respect to the installation of the Improvements only, the performance of the Owner's covenants under this agreement and the compliance of conditions imposed upon the Owner by this agreement will be excused while and to the extent that the Owner, through no fault or negligence of its own, is prevented from performing or complying by war, riots, strikes, lockouts, action of the elements, accidents, or acts of nature beyond the Owner's reasonable control. But the excused covenants or conditions will be restored to full force as soon as the cause or event preventing compliance is removed or ceases to exist, and the Owner shall immediately resume installation of the Improvements.

18. Severability. Each provision of this agreement is a separate and independent covenant and agreement. If any non-material provision of this agreement or the application of that provision is held to be invalid or unenforceable in whole or part, then the remainder of this agreement, or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will remain valid and fully enforceable.

19. Notices. Any notice or demand under this agreement must be in writing and will be considered properly given and effective only when mailed or delivered in the manner provided by this section 19 to the persons identified below. A mailed notice or demand will be effective or will be considered to have been given on the second business day after it is deposited in the United States Mail, as certified mail, addressed as set forth below and with postage prepaid. A notice or demand sent in any other manner will be effective or will be considered properly given when actually delivered. A party may

change its address for these purposes by giving written notice of the change to the other party in the manner provided in this section 19. Notwithstanding anything set forth in this section, after disbursement of funds to the Owner, all notices regarding the Special Tax must be sent as provided by California law.

To County:

To Owner:

- 20. No Waiver.** A disbursement of the Disbursement Amount based upon inadequate or incorrect information will not constitute a waiver of the County’s right to receive a refund of the Disbursement Amount from the Owner.
- 21. Interpretation.** This agreement is to be interpreted and applied in accordance with California law. Exhibits A, B, and C are part of this agreement. “Include” and its variants are terms of enlargement rather than of limitation. For example, “includes” means “includes but not limited to,” and “including” means “including but not limited to.”
- 22. Venue.** Any legal action brought under this agreement must be instituted in the Superior Court of the County of Yolo, State of California.
- 23. Assignment by County.** The County, at its option, may do either or both of the following without obtaining the Owner’s consent:
- (a) Sell and assign any or all of its rights and obligations under this agreement, including the right to file and prosecute any foreclosure action regarding delinquent Special Taxes or any other amounts payable by the Owner under this agreement.
 - (b) Sell and assign its right to receive the Special Tax collections and any other amounts payable by the Owner under this agreement.
- 24. Owner Assignment Prohibited.** The Owner shall not assign or transfer any portion of this agreement or of the Owner’s rights or obligations under the agreement without the County’s prior express written consent, which the County may withhold, grant, or condition in its sole and absolute discretion. The sale, transfer, or rental of the Property is not an assignment or transfer of this agreement.
- 25. Carbon Credits.** Any carbon credits, renewable-energy credits, solar-renewable-energy credits, offsets, refrigerant gasses, or other tradable environmental certificate or permit attributable to the Improvements will be owned by the County except as follows: if installation of the Improvements qualifies for a monetary incentive or rebate program that requires transfer of carbon credits to the provider of the monetary incentive or

rebate, then the County shall provide for the transfer of the appropriate carbon credits in conjunction with the provision of the monetary incentive or rebate to the Owner.

- 26. Entire Agreement; Counterparts; Amendment.** This agreement contains the parties' entire understanding regarding the matters addressed and is intended to be their final, complete, and exclusive expression of those matters. It supersedes all prior or contemporaneous agreements, representations, and negotiations, whether written, oral, express, or implied. Any amendment to this agreement must be in writing and signed by both parties. If the Owner consists of more than one person or entity, then all such persons and entities will be jointly and severally obligated by this agreement. This agreement may be executed in several counterparts, each of which will be considered an original, but all of which together will constitute the same agreement.
- 27. Special Termination.** Notwithstanding anything to the contrary above, this agreement will terminate and be of no further force if, on or before the date and time provided by applicable law, including the federal Truth In Lending Act and California Business and Professions Code section 7163 and described in the Notice of Right to Cancel delivered to the Owner when the Owner signed this agreement, the Owner submits to the Program Administrator a notice of the Owner's decision to cancel this agreement.

(Signature page follows)

Owner

Print Name of Owner No. 1

Print Name of Owner No. 2

Print Street Address of Owner No. 1

Print Street Address of Owner No. 2

Print City, State, and ZIP Code of Owner No. 1

Print City, State, and ZIP Code of Owner No. 2

By: _____
Signature of Authorized Person

By: _____
Signature of Authorized Person

Print Name and Title of Authorized Person

Print Name and Title of Authorized Person

Date: _____, 20__

Date: _____, 20__

Print Name of Owner No. 3

Print Name of Owner No. 4

Print Street Address or P.O. Box of Owner No. 3

Print Street Address of Owner No. 4

Print City, State, and ZIP Code of Owner No. 3

Print City, State, and ZIP Code of Owner No. 4

By: _____
Signature of Authorized Person

By: _____
Signature of Authorized Person

Print Name and Title of Authorized Person

Print Name and Title of Authorized Person

Date: _____, 20__

Date: _____, 20__

County of Yolo

By: _____
Signature of Authorized Person

Print Name and Title of Authorized Person

Date: _____, 20__

Appendix F - Form of Notice to Lender of Proposed Special Tax

Lender Address:

Notice Date: _____

Property Address:

Loan Number: _____

APN: _____

To Whom It May Concern:

The undersigned (the "**Property Owner**") owns the property located at the above-referenced address (the "**Property**"). You are the lender (the "**Lender**") with respect to a loan secured by a private lien on the Property (the "**Loan**").

Background. In connection with its Clean Energy Program (the "**Program**"), the County of Yolo has established its "County of Yolo Community Facilities District No. 2013-1 (Clean Energy)" (the "**District**") to assist property owners with financing the installation of renewable-energy, energy-efficiency, and water-efficiency improvements that are permanently affixed to their properties (the "**Authorized Improvements**"). The District was formed under California's Mello-Roos Community Facilities Act of 1982, set forth in sections 53311 through 53368.3 of the California Government Code (the "**Act**"). See in particular sections 53313.5(l) and 53328.1.

Under the Act, but only if the owners unanimously consent, the Property will be annexed to the District and an annual special tax will be levied to finance the installation of Authorized Improvements on the Property. Under the Act and the California constitution, the unanimous consent of the owners of the Property constitutes a vote of the owners of the Property in favor of annexing the Property to the District and authorizing the levy of the annual special tax on the Property. Section 53340(e) of the Act provides that the special tax will be collected on the property-tax bill in the same manner as, and subject to the same penalties, remedies, and lien priorities as, ad valorem real-property taxes. Underwriting requirements for participation in the Program include a written application signed by all owners of the Property and verification of the following:

- The Property is located within the jurisdictional boundaries of the County.
- If the Property is also located within the jurisdictional boundaries of any incorporated city, the legislative body of the incorporated city has consented to the annexation of properties within the city's boundaries to the District.
- Property taxes and other special taxes on the tax bill are current and the property owners are not in bankruptcy.
- There are no involuntary liens on the Property, including construction liens.
- No notices of default or other evidence of debt delinquency have been recorded during the preceding three years or the entire term of ownership of the current owners, whichever is shorter.
- Payments on all mortgage debt secured by the Property are current.

- The total of all existing secured indebtedness on the Property does not exceed 85% of the value of the Property (determined using assessed or appraised value or an estimate of value based upon data supplied by a reputable real estate information service).
- The principal amount to be financed does not exceed 10% of the value of the Property (determined using assessed or appraised value or an estimate of value based upon data supplied by a reputable real estate information service).
- Each holder of a fee-simple interest in the Property has signed a Unanimous Approval Agreement (see below) and any other documents required by the Program.
- The total annual aggregate amount of property taxes and special assessments on the Property, including the special tax imposed through the Program, will not exceed five percent (5%) of the value of the Property (determined using assessed or appraised value or an estimate of value based upon data supplied by a reputable real estate information service).
- Each lender with a recorded lien on the Property has been sent this notice.

Participation of the Property Owner in the District. The Property Owner has applied to annex the Property to the District and intends to enter into a Unanimous Approval Agreement with the County, under which the County will levy a special tax on the Property to finance the installation of Authorized Improvements. The maximum annual special tax to be levied, which includes an amount to pay the costs of administering the Program and the District, will be as shown on the attached Exhibit A.

Estimated Benefits of the Authorized Improvements. The Property Owner believes it will realize financial benefits from the Authorized Improvements that exceed their cost over their useful life.

Purpose of this Notice. The Property Owner is sending this Notice of Proposed Special Tax to the Lender to (1) provide notice of the Property's proposed annexation to the District; (2) provide notice that the annual special taxes will be collected on the property-tax bill in the same manner as, and subject to the same penalties, remedies, and lien priorities as, general ad valorem real-property taxes; and (3) declare the Property Owner's agreement to pay on a timely basis both the existing obligations secured by the Property (including the Loan) and the proposed special tax.

Execution and Return of Consent. Although the Lender's consent is not a requirement for the Property's annexation to the District, the Property Owner would appreciate your signing this notice below and then returning it to the Property Owner within 30 days after the date of notice date above. If you do not respond within 30 days, then the Property Owner will rely on your non-response as indicating that you do not object to the Property's annexation to the District or the levying of the special tax. For further information, please call (916-444-9700) or email (john@ygrene-energy.com) John Kaufman of Ygrene Energy Fund California LLC, the Program administrator.

Very truly yours,

Signature of Property Owner

Print Name of Property Owner

Mailing Address: _____
If Different from _____
Property Address _____

LENDER CONSENT TO PROPOSED SPECIAL TAX

The above-referenced Lender consents to the foregoing.

Dated: _____

By:

Signature of Lender Official

Print Name of Lender Official

Print Title of Lender Official

Appendix G - Form of Assignment Agreement

MASTER ASSIGNMENT AGREEMENT

This Master Assignment Agreement, dated _____, 2013, for reference (the “**Master Agreement**”), is between the COUNTY OF YOLO, a political subdivision of the State of California (the “**County**”); and YGRENE ENERGY FUND CALIFORNIA, LLC, a California limited-liability company (“**Ygrene**”).

Background

- A. In connection with its Clean Energy Program (the “**Program**”), the County has established its Community Facilities District No. 2013-1 (Clean Energy) (the “**CFD**”) in accordance with the Mello-Roos Community Facilities Act of 1982 (California Government Code sections 53311 through 53368.3) (the “**Act**”), and particularly under sections 53313.5(l) and 53328.1. The CFD authorizes the County to levy, secure, and collect special taxes on any parcel for up to 20 years when all the owners of the parcel sign an agreement consenting to have the parcel annexed to the CFD (a “**Unanimous Approval Agreement**”). In this Master Agreement, “**Special Tax**” means the special tax described in, and authorized by, a Unanimous Approval Agreement.
- B. A Unanimous Approval Agreement has been entered into for each of the parcels described in supplemental assignment agreements substantially in the form attached to this Master Agreement as Exhibit A (each a “**Supplemental Agreement**”). In this Master Agreement, the “**Property**” refers to the parcel described in a Supplemental Agreement.
- C. Under the Act, the Special Tax authorized by a Unanimous Approval Agreement is to be levied and collected as a separate line item on the County of Yolo’s secured property-tax bill for the Property in the same manner as the Tax Collector collects the general property-tax revenues.
- D. In exchange for Ygrene’s arrangement of financing through the Program for energy-efficiency, water-conservation, and renewable-energy improvements on the Property (the “**Improvements**”), the County desires to sell and assign to Ygrene, without recourse to the County, the County’s right to receive the Special Tax collectible for each Property, and any penalties and interest on and other proceeds of any delinquent installment of the Special Tax (the “**Special Tax Revenues**”) and certain enforcement rights with respect thereto upon the terms set forth in this Master Agreement.
- E. The County is willing to sell and assign, and Ygrene is willing to purchase and accept the assignment of, the County’s right to receive Special Tax Revenues and certain enforcement rights with respect thereto upon the terms set forth in this Master Agreement.

The County and Ygrene agree as follows:

1. **Agreement to Sell and Purchase; Repurchase of Delinquent Installments.** (a) The County shall sell and assign to Ygrene, and Ygrene shall purchase and accept the assignment of, (i) the County's right to receive the Special Tax Revenues collectible for the Property identified in each Supplemental Agreement and (ii) to the extent permitted by law (as to which no representation is made), all present or future rights, if any, of the County to enforce or cause the enforcement of the payment of any delinquent Special Tax collectible for the Property through judicial foreclosure; provided, that, with respect to clause (ii) of subparagraph (a) of this Section, Ygrene and the Further Assigns (defined in Section 9 below) hereby agree that they will not initiate any such judicial foreclosure proceeding against the Property as long as the County is in compliance with its covenant set forth in Section 4(d) of this Master Agreement with respect to the Property. For the avoidance of doubt, Ygrene and the Further Assigns hereby agree that they will not initiate any such judicial foreclosure proceeding against the Property to enforce a delinquent installment of the Special Tax if the County shall have paid, and the Collateral Agent (defined in Section 5 below) shall have received, one hundred percent (100%) of the amount of such delinquent installment of the Special Tax through the County's so-called "Teeter Plan." Ygrene agrees to include an agreement of any Further Assigns to the limitations on foreclosure contained in this Section 1 in any agreement between Ygrene and such Further Assigns that provides for the sale or assignment to such Further Assigns of the rights sold and assigned to Ygrene pursuant to this Master Agreement. The consideration for each sale and assignment is Ygrene's arrangement of financing for the Improvements through the Program.

(b) Any delinquent installment of the Special Tax and the right to receive the Special Tax Revenues collectible with respect to any such delinquent installment of the Special Tax shall be automatically sold to the County upon the Collateral Agent receiving one hundred percent (100%) of the amount of such delinquent installment of the Special Tax through the County's so-called "Teeter Plan" as set forth in Section 5(b) of this Master Agreement. Upon the sale to the County of any delinquent installment of the Special Tax pursuant to the immediately preceding sentence, Ygrene and the Further Assigns (defined in Section 9 below) shall have no further right to receive such delinquent installment of the Special Tax or the Special Tax Revenues collectible with respect to such delinquent installment of the Special Tax and the County shall have no further obligation to pay the Special Tax Revenues collectible with respect to such delinquent installment of the Special Tax to the Collateral Agent as set forth in Section 5(a) of this Master Agreement.
2. **Ygrene's Representations and Warranties.** Ygrene hereby represents and warrants to the County that the following statements are true as of the effective date of this Master Agreement and, with respect to the right to receive Special Tax Revenues conveyed by a Supplemental Agreement, as of the effective date of the Supplemental Agreement:

- (a) Ygrene is duly organized, validly existing, and in good standing in the State of California.
- (b) Ygrene has full power and authority to enter into, and to perform its obligations under, this Master Agreement and each Supplemental Agreement.
- (c) Ygrene's execution and delivery of, and performance under, this Master Agreement and any Supplemental Agreement does not conflict with, or cause a breach or default by it under, any of its organizational documents; any law, rule, regulation, judgment, order, or decree to which it is subject; or any agreement or instrument to which it is a party.
- (d) Ygrene has duly authorized the terms, execution, delivery, and performance of this Master Agreement and each Supplemental Agreement, and Ygrene has duly executed and delivered this Master Agreement and each Supplemental Agreement.
- (e) This Master Agreement and each Supplemental Agreement each constitute a legal, valid, and binding obligation of Ygrene, enforceable against Ygrene and its successors and assignees in accordance with its terms, subject to laws relating to or affecting creditors' rights generally (including laws pertaining to bankruptcy, insolvency, reorganization, moratorium, and fraudulent conveyance) and to the application of equitable principles in any proceeding, whether at law or in equity.
- (f) No consent, approval, authorization, order, registration, or qualification by, of, or with any court, regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over Ygrene is required for Ygrene's consummation of the transactions contemplated by this Master Agreement or any Supplemental Agreement, except for those that have been obtained and are in full effect.
- (g) Ygrene believes that the consummation of the transactions contemplated by this Master Agreement and each Supplemental Agreement will not violate any law, order, rule, or regulation of any court, regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over Ygrene.
- (h) Ygrene has not been served with process in, and has not been overtly threatened with, any material proceedings or investigations before any governmental instrumentality having jurisdiction over Ygrene (including courts, regulatory bodies, and administrative agencies) that—
 - (1) asserts the invalidity of this Master Agreement, any Supplemental Agreement, or any aspect of the CFD;
 - (2) seeks to prevent the consummation of any of the transactions contemplated by this Master Agreement, any Supplemental Agreement, or the CFD; or

- (3) seeks any determination or ruling that would materially and adversely affect the validity or enforceability of this Master Agreement, any Supplemental Agreement, or the authority conferred upon the County by the CFD.
 - (i) Ygrene is providing reasonably equivalent value for each right to receive Special Tax Revenues sold and assigned to Ygrene under this Master Agreement and a Supplemental Agreement.
3. **The County's Representations and Warranties.** The County hereby represents and warrants to Ygrene that the following statements are true as of the effective date of this Master Agreement and, with respect to the right to receive Special Tax Revenues conveyed by a Supplemental Agreement, as of the effective date of the Supplemental Agreement:
- (a) The County validly exists as a political subdivision of the State of California under California law.
 - (b) The County has duly authorized the execution, delivery, and performance of this Master Agreement and of each Supplemental Agreement.
 - (c) The County has duly executed and delivered this Master Agreement and each Supplemental Agreement. Assuming that Ygrene duly authorizes, executes, and delivers this Master Agreement and each Supplemental Agreement, the County believes that each constitutes a legal, valid, and binding obligation of the County, enforceable against the County in accordance with its terms, subject to laws relating to or affecting creditors' rights generally (including laws pertaining to bankruptcy, insolvency, reorganization, moratorium, and fraudulent conveyance); to the application of equitable principles in any proceeding, whether at law or in equity; and to the limitations on remedies against counties in California.
 - (d) No consent, approval, authorization, order, registration, or qualification by, of, or with any court, regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over the County is required for the County's consummation of the transactions contemplated by this Master Agreement or any Supplemental Agreement, except for those that have been obtained and are in full effect.
 - (e) The County's consummation of the transactions contemplated by this Master Agreement and each Supplemental Agreement, and the fulfillment of the terms of those agreements, do not—
 - (1) in any material way conflict with, or result in the County's material breach of, any of the material terms and provisions of any agreement to which the County is a party or by which it is bound; or

- (2) constitute a material default by the County (with or without notice or lapse of time) under any agreement to which the County is a party or by which it is bound.
- (f) The County believes that the consummation of the transactions contemplated by this Master Agreement and each Supplemental Agreement will not violate any law, order, rule, or regulation of any court, regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over the County.
 - (g) The County has not been served with process in, and has not been overtly threatened with, any material proceedings or investigations before any governmental instrumentality having jurisdiction over the County (including courts, regulatory bodies, and administrative agencies) that—
 - (1) asserts the invalidity of this Master Agreement, any Supplemental Agreement, or any aspect of the CFD;
 - (2) seeks to prevent the consummation of any of the transactions contemplated by this Master Agreement, any Supplemental Agreement, or the CFD; or
 - (3) seeks any determination or ruling that would materially and adversely affect the validity or enforceability of this Master Agreement, any Supplemental Agreement, or the authority conferred upon the County by the CFD.
 - (h) No voter initiatives are pending that would affect the County's sale and assignment of the right to receive any Special Tax Revenues or would affect the Program.
 - (i) With respect to each Supplemental Agreement, when the County sells and assigns to Ygrene the right to receive Special Tax Revenues collectible for a Property, the County will have the sole right to levy the related Special Tax on the Property and to collect and receive the Special Tax Revenues, as provided in the Act. From and after the County's sale and assignment to Ygrene of the right to receive those Special Tax Revenues, the County will retain and shall exercise the right to levy the related Special Taxes but will have no interest in the Special Tax Revenues or the right to receive them, provided, however, that the County may deduct from the amounts collected its reasonable and agreed charges for collecting the Special Tax, its reasonable costs for administering the CFD and, solely to the extent any such Special Tax Revenues are collected by the County through judicial foreclosure, its reasonable costs and expenses in pursuing such judicial foreclosure.
 - (j) With respect to each Supplemental Agreement—
 - (1) when the County sells and assigns to Ygrene the right to receive any Special Tax Revenues collectible for a Property, the County will hold title to that right free

and clear of all liens, pledges, charges, security interests, or other impediments of any nature; and

- (2) except as set forth in this Master Agreement, the County has not sold, transferred, assigned, set over, or otherwise conveyed and will not sell, transfer, assign, set over, or otherwise convey any right, title, or interest of any kind in all or any portion of the right to receive the Special Tax Revenues, and has not created and will not have created or to its knowledge permitted the creation of any lien on that right or any portion of it.
- (k) The County's principal place of business and chief executive office is located at County Administration Building, 625 Court Street, Woodland, California 95695.
- (l) The County shall treat each sale and assignment of the right to receive Special Tax Revenues as a sale for purposes of tax reporting and accounting, and the County will not take the position that the right to receive Special Tax Revenues is a part of the debtor's estate if the County files a bankruptcy petition or has such a petition filed against it under any bankruptcy law.
- (m) The County has received reasonably equivalent value for each right to receive Special Tax Revenues sold and assigned to Ygrene under this Master Agreement and a Supplemental Agreement.
- (n) The County's Teeter Plan applies to numerous revenue districts and public districts within the County and not merely to the CFD.
- (o) The County has not made any decision as to whether or not it will discontinue its Teeter Plan after the current fiscal year. The County is not under any obligation, whether formal or informal, not to discontinue its Teeter Plan for any fiscal year after the current fiscal year.
- (p) The County expects, after reasonable inquiry, that it will not incur any net loss in any fiscal year by reason of having a Teeter Plan generally or by reason of including delinquent installments of the Special Tax in its Teeter Plan.
- (q) Under accounting principles established by the Governmental Accounting Standards Board, the right to receive the Special Tax Revenues will not be shown (prior to any purchase by the County under the Teeter Plan) as assets of the County on any financial statement of the County.
- (r) The County did not enter into this Master Agreement or any Supplemental Agreement or include the CFD in the Teeter Plan for the purpose of providing Ygrene or the Further Assigns with protection against losses on the right to receive the Special Tax Revenues. It is the intent of the County that it has sold the right to receive the Special Tax Revenues to Ygrene.

4. **The County's Covenants.**

- (a) The County shall not knowingly take any actions or omit to take any actions that adversely affect Ygrene's rights to receive Special Tax Revenues that have been conveyed to Ygrene by the Supplemental Agreements. The County shall not knowingly take any action or omit to take any action that adversely affects the ability of Ygrene or the Further Assigns to receive the Special Tax Revenues conveyed to Ygrene by the Supplemental Agreements.
- (b) The County shall not knowingly take any action or omit to take any action, and, to the extent the County knows of any such action, shall use reasonable efforts to prevent any action by others, that would release the lien that secures payment of the Special Tax on a Property until the Special Tax has been paid in full. Without the prior written consent of Ygrene or the Further Assigns, the County shall not do any of the following if the effect would be materially adverse to Ygrene or the Further Assigns: amend, modify, terminate, waive, or surrender a Unanimous Approval Agreement; agree to any amendment, modification, termination, waiver, or surrender of any provision in a Unanimous Approval Agreement; or waive timely performance or observance of any provision in a Unanimous Approval Agreement.
- (c) Subject to Section 1(b) of this Master Agreement, upon request of Ygrene or the Further Assigns, if any, the County shall take all actions necessary to preserve, maintain, and protect Ygrene's or the Further Assigns title to the Special Tax Revenues.
- (d) On behalf of Ygrene and the Further Assigns, the County annually will review the public records of the County relating to the collection of the Special Tax levied on each Property in order to determine, by a date not later than November 1 of each year, the amount of the Special Tax levied on such Property collected and the amount thereof delinquent in the prior Fiscal Year, and, on the basis of such review, the County will initiate foreclosure proceedings as authorized by the Act in order to enforce the lien of each delinquent installment of such Special Tax and will diligently prosecute and pursue such foreclosure proceedings to judgment and sale; provided, that the County shall not be required to initiate any foreclosure proceedings against any Property for which the County shall have paid, and the Collateral Agent shall have received, one hundred percent (100%) of the amount of such delinquent installment of the Special Tax through the County's so-called "Teeter Plan." Ygrene and the Further Assigns hereby agree that they will not initiate any such judicial foreclosure proceeding against any Property as long as the County is in compliance with its covenant set forth in this Section 4(d) with respect to such Property. For the avoidance of doubt, Ygrene and the Further Assigns hereby agree that they will not initiate any such judicial foreclosure proceeding against any Property to enforce a delinquent installment of the Special Tax if the County shall have paid, and the Collateral Agent shall have received, one hundred percent (100%) of the amount of

such delinquent installment of the Special Tax through the County's so-called "Teeter Plan." Ygrene agrees to include an agreement of any Further Assigns to the limitations on foreclosure contained in this Section 4(d) in any agreement between Ygrene and such Further Assigns that provides for the sale or assignment to such Further Assigns of the rights sold and assigned to Ygrene pursuant to this Master Agreement.

5. **Payment of Special Tax Revenues.** (a) Subject to Section 1(b) of this Master Agreement, the County will endeavor to pay the Special Tax Revenues directly to [_____] (together with its successors and assigns, the "Collateral Agent"), as soon as practicable upon receipt thereof; provided that the County may first deduct its reasonable and agreed charges for collecting the Special Tax, its reasonable costs for administering the CFD and, solely to the extent any such Special Tax Revenues are collected by the County through judicial foreclosure, its reasonable costs and expenses in pursuing such judicial foreclosure.

(b) If any delinquent installment of the Special Tax is sold to the County through its Teeter Plan as set forth in Section 1(b) of this Master Agreement, the County shall pay directly to the Collateral Agent an amount equal to one hundred percent (100%) of the amount of such delinquent installment of the Special Tax.

6. **Notices of Breach.** If the County or Ygrene discovers that the County has breached any of its covenants or that any of the County's or Ygrene's representations or warranties is materially false or misleading, and if the breach or false or misleading representation or warranty materially and adversely affects the value of the rights to receive Special Tax Revenues that have been conveyed to Ygrene by the Supplemental Agreements, then the discovering party shall promptly notify the other party in writing.

7. **Indemnification.**

- (a) The County shall indemnify, defend, and hold harmless Ygrene and Ygrene's officers, directors, employees, and agents from and against all liabilities, claims, demands, damages, and costs to the extent they arise out of the County's breach of any of its covenants in this Master Agreement or out of any representation or warranty of the County in section 3 that is materially false or misleading.
- (b) Ygrene shall indemnify, defend, and hold harmless the County, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the performance of this Master Agreement or any Supplemental Agreement, except to the extent they arise out of or result from the County's breach of any of its covenants in this Master Agreement or arise out of or result from any representation or warranty of the County in section 3 being materially false or misleading.

8. **Limitation on Liability.** Regarding any matter arising under this Master Agreement, the County and the County's elected officials, officers, employees and agents may rely in good faith on the advice of counsel and on any document that reasonably appears to be properly authorized and signed. The County's elected officials, officers, and employees of the County are not personally liable for the County's representations, warranties, covenants, agreements, or other obligations under this Master Agreement or for any certificates, notices, or agreements delivered under this Master Agreement.
9. **Assignment.**
- (a) Ygrene is entitled to assign and grant its rights under this Master Agreement and its rights under each Supplemental Agreement, and Ygrene's assignees (the "**Further Assigns**") may do the same. Without limiting the previous sentence, Ygrene and the Further Assigns are entitled—
 - (1) to assign and grant the rights to receive Special Tax Revenues; and
 - (2) to assign and grant the rights to receive Special Tax Revenues to investors or to a trustee on behalf of investors.
 - (b) Except as provided in section 9(a), Ygrene may not assign or transfer any of its rights or obligations under this Master Agreement or any Supplemental Agreement without the County's prior written consent.
 - (c) The County may not assign or transfer any of its rights or obligations under this Master Agreement without Ygrene's prior written consent.
 - (d) This Master Agreement binds and inures to the benefit of the County and its assigns and Ygrene and the Further Assigns.
10. **Reliance on Representations, Warranties, and Covenants; Survival.** The County and Ygrene agree and acknowledge that the County, Ygrene and the Further Assigns have relied on, will continue to rely on, and are entitled to rely on the County's and Ygrene's representations and warranties in sections 2 and 3 and the County's covenants in section 4. The County's and Ygrene's representations and warranties in sections 2 and 3 and the County's covenants in section 4—
- (a) will survive any assignment of this Master Agreement to Ygrene or the Further Assigns and any grant to Ygrene or the Further Assigns of a security interest in this Master Agreement or in the rights to receive Special Tax Revenues;
 - (b) will continue in full force notwithstanding any change in the authority conferred upon the County by the CFD; and
 - (c) will inure to the benefit of the Further Assigns.

11. **Ygrene’s Acknowledgment.** Ygrene agrees and acknowledges that, except as expressly set forth in this Master Agreement, the County is irrevocably selling and assigning to Ygrene the rights to receive Special Tax Revenues without recourse to the County and without any representation or warranty.
12. **Irrevocable, Absolute Sale.** The County and Ygrene hereby confirm their intent and agree that with each Supplemental Agreement the County is irrevocably selling and assigning to Ygrene, absolutely and not as collateral security, the County’s rights to receive Special Tax Revenues.
13. **Notices.** Any notice or other communication under this Master Agreement must be in writing and will be considered properly given and effective only when mailed or delivered in the manner provided by this section 13 to the persons identified below. A notice or other communication that is mailed will be effective or will be considered to have been given on the third day after it is deposited in the U.S. Mail (certified mail and return receipt requested), addressed as set forth below, with postage prepaid. A notice or other communication sent in any other manner will be effective or will be considered properly given when actually delivered. A party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this section 13.

If to the County:

County of Yolo

Woodland, CA 95695

Attention: _____

If to Ygrene:

Ygrene Energy Fund California, LLC

P.O. Box 5150

Santa Rosa, CA 95402

and

Ygrene Energy Fund California, LLC

100B Street - SU 210

Santa Rosa, CA 95401

14. **Amendments.** The County and Ygrene may amend this Master Agreement, without the consent of the Further Assigns, if any, to cure any ambiguity; to correct or supplement any provisions in this Master Agreement; to correct or amplify the description of the Special Tax Revenues; to add additional covenants for the benefit of Ygrene; or for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions in this agreement that do not, as evidenced by a Certificate of Ygrene delivered to the Further Assigns, adversely affect in any material respect the Further Assigns’ rights to receive Special Tax Revenues or the payment of the Special Tax Revenues to the Further Assigns. The County and Ygrene may not amend this Master Agreement for any other purpose without the consent of the Further Assigns, if any.
15. **Third Party Rights.** Each of the Further Assigns, if any, is a third-party beneficiary under this Master Agreement. This Master Agreement does not give any person or entity other

than the County, Ygrene, and the Further Assigns any benefit or legal or equitable right, remedy, or claim.

16. **Severability.** If any court with jurisdiction rules that any part of this Master Agreement is invalid, unenforceable, or contrary to law or public policy, then the rest of this Master Agreement remains valid and fully enforceable.
17. **Interpretation.** This Master Agreement is to be interpreted and applied in accordance with California law in proceedings venued in Yolo County. Exhibit A is part of this Master Agreement.
18. **Effective Date.** This Master Agreement is effective when both parties have signed it.
19. **Counterparts.** The parties may sign this Master Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.
20. **Entire Agreement.** This Master Agreement sets forth the parties' entire understanding regarding the matters set forth above and is intended to be their final, complete, and exclusive expression of those matters. It may be modified only by another written agreement signed by both parties.

(Signature page follows)

County of Yolo

Ygrene Energy Fund California, LLC

By: _____
Signature of authorized person

By: _____
Signature of authorized person

Print signatory's name

Print signatory's name

Print signatory's title

Print signatory's title

EXHIBIT A

FORM OF SUPPLEMENTAL ASSIGNMENT AGREEMENT

SUPPLEMENTAL ASSIGNMENT AGREEMENT

This Supplemental Assignment Agreement, dated _____, 20___, for reference, is between the COUNTY OF YOLO, a political subdivision of the State of California (the “**County**”); and YGRENE ENERGY FUND CALIFORNIA, LLC, a California limited-liability company (“**Ygrene**”).

1. The County and Ygrene have entered into a Master Assignment Agreement dated _____, 2013 (the “**Master Agreement**”) pertaining to the County’s Community Facilities District No. 2013-1 (Clean Energy) (the “**CFD**”).
2. This agreement is a “Supplemental Agreement” as that term is defined in the Master Agreement, and all of the terms of the Master Agreement are incorporated into and govern this agreement. If there are inconsistencies between the terms of the Master Agreement and this Supplemental Agreement, the terms of the Master Agreement shall control.
3. This agreement applies to the following real property within the County of Yolo, California (the “**Property**”):

Street Address: _____

Assessor’s Parcel Number: _____

4. In consideration of the arrangement by Ygrene of financing for the Improvements for the Property in accordance with the procedures and authority of the CFD and the provisions of the Unanimous Approval Agreement, and subject to the terms of the Master Agreement, the County does hereby—
 - (a) sell and assign to Ygrene, absolutely and not as collateral security, without recourse except as expressly provided herein, and Ygrene does hereby purchase and accept assignment of, all of the County’s rights to receive the Special Tax Revenues collectible for the Property; and
 - (b) sell and assign to Ygrene, to the extent permitted by law (as to which no representation is made), all present or future rights, if any, of the County to enforce or cause the enforcement of the payment of any delinquent Special Tax collectible for the Property through judicial foreclosure; provided, that Ygrene and the Further Assigns (as defined in the Master Agreement) hereby agree that they will not initiate any such judicial foreclosure proceeding against the Property as long as the County is in compliance with its covenant set forth in Section 4(d) of the Master Agreement with respect to the Property. For the avoidance of doubt, Ygrene and the Further Assigns hereby agree that they will not initiate any such judicial foreclosure proceeding against the Property if the County shall have paid, and Ygrene or the Further Assigns shall have

EXHIBIT A
FORM OF SUPPLEMENTAL ASSIGNMENT AGREEMENT

received, one hundred percent (100%) of the amount of such delinquent installment of the Special Tax through the County's so-called "Teeter Plan." Ygrene agrees to include an agreement of any Further Assigns to the limitations on foreclosure set forth in this Section 4(b) in any agreement between Ygrene and such Further Assigns that provides for the sale or assignment to such Further Assigns of the rights sold and assigned to Ygrene pursuant to this Supplemental Agreement.

5. This agreement is effective when both parties have signed it.

(Signature page follows)

County of Yolo

Ygrene Energy Fund California, LLC

By: _____
Signature of authorized person

By: _____
Signature of authorized person

Print signatory's name

Print signatory's name

Print signatory's title

Print signatory's title

Appendix H - Form of Property Owner's Acknowledgment of Sole Responsibility to Deal with Lenders

County of Yolo Community Facilities District No. 2013-1 (Clean Energy)

Property Address: _____

Assessor's Parcel Number: _____

You have been provided with a *Notice to Lender of Proposed Special Tax* you must send to each mortgage lender that holds a note or alternative debt instrument secured by a lien on your property (the "**Notice**"). It will notify the lenders that you intend to authorize the recordation of a special-tax lien against your property.

Please note the following:

1. When you annex your property to County of Yolo Community Facilities District No. 2013-1 (Clean Energy) and enter into a Unanimous Approval Agreement with the County of Yolo, a special-tax lien will be imposed on your property.
2. By law, the special-tax lien will be co-equal with the lien for general property taxes. It thus will be superior to the lien of any existing deed of trust you may have previously executed in favor of a mortgage lender.
3. Your existing mortgage lenders may contend that your entering into the Unanimous Approval Agreement violates your loan agreements or deeds of trust.
4. The Notice asks your mortgage lenders to confirm that they do not object to your participation in Community Facilities District No. 2013-1 (Clean Energy). The Notice also states that if the lenders do not respond to the Notice within 30 days, then you will rely on their silence as indicating that they have no objection. But if the lenders do not sign the Notice and return it, then the fact that you sent the Notice will not preclude the lenders from later alleging that you have violated your loan agreements with them, and there is a risk that the lenders may prevail in any litigation over the alleged violation.
5. Neither the County nor the administrator of the County's Clean Energy Program can advise you about your loan agreements with your lenders. Your contractual relations with your lenders are **your** sole responsibility. Please understand that your use of the Notice does **not** mean—
 - (a) that any issue regarding your obligations under your private loan documents has been resolved;
 - (b) that your lenders cannot take action against you if they believe that you have violated your loan agreements; or
 - (c) that the County or the administrator of the County's Clean Energy Program will assist you in any way if your lenders take such action.
7. Many banks that make home loans desire to preserve the option to sell those loans to U.S. government-sponsored enterprises (called "**GSEs**") that are regulated by the Federal Housing Finance Agency ("**FHFA**"). The FHFA appears to have instructed its GSEs not to purchase home loans where there is a superior lien for clean-energy improvements, such as the special-tax lien. Thus, in order to refinance your home loan, or for a

prospective purchaser of your property to obtain a loan secured by the property, you may need to remove the special-tax lien by prepaying the special-tax obligation in full. You thus should consider the likelihood and timing of a possible refinancing or sale of your property, and the costs to prepay the special-tax obligation, in deciding whether to annex your property to the district.

I have read and understand the foregoing (all owners must sign this acknowledgment):

Signature

Print Name

Date: _____

Appendix I - Form of Notice of Special Tax Lien

RECORDING REQUESTED BY AND
WHEN RECORDED, PLEASE RETURN TO:

[Insert name and address]

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NOTICE OF SPECIAL TAX LIEN

COUNTY OF YOLO
COMMUNITY FACILITIES DISTRICT NO. 2013-1
(CLEAN ENERGY)

Pursuant to sections 53328.1(a)(4) and 53328.3 of the California Government Code, which are part of the "Mello-Roos Community Facilities Act of 1982" (chapter 2.5, part 1, division 2, title 5 of the California Government Code) (the "**Act**"), and to section 3114.5 of the California Streets and Highways Code, the undersigned, as the Clerk of the Board of Supervisors of the County of Yolo, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the Board of Supervisors of the County of Yolo, State of California, upon the parcel listed on Attachment A to this notice (the "**Property**"). The special tax secured by this lien is authorized to be levied for the purpose of paying the cost to acquire and install qualifying renewable-energy systems and energy- and water-efficiency improvements, including paying principal and interest on debt (as that term is defined in the Act), the proceeds of which are used to finance all or a portion of the cost of the systems and improvements.

The special tax is authorized to be levied within County of Yolo Community Facilities District No. 2013-1 (Clean Energy), to which the Property has been annexed with the unanimous consent of all of its owners by means of a Unanimous Approval Agreement (to which reference is made for further particulars and which, under section 53329.6 of the Act, constitutes the vote of the qualified electors required by the California Constitution). The lien of the special tax is a continuing lien that secures each annual levy of the special tax and continues in effect until the special-tax obligation is prepaid, permanently satisfied, or canceled in accordance with law.

The maximum annual amounts of the special tax are shown on Attachment B to this notice. The conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled, and the procedures for calculating the amount required for prepayment of the special tax, are set forth in the Unanimous Approval Agreement.

Notice is further given that upon the recording of this notice in the office of the Yolo County Recorder, the obligation to pay the special-tax levy will become a lien upon the Property in accordance with section 3115.5 of the California Streets and Highways Code.

The names of the owners and the assessor's parcel number of the Property are shown on Attachment A to this notice.

For further information concerning the current and estimated future special-tax liability of owners or purchasers of the Property subject to this special-tax lien, interested persons should contact the County Administrator, 625 Court Street, Room 202, Woodland, California 95695, telephone 530-666-8150.

DATED: _____, 20__

Julie Dachtler
Deputy Clerk of the Board of Supervisors
County of Yolo



TO: Honorable Mayor and Council Members
DATE: June 18, 2013
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Dan Maguire, Economic Development and Housing Manager *DM*
SUBJECT: Award of Construction Agreement for Walnut Park – Phase 1, Project No. 11-03.

RECOMMENDATION:

Staff recommends that City Council:

Authorize the City Manager to award and execute a construction contract with the lowest responsive and responsible bidder, and authorize expenditures up to \$375,540, to cover the award and contingency for Walnut Park – Phase 1, Project No. 11-03.

BACKGROUND:

Walnut Park (formerly Orchard Village Park) Phase 1 was advertised for bids. The Base Bid consists of the demolition and removal of an existing concrete curb and wood barrier, erosion control and grading, drainage system, site lighting, signage, concrete walks and picnic areas, decomposed granite paths, fences and gates, site furniture, bike racks, handicap parking stall striping, irrigation and planting. The Additive Alternates include a concrete sidewalk along Dutton, a monument sign, serving tables, decorative iron fence, and decorative boulders. This first phase is along Dutton, and subsequent phase 2 will finish-off the park along Walnut.

On May 16, 2013, the City received two bids – Modern Building and GD Nielson. Both bids exceeded the Landscape Architect's Construction Cost Estimate for the Base Bid of \$308,605, and the City's budget of \$375,540 (incl. contingency). Staff and the Landscape Architect were surprised at many of the unit prices in the bids, which could be attributed to the contractors and suppliers being busier and/or the accelerated timeframe for completion of the park. Based on the bid responses, staff immediately submitted a request to the State for a ninety (90) day extension to the expenditure deadline of June 30, 2013. Concurrently, the base bid was value engineered to reflect the poor bidding climate versus the June 30, 2013 expenditure deadline.

At the May 21, 2013 City Council meeting the Council authorized staff to reject all bids and rebid the construction contract if the requested ninety day extension was granted by the state. On May 27, 2013, staff received communication that the ninety day time extension has been granted. With a time extension (expenditure deadline is now September 30, 2013), more bidders should be interested in submitting a price, and the reduced scope should result in favorable bids within the City's budget. The City released and advertised the re-bid on the project on June 5, 2013, with the bid opening scheduled for June 26, 2013.



ALTERNATIVES:

None recommended by staff; however, staff could bring the low responsive bid to City Council for approval at the Council meeting on July 2, 2013. This option would shorten the time available for construction by approximately 5-7 days

FISCAL IMPACT: The cost of the improvements is covered under the CDBG funding. The overall budget for construction was \$408,000. The City has moved forward with purchasing equipment (City Council authorization-May 7th), in the amount of \$32,460, leaving \$375,540 for the park improvements. This amount must cover the contract amount and contingency.



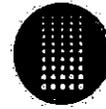
**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: June 18, 2013
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Carol Scianna, Environmental Services Manager
SUBJECT: Wastewater Services Monthly

RECOMMENDATION: Receive Wastewater Services Monthly Reports for May from Severn Trent Services.

BACKGROUND: As part of the new contract with Severn Trent Services formerly, Southwest Water, Inc., their staff is presenting a monthly services report. The report contains details regarding daily rounds tasks, Call Outs responded to, ongoing and completed projects and safety meetings.

FISCAL IMPACT: None



Monthly Council Report, May 2013

Synopsis of operations log.

6 lateral blockage call outs (including):

Main line at 904 Apricot Street

Current projects:

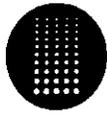
- Repair of sprinkler heads in the North Field.
- South Field irrigation repairs to complete repair of worn parts.
- Repair of volute and couplings on El Rio Villa lift station pump.
- Warranty issues (minor) of Lift Station 5.
- Placing depth gauge in Pond #4.
- Repair of solenoid valve on bar screen.
- Mowing and disc work on North and South Irrigation spray fields.
- Updating CMMS (Computerized Maintenance Management System).
- Organizing new tool shed.
- Repairing of East St. Irrigation system (on hold until trail repairs and fencing are complete).

Completed Projects:

- Storage Pond #3 empty.
- Safety painting of Walnut Lane lift station.
- Clearing trees out of Walnut Lane lift station.
- Safety Painting of El Rio Villa lift station.
- Modification of Chlorine delivery system.

June Goals:

- Begin preparation for Bollard installation at Carter Ranch Lift Station.
- Update SOPs for Lift Station #5.
- Update maintenance program.
- Weed spray entire Storage and Aeration Ponds area.
- Bar Screen baffle modification.
- Stirring of biosolids in offline aeration ponds.



DAILY LOG:

- 5/01/13 Rounds and readings per checklist. Cleaned Headworks. Ceased Pond #4 transfer to Pond #3 and stopped North Field irrigation. City Staff meeting. Cleaned El Rio Villa lot and dry well. Safety painted railings, curbs and steps at El Rio Villa lift station. Cutting grass in South Spray Field.
- 5/02/13 Rounds and readings per checklist. Cleaned Headworks and East St. wet well. Rotated lines and began irrigation to North Spray Field. Repaired pump #2 mounts and de-ragged pump #2 at El Rio Villa lift station. Commenced water transfer from Pond #4 to Pond #3. Safety painting El Rio Villa lift station. EHS Training topics: SSO response, Mowing and Fueling Safety, and Incident Reporting Procedure. Cleaned East St. office. Safety painting at Walnut Ln. lift station. Working on South Irrigation Field repairs. Stopped Pond #4 transfer and switched irrigation to South Spray Field. Installed pressure gauge on main irrigation pump #1. Working on Emergency Call Out forms and SSO Response forms. Working on North Spray Field water cannon repairs.
- 5/03/13 Rounds and readings per checklist. Cleaned Headworks. Switched irrigation to North Spray Field. Started Pond #4 transfer. Changed flow charts at East St. and El Rio Villa lift stations. Pulling weeds and cleaning rags at Ponds areas. Pulled broken aerator from Aeration Pond #2 with City crane truck and sent to Turbo Machinery for repair. Brendan Kenny with RWQCB onsite for facility inspection. Working on monthly reports including SMR, Safety, Compliance, and Action report. Closed Pond #2 gate valve.
- 5/04/13 Rounds and readings per checklist. Cleaned Headworks. Investigated SCADA alarms at Walnut Ln: Pump #1 moisture/overtemp alarm. CALL OUT: 804 Hemenway - Lateral
- 5/05/13 Rounds and readings per checklist. Cleaned Headworks.
- 5/06/13 Rounds and readings per checklist. Cleaned Headworks. Pulled Walnut Ln. lift station Pump #1 for repairs. Working on Monthly Log Report. North Spray Field repairs and clearing weeds around spray cannons.



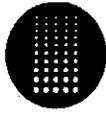
- 5/07/13 Rounds and readings per checklist. Cleaned Headworks. Stopped Pond #4 transfer. Closed Pond #3 and opened Pond #2 gate valves. Adjusted CL pump #1 to 40% and CL pump #2 to 50% stroke. Calibrate pH/DO meter and took weekly pond readings, collected influent/effluent compliance samples including monthly Standard Minerals/Standard Metals sample, and performed Settleable Solids test. BACTi sample collected: CL2 residual 4.3 ppm. Made repairs on Bar Screen and restored to normal operation. Reviewed SCADA/Lift Station alarm troubleshooting steps and what to look for with Ron Bell. Closed Pump #1 valve at Walnut Ln. lift station. Opened G3 gate valve at Pond #4 for rain runoff. Completed and sent April SMR to City. Generator rounds. Called American Tower to have East St. cell site cleaned. Clearing weeds at Ponds areas. Picked up weed-eater from Sterling May. Performed pre-trip rounds on tractor. Filled main irrigation pumps with oil. Closed Pond #2 and opened Pond #3 gate valves. Started Pond #4 water transfer to Pond #3. City Council meeting.
- 5/08/13 Rounds and readings per checklist. Cleaned Headworks. Working on SAP invoices. Cutting weeds around water cannons in No. Spray Field. Re-hung life preservers from all storage pond docks. Pumping standing water from Aeration Pond #3. Completed April SMR. North Irrigation Field on. Adjusted down CL pump stroke to 30% on both pumps. Stopped Pond #4 transfer.
CALL OUT: 214 Edwards St. - Lateral
- 5/09/13 Rounds and readings per checklist. Cleaned Headworks and washed down East St. wet well. North Field irrigation on. Started Pond #4 water transfer. Took weed eater to Sterling May for repair; irreparable. Working on May SMR. Flygt onsite to pick up Walnut Ln. pump for repair. Monthly Compliance Report sent to EHS. Weed abatement at Pond #4.
- 5/10/13 Rounds and readings per checklist. Cleaned Headworks and washed down wet well. So. Field irrigation on. Stopped Pond #4 water transfer; Pond #4 empty. Working on invoices and PO's. Purchased new weed eater from Sterling May. Cutting grass around So. Field irrigation heads. CALL OUT: 904 Apricot; Main line clogged. Used Hydro-Jetter to clear line.
- 5/11/13 Rounds and readings per checklist. Cleaned Headworks.
- 5/12/13 Rounds and readings per checklist. Wash down Headworks.
CALL OUT: 434 Edwards St. - Lateral



- 5/13/13 Rounds and readings per checklist. Cleaned Headworks. Cleaning East St. lot. Put new hydraulic fluid in tractor. Normac onsite to review No. Field automation needs. JBL Electric onsite to review electrical needs for MCC upgrade at East St. and El Rio Villa lift station. Sent April SMR to City. Cutting weeds around sprinkler heads in No. and So. Fields. No. Field irrigation on; switched to So. Field in pm. Mario's Weed and Pest onsite to spray weeds at ponds areas. North Field Irrigation System repairs.
- 5/14/13 Rounds and readings per checklist. Cleaned Headworks. Cutting grass in South Field. Calibrate pH/DO meter and took weekly pond readings, influent/effluent compliance samples, and Settleable Solids test. BACTi sample collected: CL2 residual 6.0 ppm. Started Pond #4 transfer and switched irrigation to No. Field. Lowered telescoping drain on Pond #2 all way down. Modifying chlorine delivery system to allow for better mixing and contact time in chamber.
- 5/15/13 Rounds and readings per checklist. Cleaned Headworks. Cutting grass in So. Field. Stopped transfer from Pond #4. Weed abatement in Ponds areas. City Staff meeting.
- 5/16/13 Rounds and readings per checklist. Cleaned Headworks and wet well. Cutting grass in So. Field. Weed abatement in Ponds areas. Completed modification of chlorine delivery system. Repairing Land Pride disc assembly.
- 5/17/13 Rounds and readings per checklist. Cleaned Headworks. Inflated Tailwater air bladders. Started irrigation to No. Spray Field. Working on Land Pride disc repairs. Cutting grass at East St. yard. Working on invoices and May SMR. Bypassed El Rio Villa flow to Lift Station #5 due to Southwest main line construction.
CALL OUT: 314 Grant Ave. - Lateral
- 5/18/13 Rounds and readings per checklist. Cleaned Headworks.
- 5/19/13 Rounds and readings per checklist. Cleaned Headworks.
- 5/20/13 Rounds and readings per checklist. Headworks jammed with pipe repair debris; placed in bypass mode to repair and clean. So. Field irrigation; switched to No. Field in pm.



- 5/21/13 Rounds and readings per checklist. Cleaned Headworks. Fueled Generator. Calibrate pH/DO meter and took weekly pond readings, influent/effluent compliance samples, and Settleable Solids test. BACTi sample collected – CL2 residual at 6.4 ppm. Adjusted Chlorine pump 1 ion& 2 stroke to 50%. Switched irrigation to So. Field. Completed repairs to Bar Screen; will leave in bypass mode until Southwest has completed main line repairs. Refueled East St. emergency generator. Generator rounds. Working on 2012 Annual Report presentation/Summary, and invoices. City Council meeting.
- 5/22/13 Rounds and readings per checklist. Cleaned Headworks. Frank's Septic onsite for planned El Rio Villa lift station power outage. Franks's pumped out all lift stations. New lock installed at Carter Ranch lift station. South field irrigation on from Pond #3. Break in Tailwater return line; turned off Tailwater pump for repairs to line.
- 5/23/13 Rounds and readings per checklist. Cleaned Headworks. Cleaning Walnut Ln. lift station. Working on vendor credit applications. So. Field irrigation on. Tailwater pump to "Auto" and configured valve to send Tailwater to Pond #3 during repairs to Tailwater line.
- 5/24/13 Rounds and readings per checklist. Cleaned Headworks. Tailwater return line repairs. Cutting grass in So. Field and East St. yard.
- 5/25/13 Rounds and readings per checklist. Cleaned Headworks.
- 5/26/13 Rounds and readings per checklist. Wash down Headworks.
- 5/27/13 Rounds and readings per checklist. Wash down Headworks. Theft occurred overnight; stolen was rodder, portable generator, and Sawzall out of on-call work truck.
- 5/28/13 Rounds and readings per checklist. Cleaned Headworks and wet well. 30 minute power interruption at Walnut Ln. lift station. Calibrate pH/DO meter and took weekly pond readings, influent/effluent compliance samples, and Settleable Solids test. BACTi sample collected – CL2 residual at 5.6 ppm. So. Field irrigation on. CALL OUT: 607 4th St. - Lateral
- 5/29/13 Rounds and readings per checklist. Cleaned Headworks. No. Spray Field on and rotated lines. City Staff meeting. Working on transitional paperwork.
- 5/30/13 Rounds and readings per checklist. Cleaned Headworks. So. Field irrigation on; switched to No. Field in pm. Cutting grass in So. Field. Raised telescoping drain in Pond #2. E. Lucero onsite installing security camera system to East St. office building.



SWWC
Services, Inc.

A SouthWest Water Company

City of Winters Wastewater Treatment Plant

201 East St., Winters, CA 95694

WDR #R5-2002-0136

Log of Operations

May 2013

5/31/13 Rounds and readings per checklist. Cleaned Headworks. Switched irrigation to So. Field and rotated lines. Ran East St. building sump. Cutting grass around So, Field sprinkler heads. So. Field irrigation system repairs. Brought Headworks back online. Transitional duties.

SPILLS AND UNAUTHORIZED DISCHARGES:

5/04/13 804 Hemenway Street - < 1 gallon contained

CALL OUTS (6):

5/04/13 804 Hemenway Street - Lateral
 5/08/13 214 Edwards Street - Lateral
 5/10/13 904 Apricot Street - Main Line
 5/12/13 434 Edwards Street - Lateral
 5/17/13 314 Grant Avenue - Lateral
 5/28/13 607 4th Street - Lateral

Safety Training:

5/02/13 - SSO response, Mowing and Fueling Safety, and Incident Reporting Procedure.

June 2013 Goals:

- Lift Station #5 SOP completion.
- Security Camera Installation at East Street office.
- Begin Bollard installation Carter Ranch Lift Station.
- Stirring of biosolids in Aeration Pond #1 and Aeration Pond #3.

PROJECTS UNDER REPAIR:

- Continuous work on South Field and Irrigation systems
- Repairing North Irrigation Field spray cannons
- Cleaning Storage Pond #4
- Mowing and turning topsoil in North and South Spray Fields
- Restoring irrigation to East Street yard
- Updating Computerized Maintenance Management Software
- Organizing new tool shed and tool boxes

Respectively submitted,

Jim Keating
 Project Manager
 Severn Trent Services



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: June 18, 2013
FROM: Nanci G. Mills, Director of Administrative Services/City Clerk
SUBJECT: Planning Commission Appointment/s

RECOMMENDATION:

That the City Council discuss and make appointment/s to the Winters Planning Commission for a four year term.

BACKGROUND:

The Winters Planning Commission is made up of seven (7) members. Four of the member's terms will expire on July 1, 2013. Commissioner's Baker, Kleeburg, Neu and Tramontana have been contacted to see if there was interest in serving for another term. Commissioner Tramontana expressed that he was not interested.

The Winters Planning Commission Selection Committee conducted interviews for those interested and submitted an Application of Interest. The interviews were held on Thursday, June 13, 2013.

FISCAL IMPACT: None by this action.