



Winters City Council Meeting  
City Council Chambers  
318 First Street  
Tuesday, November 5, 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*

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**5:30 p.m. – Executive Session**

**AGENDA**

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

Pursuant to Government Code Section 54957.6 – Memorandums of Understanding -  
Labor Negotiator John W. Donlevy, Jr., City Manager and Nanci G. Mills, Director of  
Administrative Services

- Miscellaneous Employees Association
- Confidential Employees Association
- Managers Series Employees
- Management (Department Head) Employees

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

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**6:30 p.m. – Regular Meeting**

**AGENDA**

PLEASE NOTE – The numerical order of items on this agenda is for convenience

of reference. Items may be taken out of order upon request of the Mayor or Councilmembers. Public comments time may be limited and speakers will be asked to state their name.

Roll Call

Pledge of Allegiance

Approval of Agenda

## COUNCIL/STAFF COMMENTS

### PUBLIC COMMENTS

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

### CONSENT CALENDAR

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

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, October 15, 2013 (*pp 5-11*)
- B. Memorandums of Understanding (MOU) Resolutions and Staff Report **(Under Separate Cover)**
  - Review and Adopt Resolution 2013-36, Memorandum of Understanding for the City of Winters Miscellaneous Employees Association, Effective July 1, 2013
  - Review and Adopt Resolution 2013-37, Memorandum of Understanding for the City of Winters Confidential Employees Association, Effective July 1, 2013

- Review and Adopt Resolution 2013-38, Memorandum of Understanding for the City of Winters Manager's Series Employees, Effective July 1, 2013
  - Review and Adopt Resolution 2013-39, Memorandum of Understanding for the City of Winters Management (Department Head) Employees, Effective July 1, 2013
  - Review and Adopt Resolution 2013-40, Part-time Salary Ranges
- C. Support the Yolo County Board of Supervisors' Inclusion of Residential Financing in the Clean Energy Yolo PACE (Property Assessed Clean Energy) Program *(pp 12-17)*
- D. Project Acceptance - 2012 Sewer Main Rehabilitation, Project No. 12-01 *(pp 18)*

## PRESENTATIONS

Swearing-in of New Winters Police Officer Bryan Webb

Update on Fish Video Project and Putah Creek Restoration Activities by Ken Davis, Aquatic Biologist with Wildlife Survey and Photo Service

Broadband Presentation – Mayor Cecilia Aguiar-Curry

## DISCUSSION ITEMS

1. Wastewater Services Quarterly Update and Business District Sewer Update *(pp 19-34)*

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

1. Resolution SA-2013-09, Approval of the Third Amendment to the Cross Development Purchase and Sale Agreement *(pp 35-41)*
  2. Resolution SA-2013-10, Approval of the Third Addendum to the Yolo Federal Credit Union Purchase and Sale Agreement *(pp 42-48)*
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## CITY MANAGER REPORT

## INFORMATION ONLY

## ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the November 5, 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 October 30, 2013, and made available to the public during normal business hours.

*Nanci G. Mills by Tracy Jensen*  
Nanci G. Mills, City Clerk

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Wednesday at 10:00 a.m.

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**Minutes of the Winters City Council Meeting  
Held on October 15, 2013**

Mayor Aguiar-Curry called the meeting to order at the Winters Community Center 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, Asst. City Attorney Ethan Walsh, Environmental Services Manager Carol Scianna, Associate Elliot Landes, Housing Programs Manager Dan Maguire and Management Analyst Tracy Jensen.

Bobbie Greenwood led the Pledge of Allegiance.

Approval of Agenda: City Manager said there were no changes to the agenda. Motion by Council Member Fridae, second by Council Member Cowan to approve the agenda. Motion carried unanimously.

**COUNCIL/STAFF COMMENTS**

**PUBLIC COMMENTS:** None

**CONSENT CALENDAR**

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, October 1, 2013
- B. Adopt Resolution 2013-35, a Resolution of the City Council of the City of Winters Authorizing Submittal of Application for Designation of the Yolo County Recycling Market Development Zone
- C. Amplified Sound Permit Application Submitted by Main Street Church for October 18-20 and October 25-27, 2013

- D. Parade Permit Application and Street Closure Request Submitted by Winters High School for the Homecoming Rally and Parade Scheduled for October 18, 2013
- E. On-call Map Checking Services Contracts with Laugenour and Meikle and Clear Path Land Evolvement

City Manager Donlevy gave an overview of Items A-E and also included a Street Closure Request that was submitted after the agenda packet had been completed and distributed. The Street Closure Request is for a funeral procession to be held on Monday, October 21<sup>st</sup> from St. Anthony's Parish Hall to the Winters Cemetery. City Manager Donlevy said with the completion of St. Anthony's new church, he expects these types of requests to occur on a frequent basis.

Motion by Council Member Cowan, second by Council Member Fridae to approve the consent calendar and the Street Closure Request. Motion carried unanimously.

#### DISCUSSION ITEMS

1. Public Hearing Regarding 2013 Water and Sewer Rate Increase

City Manager Donlevy gave an overview. On July 15<sup>th</sup>, 2013, Council held a public hearing and proposed a three-tier water rate schedule and modified sewer rates, as well as the water and sewer rates for commercial. After consideration, Council directed staff to re-issue the Proposition 218 notices and move forward with a two-tier system. Environmental Services Manager Carol Scianna said the new water rates under the 2-tier system would go into effect 1/1/2014, the new sewer rates would go into effect in July, 2014. She added that staff has dialed down the commercial rates.

City Manager Donlevy said the Department of Public Health is re-defining the testing requirements for the level of Chromium 6 allowed in the water throughout the State of California and a decision about the maximum parts per billion allowed will be made in March, 2014. Although the City of Winters, at 20 parts per billion falls well below the current allowance of 50 parts per billion, this could eventually be a burden for the City of Winters if a filtering system is required. Mayor Aguiar-Curry confirmed the rates currently being proposed for the next five years do not include any process to lower Chromium 6 levels. If the State of California lowers the Chromium 6 tolerance level and additional testing is required, there may be added costs down the road.

Mayor Aguiar-Curry opened the public hearing at 6:52 p.m.

Gale Wingard asked about staff's ability to modify the commercial water rates without a resolution. He then asked City Manager Donlevy how much in sewer bonds were sold to support the re-designing of the sewer plant. City Manager Donlevy said the sewer collection system was repaired without the sale of any bonds. Mr. Wingard said it appears the City is not collecting enough money to pay for the bonds. He alleged there are aerators lying in the weeds and are not being used and he doesn't think the citizens are happy about paying for growth when it did not occur. Mr. Wingard asked whether a \$400,000 fine for improper operation at the sewer plant is included in the monthly rates. Citizens are not being advised and he asked Council to establish a committee of citizens to study water and sewer rates and other financial things happening at the City.

Roger Mosier asked if there was a mandate in place to cut water use by 20%, which is not included in the resolution. What is the benchmark for 20%? When the rates have been raised over the last five years, the water usage has been cut. When water meters were installed, they raised the rates again and water use was cut again. The City needs to start watching their money. The City hired a consultant to tell us what we needed to charge for our water and sewer rates, which put us into the five-year cycle of water rate increase. Now we are talking about raising the water and sewer rates again. A percentage of every dollar collected by the City for water and sewer is divided into various departments within the City, so the rate increase is for a wage increase for City employees. There is a lot of waste going on at the City. The City ought to take a look at cutting wages and cutting expenses. When water and sewer rates increase, wages increase. Before the City asks for more money, they should look to where they can cut expenses and/or wages. He alleged the department heads in the City of Dixon make less than those in Winters.

Bill Biasi said he was in favor of uniform rates for everyone and not 2 or 3 tiered rate. He alleged that as per the water study, the reason for the increase is to build surplus for a catastrophic event and to maintain bond rating. Everyone should pay equally. High users will be paying a much higher percent. There should also be a program implemented to address leaks, and if repairs are not made, penalties should be levied. Lot size is an issue. Those with large lots should not be penalized by having a higher rate than those with smaller lots. Regarding the sewer rates, Mr. Biasi would like the winter average to be based on one month, not an average of the three months.

Don Jordan agreed that he was one of the highest water users in town. City Staff member Elliot Landes has been helpful in identifying leaks and agrees that keeping yards alive during the wintertime is important and said you can't turn off the water for three months. A one-month average as opposed to a three-month average is more equitable. The thought is that larger lots waste water and usage must be reduced. He agrees that he uses more water, but he doesn't waste it. The single uniform rate is more equitable. The City should have to show residents that the cost to deliver the last 5 gallons costs the same as the first five

gallons. The tiered system penalizes large lot owners. He is willing to pay more, but one segment of the population should not be burdened to subsidize another section of the population. He agreed that everyone needs to conserve water.

Stan Gale said this is the first opportunity to vote on the proposed rates, not the last. He obtained water usage records from every single family dwelling in town and used the time period September, 2012 to August, 2013, and compared the usage against single family resident lot sizes. He used residences in the 1,000 ft range and averaged the water usage, which showed a trend. It showed that 60% of water users will get an increase and the other 40% of users will see a varied reduction. We must figure out what number is reasonable for each lot size and create a formula or spreadsheet. This would capture conservation without harm. There is no methodology and there is discrimination and extreme prejudice against large lot owners.

Matt Brickey said Winters is a great place to be, but the proposed water policies will drive people out of town and send a message to new homeowners who want to have nice gardens. Winters is trying to entice people to come to town, yet in cities who have strong water conservation policies, residents are choosing to turn their water off and yards are dying. The City provides water, sewer, police and fire service; do not punish people for using water. People like yards that look healthy, not those that are starving for water.

Mayor Aguiar-Curry closed the public hearing at 7:13 p.m.

City Manager Donlevy replied by saying the expansion of the Waste Water Treatment Facility (WWTF) in 2001/2002 was paid for in cash and no sewer bonds were sold. The 1A and 1B expansions changed the aeration systems and built Pond 4. The City did sell bonds in 2007 to rehabilitate most of our water wells within the core area of the City and also re-lined 40% of the sewer lines in the core area of the City. The City financed \$10 million in water and \$10 million in sewer, which is contained in the composite rate for debt service. Everyone is paying a share.

This City does not have a water mandate to cut 20% The City did hire a consultant to make sure that our fee study is correct. Every year a CAFR (Comprehensive Annual Financial Report) is issued by the City's auditors, which includes a cost allocation study that has been certified by the auditor. A portion of the water and sewer rates do go toward wages and overhead, but not toward Police, Fire or parks.

The proposed rates for Winters, when compared to Davis and Woodland, will be **150%** lower. Mayor Aguiar-Curry asked about a benchmark. City Manager Donlevy said the more water that is delivered incrementally increases the overall cost. If more electricity is used, it costs more to deliver.

Matt Brickey added that new green-building rules will become effective in 2014, which will include drought-tolerant landscaping. Two water meters per home are being considered, one meter for indoor usage and the second meter for outdoor usage. Staff Member Elliot Landes has been out to check for water leaks and will hold a drought-tolerant class for residents.

Council Member Fridae asked if there was a mandate in place to reduce water consumption by 20% by 2020. Consultant Greg Clumpner said yes, 20% per capita will become state law in 2020. Council Member Fridae said we must pump water and meet goals to reduce usage, but how do we accomplish both? The cost to pump and deliver water is going up. Are we doing it efficiently? Some of the previous accusations are unfounded. There have been reduced pay and reduced positions at the City. Department heads have given back 5% benefits and the City has cut back in a lot of places. The City helps citizens with water leaks by providing a read-out showing spikes (usage) and he agrees with the idea of charging by lot size, an equitable way to tackle the problem. Depending on the time of day, usage is different. Can we factor that in? He added that he was disappointed that staff didn't come back with something for large water users, who are being penalized for having larger lots and using more water.

Council Member Cowan agreed with Council Member Fridae that the City should approve a uniform rate increase and that tiered rates are not fair. State mandated water conservation will take care of itself. New green codes are coming in January and over the next few years, they will outlaw grass in this state. Laws are being put in place and separate water meters will be coming. He does not agree with the tiered system unless we change a lot of other issues, including the municipal code. If residents are penalized for planting/watering, the City can't charge them more for their water. The more water you pump, the more you spend. However, the cost to deliver water to each house is the same and we should be paying the same. It is wrong to mandate and uniform rates are the most fair.

Mayor Aguiar-Curry said Council voted 4-1 at the last City Council meeting in favor of the 2-tier rate and the uniform rate is not before Council tonight. Council Member Fridae asked if staff could bring back some options, including uniform and tiered rates. Assistant City Attorney Ethan Walsh said if Council wanted to go with the uniform rate, the Proposition 218 notices must be re-issued. Mayor Aguiar-Curry said the 2-tier option was approved at the last meeting. City Manager Donlevy said Resolution 2013-24 is on the agenda for approval tonight. The uniform rate proposal would initiate re-noticing under Proposition 218. Council Member Guelden confirmed that as the previous City Council meeting, Council zeroed in on the 2-tier rate and not several choices to present to the public and that Council was voting on that one specific rate tonight.

Motion by Council Member Anderson, second by Council Member Guelden to approve Resolution 2013-24, amending Resolution 2009-02, establishing fees, rates, and charges for maintenance, replacement and repair of the City's water system and the City's sewer system. Motion carried with the following vote:

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

2. Public Hearing and Consider Approval of Resolution 2013-34, A Resolution of the City Council of the City of Winters Adopting the 2013-2021 Housing Element Update

Housing Programs Manager Dan Maguire gave an overview and said if adopted tonight, the housing element update would cover the City for eight years. If not adopted tonight, the City would have to repeat the process twice for each four year period.

Council Member Fridae asked if there was any flexibility in the goals and policies within the update and whether the inclusionary housing would be implemented. Mr. Maguire said the last revision of the inclusionary housing ordinance adopted in 2009 allowed for alternative methods to satisfy the percentage requirement.

Mayor Aguiar-Curry opened the public hearing at 7:47 p.m.

Don Jordan asked if the affordable housing provided within the last two years counts for anything as it is in excess of the 15% requirement. Mr. Maguire said the City is subject to a stipulated settlement defining time periods and the City did receive benefits from the affordable housing produced over the last two year. Mr. Jordan asked if we can stretch the time frame from one year to five years. Mr. Maguire said the stipulation under the last Housing Element Update do not carry forward. The adoption of the 8-year Housing Element Update being presented tonight

Gale Wingard asked if there were plans for a seven-story hotel with the upper floors dedicated to low income housing. Mayor Aguiar-Curry said the City does not have a hotel project at this time and closed the public hearing at 7:51 p.m.

Council Member Guelden said the City goes beyond their obligation when it comes to affordable housing. Mr. Maguire said a \$192,000 grant received was a direct result of the Park Rewards Program.

Motion by Council Member Fridae, second by Council Member Cowan to approve the Notice of Exemption (CEQA) and adopt Resolution 2013-34,

adopting the 2013-2021 Housing Element Update. Motion carried with the following vote:

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

3. Natural Heritage Program Preservation Acquisition Area – Map

Council Member Fridae shared a map of the Proposed Yolo NHP Preserve Acquisition Area, which involves extensive planning within protected areas. The NHP is going through a series of staff hearings with the scientific community and the board members are looking for something fiscally sustainable. Staff is working on it and hopes to come up with something reasonable. The committee has been in existence for many years and the map provided shows the planning units and what has been acquired. Council Member Guelden said the NHP is throwing out astronomical numbers about agricultural easements. Mayor Aguiar-Curry requested that Petrea Marchand, Interim Executive Director of the Yolo NHP attend a future meeting.

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

1.

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CITY MANAGER REPORT

ADJOURNMENT: Mayor Aguiar-Curry adjourned the meeting at 8:07 p.m. in memory of Nanci Mills' Mother-in-Law and Shelly Gunby's Father.

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Cecilia Aguiar-Curry, MAYOR

ATTEST:

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Nanci G. Mills, City Clerk



CITY COUNCIL  
STAFF REPORT

**TO:** Honorable Mayor and Councilmembers  
**DATE:** November 5, 2013  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** Carol Scianna, Environmental Services Manager *CS*  
**SUBJECT:** Support the Board of Supervisors' inclusion of residential financing in the Clean Energy Yolo PACE (property assessed clean energy) program.

**RECOMMENDATION:** Staff recommends that the City Council support the Board of Supervisors' inclusion of residential financing in the Clean Energy Yolo PACE (property assessed clean energy) program.

**SUMMARY:** In 2010, the FHFA directed federal lending agencies to change underwriting criteria for all residential borrowers in any jurisdiction with a residential PACE program. Consequently, although Yolo County began the process to establish the Clean Energy Yolo PACE program in February 2013 to allow for both commercial and residential financing, the Board of Supervisors approved only the launch of the commercial component and agreed that an additional Board approval would be required to initiate a residential component. The four cities passed resolutions to opt into the Clean Energy Yolo PACE district and program this summer with the understanding that the Board of Supervisors may take later action to initiate residential PACE.

Based on current information, County staff is now interested in going forward with a residential component and is requesting agreement from each of the cities before taking the matter to the Board of Supervisors for approval. This information includes a scaling back in the severity of suggested lending restrictions in more recent FHFA statements, the lack of adverse consequences to the several existing residential PACE programs in the state, Ygrene's underwriting criteria and lender and borrower disclosure requirements, and the loan loss reserve fund for residential PACE being established by the state. The wording of the cities' opt-in resolutions precludes the need for

any additional resolution or other formal City Council action; however, the County is requesting clear direction from senior staff or the Council of each city.

#### **BACKGROUND:**

In the last 5 years, PACE programs have been established in more than 30 states, including California. With PACE financing, funds for energy-efficiency, water use-efficiency, and renewable energy projects are repaid through an annual assessment on a property tax bill that is linked to the property rather than the owner, so that property, rather than credit, is used to secure the loan. In most states, including California, PACE assessments are recorded as a lien on a property and are co-equal with the lien for general property taxes and therefore superior to the lien of any existing deed of trust previously executed with a mortgage lender.

In early 2010, the County and the four Yolo County cities joined CaliforniaFirst, the statewide PACE program established by the California Statewide Communities Development Authority (California Communities) pursuant to AB 811, California's Clean Energy Municipal Financing Law. In addition, staff members of the County and the four Yolo County cities began working in early 2011 to establish a local PACE program with "turn-key" components, including contractor training and certification, public outreach, administrative software and recordkeeping, and a storefront presence for hands-on application assistance. On February 26, 2013, the Yolo County Board of Supervisors initiated the establishment of the Clean Energy Yolo PACE district pursuant to the Mello-Roos Community Facilities Act of 1982 as amended by Senate Bill 555 (SB 555), and authorized the County Administrator to execute a contract with Ygrene Energy Fund to design, fund, implement, and market the PACE program in the district consistent with terms negotiated with the County and city staff representatives. On June 18, the Winters City Council granted consent to the County to annex property within Winters to the district, thereby enabling property owners to seek financing through the Ygrene PACE program. The other three cities followed with similar approvals. Yolo County has subsequently received the validation judgment for formation of the district, and the last day for any party to appeal the judgment is October 4. If no appeals are filed, the validation action is expected to be confirmed on Monday, October 7, on which date the Yolo Clean Energy program would be able to begin processing applications.

As described in the June 18 staff report, while PACE programs were being established throughout the country, the Federal Housing Financing Agency (FHFA) cast serious doubt on the viability of residential PACE financing by directing that Fannie Mae and Freddie Mac tighten mortgage lending requirements for all borrowers in any jurisdiction with a residential PACE program in which PACE assessments would take a superior position to the mortgage. Consequently, Placer County, which had one of the first PACE programs in the country, discontinued the residential component of its successful mPOWER program, the CaliforniaFirst statewide PACE program was launched for commercial borrowers only, and Yolo County created the Yolo Clean Energy PACE program to legally permit both residential and non-residential properties to participate in the program but authorized only the startup of commercial PACE financing. A further affirmative vote of the Board of Supervisors is required to include residential properties in the program. The City Councils' authorizations noted that a decision regarding the residential component would be made by the Board of Supervisors when more information was available.

#### **Discussion**

Yolo County, like many other entities in California, has been reconsidering the risks associated with establishing residential PACE programs and would like to expand Clean Energy Yolo to include residential financing. Relevant information includes the absence of followup from the FHFA regarding blanket increases in lending restrictions in residential PACE districts, the lack of related adverse consequences experienced by ongoing programs, Ygrene's underwriting standards and disclosures, and the state's establishment of a loan loss reserve fund for residential PACE programs. These are detailed below.

FHFA Position: On July 6, 2010, the FHFA issued a statement that directed Fannie Mae, Freddie Mac, and the Federal Home Loan Banks to tighten residential underwriting criteria by assuming the maximum allowable PACE lien on all properties in a PACE jurisdiction and increasing loan-to-value ratios and debt-to-income ratios to reflect that amount for all potential borrowers in the jurisdiction.

On February 28, 2011, however, the FHFA released another guidance document to these entities that did not reiterate this direction but instructed them to refrain from purchasing mortgage loans secured by properties with outstanding first-lien PACE obligations because of "safety-and-soundness" concerns.

In July 2013, in response to requests for clarification from the San Diego Board of Supervisors and the Western Riverside Council of Governments (COG), the FHFA General Counsel reiterated that the FHFA is directing Fannie Mae and Freddie Mac not to purchase original loans or refinanced loans secured by properties that have a first lien PACE obligation attached and has directed the Federal Home Loan Banks to take actions to protect themselves from such first lien PACE loans in the collateral that the Banks accept to support advances to their member institutions.

It is unclear how the FHFA would enforce the credit restrictions it stated in 2010, and Ygrene suggests that to do so, the FHFA would have to go through a lengthy rule-making process. The administrators of the CaliforniaFIRST program suggest that the FHFA hasn't acted on the direction in the 2010 letter because of the evidence that PACE programs are proceeding without the feared adverse consequences to federally backed mortgages. The Placer County Board of Supervisors in June voted to reinstate its residential PACE program. In her June 18 staff report, the Placer County Treasurer-Tax Collector concluded that the FHFA-related risks appear to be those stated in the 2011 and 2013 letters:

The [2010] FHFA letter indicated specific adverse consequences to all property owners within a jurisdiction offering a residential PACE program. However, there has not been any such adverse action by housing regulators or lending institutions. There has been no action taken against Sonoma County or the City of Palm Desert, which were operating residential PACE programs throughout the litigation [against FHFA] and have continued to do so after the litigation concluded. The Western Riverside COG was not a party to the FHFA litigation. Their residential program has not had any adverse action taken or threatened since its program start-up a year and a half ago. Other residential programs within the state also continue to operate

without consequence. Based on FHFA's lack of enforcement action and other recent information, it is believed that FHFA will not pursue or enforce the Statement as to the red-lining of properties located in jurisdictions with active PACE programs....

It is now believed that the only potential risk related to actions by federal agencies is that [Freddie Mac and Fannie Mae] may refuse to purchase mortgages that have PACE liens, and could therefore require in any transaction for new financing on property with a PACE lien, that the lien be paid off. Recent information from other programs indicates that the majority of the time lenders do not require the PACE lien to be paid-off.

Residential PACE Programs in California: Several PACE programs in California have active residential components or are considering launching such components. Following is a summary of recent information about these programs.

- Sonoma County has provided more than \$51 million in financing on 1,805 residential projects secured by PACE assessments since March 2009. The PACE lien was carried forward with the new financing in 15 out of 72 (21%) of properties sold and 247 of 414 (60%) of properties refinanced. Sonoma's records also reflect that 98 different lending institutions did not make new financing subject to the PACE lien being paid off. This indicates that pay-off of the PACE lien is more likely due to buyer preference than due to lender requirement. No action has been taken against Sonoma County by federal housing regulators or lending institutions. (Information from June 16 Placer County staff report and September 25 CaliforniaFIRST presentation)
- Palm Desert has operated a residential PACE program for several years with no action taken by federal housing regulators or lending institutions. (Information from June 16 Placer County staff report)
- Western Riverside COG, through its HERO program, has provided more than \$30 million in financing on 1,729 residential projects secured by PACE assessments since December 2011 and has more than 2,700 approved residential applications. Of the 134 properties subject to new financing, only 4 resulted in the pay-off of the PACE lien. It is unknown whether these pay-offs were due to buyer preference or lender requirement. No adverse action has been taken or threatened by federal housing regulators or lending institutions. (Information from June 16 Placer County staff report)
- San Bernardino Council of Governments (SANBAG) and cities in Los Angeles, Orange, Sacramento, San Diego, and Stanislaus Counties have voted to join the HERO program. (Information from September 25 CaliforniaFIRST presentation)
- In the City of Sacramento, where a commercial and residential PACE program was launched earlier this year, Ygrene is funding or is committed to funding \$10-11million, which includes 52 residential properties. (Information from Ygrene staff)

- Placer County mPOWER was designed to be self-sustaining, with financing of program administration costs through the issuance of a TRAN (Tax and Revenue Anticipation Note) of not more than \$5 million and a bond and a loan agreement to finance contractual assessments in an amount of up to \$33 million. The program completed financing on 11 residential projects totaling more than \$427,000 before being suspended in July 2010 because of concerns related to the FHFA statement of July 6, 2010. At the time of the suspension, mPOWER Placer had received an additional 124 applications from residential property owners. Placer County restarted the residential program On July 9. (Information from June 16 Placer County staff report)

Ygrene Program and California Law: Ygrene employs uniform standards for qualifying properties, measuring energy efficiency, and evaluating costs and benefits of improvements. Ygrene's underwriting standards function to ensure that the property securing the lien is improved by at least the value of the lien. The Ygrene process includes disclosures to all mortgage lenders that hold notes or alternative debt instruments secured by liens on the properties for which applications are submitted and a "Property Owner's Acknowledgement of Sole Responsibility to Deal with Lenders," which specifically describes the FHFA position and its potential consequences to those seeking residential PACE financing.

The Ygrene program was set up under SB 555. Legally, SB 555 loans are special taxes. The Uniform California Deed of Trust (Uniform Instrument) is the Fannie Mae/Freddie Mac Security Instrument used when originating single-family residential mortgage loans in all states. The Uniform Instrument defines taxes and senior assessments as escrow items, and California law provides that escrow items can be paid through impound accounts. A property owner can request that all money owed on the lien be impounded (placed in an escrow account) if a lender requires the owner to satisfy the lien, thus ensuring the bank that the PACE amount will be paid from impound account along with other costs.

California Loan Loss Reserve Program: The state budget for 2013/2014 includes \$10.8 million to establish an Insurance Loan Loss Reserve Fund for residential PACE programs. The purpose of the fund is to provide risk mitigation for PACE programs to increase PACE bond acceptance in the marketplace and to protect against the risk of assessment default and foreclosure. On September 23, Governor Brown, in a letter to the acting director of the FHFA, wrote:

California has devised a mechanism that will address the concerns raised by FHFA and protect the interest of Fannie Mae and Freddie Mac, which I describe below.

The California Alternative Energy and Advanced Transportation Financing Authority (Authority)... will create a reserve fund for PACE programs. Any PACE program that wishes to use the reserve fund will enter an agreement that requires the PACE program to make Fannie Mae and Freddie Mac whole, as follows:

- In any foreclosure, for any losses to Fannie Mae and Freddie Mac resulting from the payment of any PACE assessment paid while in possession of the property, and

- In any forced sale for unpaid taxes or special assessments, for any losses to Fannie Mae and Freddie Mac that result from PACE assessments being paid before the outstanding mortgage.

PACE programs that enroll in the Authority reserve fund will meet basic structural criteria, comply with underwriting criteria set by the Authority, and pay an annual premium based on the size of their portfolio. In the event of foreclosure, Fannie Mae and Freddie Mac will be able to claim from the PACE program any amounts paid to keep the PACE assessment current until the property is sold to a new buyer. If the property is sold for back taxes or special assessment, and the sale results in insufficient funds to satisfy the outstanding mortgage because of PACE lien priority payments, Fannie Mae and Freddie Mac will be able to recover that amount from the PACE program....

The Authority is developing regulations that will set forth the requirements for PACE programs to participate in the reserve account. These are expected to be in place by early 2014. We anticipate that Clean Energy Yolo will participate in the account.

Residual Risks: Given the issues discussed above, staff believes there is sufficient offsetting of FHFA-related risks to recommend opening up the Clean Energy Yolo program to residential borrowers. There remains the risk, however, that real estate appraisers, particularly in a down economy, may not sufficiently value energy improvements financed through a PACE loan, resulting in sellers having to make up a portion of the cost for the PACE assessment lien not covered by the sale proceeds. This is a risk inherent in all PACE programs, especially in these still early days of PACE program implementation.

**FISCAL IMPACT:** None



## STAFF REPORT

**TO:** Honorable Mayor and Council Members  
**DATE:** November 5, 2013  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** Alan Mitchell, City Engineer  
**SUBJECT:** Project Acceptance  
2012 Sewer Main Rehabilitation, Project No. 12-01

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**RECOMMENDATION:** Staff recommends that City Council accept the 2012 Sewer Main Rehabilitation project as complete and direct the City Clerk to file a Notice of Completion.

**BACKGROUND:** On November 6, 2012 City Council awarded a contract to Southwest Pipeline and Trenchless Corp. for the rehabilitation of City sewer mains, manholes, and laterals. The project was completed during the month of September 2013 and determined to be acceptable by Staff.

Through the project, 18,329 feet of the worst condition City sewer main was lined or replaced. This represents approximately 17% of the overall gravity system. Three deficient sewer manholes were replaced. In addition, 171 property line cleanout were installed, 54 failing lateral connections to the mains were replaced, and 18 failing laterals were replaced from sewer mains to property lines.

Council originally authorized \$1,570,000 then modified that to \$1,823,905 by moving project budget funds from the East Street and El Rio Villa pump station projects to this rehabilitation project and. The final construction cost is \$1,676,305.86.

**ALTERNATIVES:** None recommended by staff.

**FISCAL IMPACT:** The cost of this project is being paid through the 2007 Sewer Bond and City O&M budget.



CITY COUNCIL  
STAFF REPORT

**TO:** Honorable Mayor and Councilmembers  
**DATE:** November 5, 2013  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** Carol Scianna, Environmental Services Manager *CS*  
**SUBJECT:** Wastewater Services Quarterly Report

**RECOMMENDATION:** Receive Wastewater Services Quarterly Report from Severn Trent Services

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

**FISCAL IMPACT:** None



Severn Trent Services  
201 East Street  
Winters, CA 95694  
United States

Phone: 530.795.4660  
Fax: 530.795.4648

[www.severntrentservices.com](http://www.severntrentservices.com)

## **Quarterly City Council Report**

### **August 2013**

Synopsis of operations log.

### **6 lateral blockage call outs**

**SPILLS AND UNAUTHORIZED DISCHARGES:** None

#### Current projects:

Main focus is on biosolids removal from Aeration Ponds A1 and A3 to Sludge Drying bed.

#### Completed Projects:

- Aeration Pond #1 biosolids removal to sludge drying bed
- New Flow Meter for North Irrigation Field installed at main pumping station
- Water Level Sensor at East Street Lift Station calibrated
- pH and DO Meter SOP completed

#### September Goals:

- Complete removal of biosolids from facility drying bed to YOLO Co. Landfill
- Lift Station #5 SOP
- Walnut Lane Lift Station SOP
- Marking of Sampling Point locations at Ponds

### **September 2013**

Synopsis of operations log.

### **6 lateral blockage call outs**

**SPILLS AND UNAUTHORIZED DISCHARGES:** None

#### Current projects:

Main focus is on biosolids removal from Aeration Ponds A1 and A3 to Sludge Drying bed.

Completed Projects:

- Aeration Pond #3 biosolids removal to sludge drying bed
- Complete removal of biosolids from facility drying bed completed on Oct. 2, 2013
- Life Preservers hung at Ponds Docks in accordance to OSHA standards
- pH and DO Meter SOP completed

October Goals:

- Marking of Sampling Point locations at Ponds
- Installation of Storage Pond #4 Depth Gauge

**October 2013**

Synopsis of operations log.

**8 lateral blockage call outs**

**SPILLS AND UNAUTHORIZED DISCHARGES:**

5 East Main Street – Lateral blockage caused by grease. SSO spill approximately 50 gallons.  
Control Number 13-6252

Current projects:

Main focus is on bringing Aeration Ponds #1 and #3 online and taking offline Aeration Ponds #2 and #4 for biosolids removal in 2014.

Completed Projects:

- Grounds keeping and landscaping at East Street Facility
- Chlorine Pumps delivery tube replacement
- Water Level Sensor at East Street Lift Station calibrated
- pH and DO Meter SOP completed

November Goals:

- Marking of Sampling Point locations at Ponds
- Installation of Storage Pond #4 Depth Gauge
- Completion of Storage Pond #4 cleaning

**DAILY LOG:**

- 8/01/13 Rounds and readings per checklist. Cleaned Headworks. Rotated No. Spray Field lines and began discharge. Working with IT installing printer. Working on SMR and invoices. Cutting grass in South Spray Field. Adjusted chlorine pump stroke on pumps #1 & #2 to 60% and 50% respectively.
- 8/02/13 Rounds and readings per checklist. Cleaned Headworks. Changed flow charts at ERV and East St. lift stations. Flygt onsite to de-rag pumps at Walnut Lane and Gateway (Lift Station #5) lift stations; issues resolved and pumps brought back online. Cutting grass in So. Field and East Street yard.
- 8/03/13 Rounds and readings per checklist. Cleaned Headworks. CALL OUT: 434 Edwards St. – lateral.
- 8/04/13 Rounds and readings per checklist. Cleaned Headworks. CALL OUT: 22 Main St. – lateral.
- 8/05/13 Rounds and readings per checklist. Cleaned Headworks. Irrigation on to No. Spray Field. Reset alarm at Lift Station #5, and set pumps to auto-alternate, washed down lift station platform, and rolled up hoist cable. Washed down El Rio Villa dry well sump for odor control. Greased Bar Screen. Calibrate pH/DO meter and took weekly pond readings, influent/effluent compliance samples, and Settleable Solids test. Lowered CL pump stroke on pump #1 to 40%. BACTi sample collected – CL2 residual at 70.1 ppm. Working on So. Field Irrigation Line repairs. Redesigned Call Out and Spill forms. No. Field water cannon repairs. OIT's Tony and Terry working on biosolids removal from Aeration Pond #1.
- 8/06/13 Rounds and readings per checklist. Cleaned Headworks. Working with IT to resolve printer/scanner software issues. Cutting grass in So. Spray Field. Generator rounds. Discharging to No. Spray Field. So. Field irrigation system repairs. Working on monthly reports.
- 8/07/13 Rounds and readings per checklist. Cleaned Headworks. Confined Space conference call with STES Compliance Director. Cooper Controls onsite installing new flow meter for the No. Spray Field. Working on So. Irrigation System repairs. Completed and sent July Monthly Log report to City. Cutting grass in So. Spray Field. Cooper Controls recalibrated level sensor at East St. lift station; reset pump stop levels to 2.0 feet. Irrigation on overnight to No. Spray Field.
- 8/08/13 Rounds and readings per checklist. Cleaned Headworks. Working on So. Irrigation System repairs.

- 8/09/13 Rounds and readings per checklist. Cleaned Headworks. Changed flow charts at ERV and East St. lift stations. Ran sump at El Rio Villa and East St. building. Irrigation to So. Spray Field. Working on So. Irrigation System repairs. Working on weekly reports. CALL OUT: 517 2<sup>ND</sup> St. – lateral.
- 8/10/13 Rounds and readings per checklist. Cleaned Headworks. Rotated No. Field irrigation lines and discharged for approx. one hour. Reset El Rio Villa sump pump.
- 8/11/13 Rounds and readings per checklist. Cleaned Headworks. Irrigation to No. Spray Field for approx. one hour.
- 8/12/13 Rounds and readings per checklist. Washed down Headworks. Calibrate pH/DO meter and took weekly pond readings, field observations, influent/effluent compliance samples, and Settleable Solids test. Raised CL pump stroke on pump #2 to 55%. BACTi sample collected – CL2 residual at 4.6 ppm. No. Field irrigation. Working on Antero CMMS and Antero training.
- 8/13/13 Rounds and readings per checklist. Cleaned Headworks. Adjusted chlorine pump settings: Pump #1 to 50% and Pump #2 to 60% stroke. So. Field Irrigation on and working on So. Field Irrigation System repairs. Generator rounds.
- 8/14/13 Rounds and readings per checklist. Cleaned Headworks. City Staff meeting. So. Field Irrigation System repairs.
- 8/15/13 Rounds and readings per checklist. Cleaned Headworks. Rotated No. Spray Field lines and switched over irrigation from So. Spray Field. Clearing weeds from No. Spray Field cannons. Working on SMR and invoices. Biosolids removal from Aeration Pond #3. CALL OUT: 215 Mermod Rd. – lateral.
- 8/16/13 Rounds and readings per checklist. Cleaned Headworks. No. Spray Field irrigation. Changed flow charts at ERV and East St. lift stations. Yolo County Hazardous Chemical Inspector onsite to review chemical storage at Chlorine Storage Shed; everything in order. So. Field Irrigation system repairs. Switched irrigation to So. Field in pm. OIT Terry Vender working on biosolids removal. Rodded line at 215 Mermod Rd. City videoing lateral at 22 Main (Rootstock). CALL OUT: 22 Main St. – lateral odor complaint. No lateral clog.
- 8/17/13 Rounds and readings per checklist. Cleaned Headworks. So. Field irrigation; discharged for approx. one hour. Ran sump pump at El Rio Villa.

- 8/18/13 Rounds and readings per checklist. Cleaned Headworks. So. Field irrigation; discharged for approx. one hour. Ran sump pump at El Rio Villa.
- 8/19/13 Rounds and readings per checklist. Cleaned Headworks. Calibrate pH/DO meter and took weekly pond readings, field observations, influent/effluent compliance samples, and Settleable Solids test. Raised CL pump stroke on pump #1 to 60%, and raised CL pump stroke on pump #2 to 80%. BACTi sample collected – CL2 residual at 4.8 ppm. So. Field irrigation. Working on SMR and Antero CMMS. CALL OUT: 213 Anderson St. – lateral.
- 8/20/13 Rounds and readings per checklist. Cleaned Headworks. No. Field irrigation on. Ponds area weed abatement. So. Field Irrigation System repairs. Met with Jerry Ruiz with Hostetler Ranches regarding bid on biosolids removal from Aeration Pond #3. Generator rounds. Picked up tractor and F150 tires from Pisani's.
- 8/21/13 Rounds and readings per checklist. Cleaned Headworks. Irrigation to So. Spray Field on. City Staff meeting. Ran El Rio Villa and East St. sump pumps. STES Compliance Manager Bruce Allen onsite to review confined spaces at facility. Placed pump #2 in Lead position at El Rio Villa; pump #1 in lag due to leaking booster pump.
- 8/22/13 Rounds and readings per checklist. Cleaned Headworks. No. Field irrigation on; switched irrigation to So. Field in pm. Rotated No. and So. Field lines. So. Field Irrigation System line repairs. Repaired turn signal indicator on Ford F150 4x2, filled with wiper fluid, and washed truck.
- 8/23/13 Rounds and readings per checklist. Cleaned Headworks. So. Field irrigation; Pump #1. Rotated discharge to No. Field at 11:30 am. Added approx. 12 gallons diesel fuel to Emergency Generator. Organizing office files. Transitional Manager Rich Clayton onsite. Rewrote pH and DO meter SOP. Working on Walnut Ln. Lift Station SOP.
- 8/24/13 Rounds and readings per checklist. Cleaned Headworks.
- 8/25/13 Rounds and readings per checklist. Cleaned Headworks.
- 8/26/13 Rounds and readings per checklist. Wash down Headworks after removing strap that caused bar screen to trip off. Calibrate pH/DO meter and took weekly pond readings, field observations, influent/effluent compliance samples, and Settleable Solids test. BACTi sample collected – CL2 residual at 5.2 ppm. So. Field irrigation on. Reconfigured El Rio Villa sewage to bypass Lift Station #5 as main line repairs have been completed. Switched irrigation to No. Spray Field for overnight discharge.

- 8/27/13 Rounds and readings per checklist. Wash down Headworks. Turned off irrigation to No. Spray Field. Weed abatement at Pond #2. Located Hydro-Trailer to chlorine storage shed and repaired quick-connect on Hydro-Trailer hose. Filled fuel tank with diesel on Emergency Generator. All-City Staff meeting. Pumped out water from extra chlorine storage container. Generator rounds. Switched irrigation to So. Spray Field.
- 8/28/13 Rounds and readings per checklist. Cleaned Headworks. Working on removing debris from Aeration Pond #1. City Staff meeting, and met with Carol Scianna. Shut off So. Field irrigation. So. Irrigation System repairs. Weed abatement at East St. yard.
- 8/29/13 Rounds and readings per checklist. Cleaned Headworks after removing debris that caused bar screen to shut off. Working on removing debris from Aeration Pond #1. Ran East St. sump pump and re-cleaned bar screen.
- 7/30/13 Rounds and readings per checklist. Cleaned Headworks. Changed DO probe membrane, cleaned anodes and cathode, and added new fluid. Began repairs on Walnut Lift Station wet well lid hinge. Working on invoices, SMR, and Monthly Log Report.
- 8/31/13 Rounds and readings per checklist. Cleaned Headworks.

**SPILLS AND UNAUTHORIZED DISCHARGES:** None

**CALL OUTS (6):**

- 8/3/13 434 Edwards Street - Lateral  
 8/4/13 22 Main Street - Lateral  
 8/9/13 517 2<sup>nd</sup> Street - Lateral  
 8/15/13 215 Mermod Road - Lateral  
 8/16/13 22 Main Street - Lateral  
 8/19/13 213 Anderson Street - Lateral

**Projects Completed:**

- Aeration Pond #1 biosolids removal
- New Flow Meter installed at main pumping station
- Water Level Sensor at East St. Lift Station calibrated
- pH and DO Meter SOP

**September 2013 Goals:**

- Complete removal of biosolids from facility drying bed
- Lift Station #5 SOP
- Walnut Lane Lift Station SOP
- Marking of sampling point locations at Ponds

Respectively submitted,

Jim Keating  
Project Manager  
Severn Trent Services

**DAILY LOG:**

- 9/01/13 Rounds and readings per checklist. Cleaned Headworks.
- 9/02/13 Rounds and readings per checklist. Cleaned Headworks.
- 9/03/13 Rounds and readings per checklist. Cleaned Headworks and completed monthly lubrication on Bar Screen. Completed hinge installation/repair on Walnut Lane Lift Station wet well cover. So. Field irrigation on. Calibrated pH/DO meter and took weekly pond readings, influent/effluent compliance samples, monthly compliance metals and minerals samples, and Settleable Solids test. BACTi sample collected - CL2 residual at 7.2 ppm. Working on Walnut Lane Lift Station SOP. City IT working on PC Anywhere software installation to STS computer. Chlorine delivery: 1921 gallons. North Field water cannon repair.
- 9/04/13 Rounds and readings per checklist. Cleaned Headworks. Rotated No. Irrigation System lines and discharged to No. Field. Adjusted down chlorine pump stroke: #1 to 40%, #2 to 60%. Affixed Sodium Hypochlorite sign to Chlorine Shed door. Repaired small chlorine leak on CL pump #1. Ponds area weed abatement. City Staff meeting. Working on Antero CMMS. Rich Clayton (STS Tech Services) onsite and met with City Manager. CALL OUT: 517 Second St. - lateral
- 9/05/13 Rounds and readings per checklist. Cleaned Headworks. Irrigation on to So. Spray Field and rotated lines. Civil Engineering onsite to remove booster pumps and begin upgrade of El Rio Villa Lift Station. Hostetler crew beginning biosolids removal project at Aeration Pond #3. Working on Monthly Log Report.
- 9/06/13 Rounds and readings per checklist. Cleaned Headworks. Changed flow charts at ERV and East St. lift stations. Civil Engineering onsite at El Rio Villa Lift Station removing booster pumps. Biosolids removal at Aeration Pond #3. No. Field irrigation on; switched to So. Field in pm. CALL OUT: 804 Hemenway St. - lateral
- 9/07/13 Rounds and readings per checklist. Cleaned Headworks.
- 9/08/13 Rounds and readings per checklist. Cleaned Headworks.
- 9/09/13 Rounds and readings per checklist. Cleaned Headworks. Calibrated pH/DO meter and took weekly pond readings, influent/effluent compliance samples, and Settleable Solids test. BACTi sample collected - CL2 residual at 6.5 ppm. Adjusted CL Pump #1 to 50% and CL Pump #2 to 60% stroke. Rotated So. Field lines and began discharge. So. Field Irrigation System repairs. Monthly Log Report. Re-marked Storage Pond #3 depth gauge.

- 9/10/13 Rounds and readings per checklist. Cleaned Headworks. So. Field irrigation on. Cutting grass at East St. yard. Working on Lift Station #5 SOP and SMR. Meeting with C. Scianna regarding possible tertiary upgrade solutions to WWTF. Completed Monthly Log Report and sent to City. CALL OUT: 409 Russell St. – lateral.
- 9/11/13 Rounds and readings per checklist. Cleaned Headworks. Irrigation to No. Spray Field; rotated lines. Adjusted both CL Pumps to 50% stroke. Ran East St. Lift Station SUMP. City Staff meeting. Updated Muffin Monster information in O&M manuals. Completed SMR and sent to City. Worked on Antero CMMS.
- 9/12/13 Rounds and readings per checklist. Washed down Headworks. So. Field irrigation; approx. 2 hours. Rotated lines and began discharge to So. Field. Clearing weeds from sprinkler heads in So. Spray Field. Compliance and Excursion Reports. Grounds keeping at East St. yard and facility. Winters businesses pretreatment inspections. Switched to No. Field for overnight irrigation.
- 9/13/13 Rounds and readings per checklist. Cleaned Headworks. Changed flow charts at ERV and East St. lift stations. Winters businesses pretreatment inspections. CALL OUT: 107 Edwards St. – lateral.
- 9/14/13 Rounds and readings per checklist. Cleaned Headworks. Switched Pumps at El Rio Villa Lift Station to AUTO/ALTERNATE.
- 9/15/13 Rounds and readings per checklist. Cleaned Bar Screen after placing into bypass because of jammed screw from debris.
- 9/16/13 Rounds and readings per checklist. Repaired and placed Headworks/Bar Screen back into normal operation. Calibrate pH/DO meter and took weekly pond readings, field observations, influent/effluent compliance samples, and Settleable Solids test. Raised both CL pumps to 60% stroke. BACTi sample collected – CL2 residual at 5.4 ppm. No. Spray Field irrigation on; switched to So Field in pm. Grinder inoperable due to excessive grit in channel; called out Frank’s Septic to pump out Headworks channels. CALL OUT: 517 Second St. – lateral
- 9/17/13 Rounds and readings per checklist. Cleaned Headworks. Rotated So. Field and began irrigation. Winters businesses pretreatment inspections. Changed oil in ford F150 4X2. Working on invoices and HR paperwork. Secured JT Martin Trucking for hauling of biosolids to YOLO Co. landfill. Generator rounds.

- 9/18/13 Rounds and readings per checklist. Cleaned Headworks. City Staff meeting. Submitted biosolids application to YOLO Co. landfill. 2013 Budget conference call. Collected biosolids composite sample from drying bed; consisted of seven sample locations. Refueled Hydro-Jetter and refilled with water. Working with Romiro consolidating biosolids on drying bed. Working on September SMR and Monthly Log Report.
- 9/19/13 Rounds and readings per checklist. Cleaned Headworks. Rotated No. Field and began irrigation. Working on consolidating biosolids on drying bed. Replaced chart recorder pen at East St. Lift Station. Washed down and flushed Main Pumping Station Wet Well. Mowing around So. Spray Field Irrigation Lines. Began repairs on muffin Monster. Winters businesses pretreatment inspections. Switched irrigation to So. Field at 4:45pm.
- 9/20/13 Rounds and readings per checklist. Cleaned Headworks. Changed flow charts. Switched irrigation to No. Field and rotated lines. Washed City Backhoe radiator screen with Power Washer on Hydro-Jetter. Working on consolidating biosolids on drying bed. Sent biosolids report to YOLO County Landfill. Mowing South Spray Field. Working on invoices, Purchase Cards and Timecard reports.
- 9/21/13 Rounds and readings per checklist. Cleaned Headworks.
- 9/22/13 Rounds and readings per checklist. Cleaned Headworks. Pumped and removed garbage from El Rio Villa Lift Station Dry Well.
- 9/23/13 Rounds and readings per checklist. Cleaned Headworks. Replaced pH probe on pH/DO Meter. Calibrated pH/DO meter and took weekly pond readings, influent/effluent compliance samples, and Settleable Solids test. BACTi sample collected - CL2 residual at 5.0 ppm. Adjusted CL Pump #1 to 65% and CL Pump #2 to 70% stroke. So. Field irrigation on. No. Field Irrigation System repairs. Worked on Antero CMMS.
- 9/24/13 Rounds and readings per checklist. Cleaned Headworks. No. Field irrigation on. Pumping standing water from East St. Clarifier. Working on invoices. Met with John Borrego from YOLO Co. Landfill regarding biosolids removal. Switched irrigation to So. Field in pm.  
CALL OUT: 417 Second St. - lateral
- 9/25/13 Rounds and readings per checklist. Cleaned Headworks. City Staff meeting. Working on clogged lateral at 417 Second St. with City Operators. Filled air bladders at No. Field Tailwater Pond. Rotated No. Spray Field and began discharge. Biosolids removal begun to YOLO Co. Landfill.

- 9/26/13 Rounds and readings per checklist. Wash down Headworks. Rotated No. Field irrigation lines and began discharge. Pretreatment inspection at Mariani's. Hanging Life Preservers at Ponds Docks with 100ft. of rope. Weed abatement at Ponds areas.
- 9/27/13 Rounds and readings per checklist. Wash down Headworks. Power off at Lift Station #5 due to Haykingdom fire; restored by 9 am. Rotated lines and began discharge to No. Spray Field. Civil Engineering completed El Rio Villa Lift Station upgrades. Working on Purchase Card transaction logs and invoices.
- 9/28/13 Rounds and readings per checklist. Cleaned Headworks.
- 9/29/13 Rounds and readings per checklist. Cleaned Headworks. JT Martin Trucking onsite hauling biosolids to landfill.
- 9/30/13 Rounds and readings per checklist. Repaired clogged Bar Screen Screw and Cleaned Headworks. Calibrated pH/DO meter and took weekly pond readings, influent/effluent compliance samples, and Settleable Solids test. Discharged briefly to So. Spray Field to collect BACTi sample - CL2 residual at 6.9 ppm. Adjusted CL Pump #1 to 70% stroke. Working Monthly Summary Report and 2014 Budget Plan. No. Field Irrigation System repairs.

**SPILLS AND UNAUTHORIZED DISCHARGES:** None

**CALL OUTS (6):**

- 9/4/13 517 Second Street - Lateral  
9/6/13 804 Hemenway Street - Lateral  
9/10/13 409 Russell Street - Lateral  
9/13/13 107 Edwards Street - Lateral  
9/16/13 517 Second Street - Lateral  
9/24/13 417 Second Street - Lateral

**Projects Completed:**

- Aeration Pond #3 biosolids removal
- Complete removal of biosolids from facility drying bed
- Life Preservers hung at Ponds Docks in accordance to OSHA standards

**October 2013 Goals:**

- Marking of sampling point locations at Ponds
- Installation of Storage Pond #4 Depth Gauge

Respectively submitted,

Jim Keating  
Project Manager  
Severn Trent Services

**DAILY LOG:**

- 10/01/13 Rounds and readings per checklist. Cleaned Headworks. Irrigation to No. Spray Field; Pump #2. Key replacement and bumper part picked up from Dixon Ford for F150 4X2. Conference call for PureSafety training. Generator rounds. CALL OUT: 409 Russell St. - lateral.
- 10/02/13 Rounds and readings per checklist. Cleaned Bar Screen after unclogging. City Staff meeting. So. Field irrigation. Biosolids offsite removal from Ponds Drying Bed completed.
- 10/03/13 Rounds and readings per checklist. Cleaned Headworks. No. Field irrigation on. Fire Extinguishers inspected for month. Facility and vehicle first aid kits inspected and brought into compliance. So. Field Irrigation system repairs. Rotated South Field irrigation lines and switched irrigation to So. Field for overnight discharge. Monthly Log Report. North Field water cannon repairs.
- 10/04/13 Rounds and readings per checklist. Cleaned Headworks. Changed circular flow charts. Rotated No. Irrigation System lines and switched discharge to No. Field. Completed Monthly Log Report and sent to City. Winters Pretreatment Report.  
CALL OUT: 1113 McArthur Ave. - lateral
- 10/05/13 Rounds and readings per checklist. Cleaned Headworks
- 10/06/13 Rounds and readings per checklist. Cleaned Headworks  
CALL OUT: 5 East Main - lateral. SSO spill approx. 50 gallons.  
Control number 13-6252
- 10/07/13 Rounds and readings per checklist. Unclogged Bar Screen drain and cleaned Headworks. So. Field irrigation on. Calibrated pH/DO meter and took weekly pond readings, influent/effluent compliance samples, and Settleable Solids test. Monthly Standard Minerals and Metals compliance samples collected. BACTi sample collected - CL2 residual at 4.5 ppm. Adjusted CL Pump #1 to 80% and CL Pump #2 to 85% stroke. Weed abatement Storage Pond #3. Affixed no trespassing sign to North Field entrance. Ran East St. building sump. Began customizations to cap on 5 East Main lateral.
- 10/08/13 Rounds and readings per checklist. Cleaned Headworks. No. Field irrigation on. Aeration Ponds and Storage Pond #3 weed abatement. Ford F150 4X2 remote repair. CALL OUT: 409 Russell St. - lateral
- 10/09/13 Rounds and readings per checklist. Headworks clogged with heavy grease inflow; unclogged and cleaned. So. Field irrigation on; Pump #1. City Staff meeting. Weed abatement Storage Pond #3. Rotated lines and switched irrigation to No. Spray Field.  
CALL OUT: 1021 McArthur Ave. - lateral.

- 10/10/13 Rounds and readings per checklist. Cleaned Headworks and monthly lubrication on bar screen. No. Field irrigation on; Pump #2. Procurement Procedure and Confined Space training. No. Field irrigation system repairs. Rag removal Aeration Pond #1.
- 10/11/13 Rounds and readings per checklist. Cleaned Headworks. Irrigation to So. Spray Field; Pump #2. Added oil to Main Irrigation Pumps #1 & 2. Changed circular flow charts. Rag removal Aeration Pond #1. Ran East St. building sump. So. Field Irrigation System repairs. Weed abatement Storage Pond #3. Purchase Card transaction log and invoices. Met with Jon with Amparan Livestock regarding moving sheep to South Spray Field.
- 10/12/13 Rounds and readings per checklist. Washed down Headworks.
- 10/13/13 Rounds and readings per checklist. Cleaned Headworks.
- 10/14/13 Rounds and readings per checklist. Cleaned Headworks. Calibrate pH/DO meter and took weekly pond readings, field observations, influent/effluent compliance samples, and Settleable Solids test. Adjusted CL Pump #1 to 75% stroke. BACTi sample collected – CL2 residual at 4.8 ppm. Took Ford F150 4X2 to Pisani's for tire repair. Rotated No. Field lines and worked on water cannon repairs. Delivered Sewer Cleaning Report, Pretreatment Report, and SMR to City. Excursion and Compliance Reports to STES.
- 10/15/13 Rounds and readings per checklist. Cleaned Bar Screen after unclogging jammed screw from debris. So. Field irrigation on; Pump #2. Reviewed sampling plan, October SMR, and invoices. Generator rounds. CALL OUT: 514 East St. – lateral.
- 10/16/13 Rounds and readings per checklist. No. Spray Field irrigation on and rotated lines. City Staff meeting. No. Field irrigation system repairs.
- 10/17/13 Rounds and readings per checklist. Cleaned Headworks. Rotated So. Field and began irrigation; Pump #2. So. Field irrigation system repairs. Repaired Aerator for Aeration Pond #1 delivered. Washed down all Lift Station Wet Wells and cleaned Dry Wells. Cleaned weeds at Lift Station #5. Located Hydro-Jetter to Chlorine Shed. Safety conference call: Materials handling/storage, fall protection, powered industrial trucks and slings.
- 10/18/13 Rounds and readings per checklist. Cleaned Headworks. Chlorine delivery: 1778 gallons. Rotated lines and switched irrigation to South Spray Field. East Street Lift Station grounds keeping and housekeeping. CALL OUT: 427 Abbey St. – lateral.
- 10/19/13 Rounds and readings per checklist. Cleaned Headworks.

- 10/20/13 Rounds and readings per checklist. Cleaned Headworks
- 10/21/13 Rounds and readings per checklist. Cleaned Headworks. Collected influent/effluent compliance samples, and Settleable Solids test. BACTi sample collected – CL2 residual at 8.5 ppm. Adjusted CL Pump #1 to 70% and CL Pump #2 to 65% stroke. So. Field irrigation on. Problem with DO probe on Oakton pH/DO meter. Ordered depth gauge for Storage Pond #4. East St. yard grounds keeping. Confined space meeting at Mountain House facility. Sheep delivered to South Irrigation Field.
- 10/22/13 Rounds and readings per checklist. Cleaned Headworks. No. Field irrigation on and rotated lines. ATV fuel system issue and needs repair. East St. grounds keeping. Generator rounds. CALL OUT: 409 Russell St. – lateral: Plunged for resident but camera shows issue is resident responsibility. Contacted resident and advised.
- 10/23/13 Rounds and readings per checklist. Cleaned Headworks. East St. grounds keeping. Weed abatement at Storage Pond #4. So. Field irrigation on and later switched to No. Field. Working on DO probe issue. So. Field Irrigation System repairs. Worked on invoices.
- 10/24/13 Rounds and readings per checklist. Cleaned Headworks. Calibrated Oakton pH meter and YSI55 DO meter and took weekly pond readings and influent and effluent tests, and conducted field observations. Replaced chlorine delivery tubes in Stenner CL Pumps 1 & 2. Rotated No. Field lines and began discharge. Weed abatement Pond #4.
- 10/25/13 Rounds and readings per checklist. Cleaned Headworks. Began ATV repairs. Worked on Oakton DO probe issue; ordered new Oakton DO probe. Cleaned tractor and worked on hydraulic leak issue. Weed abatement Pond #4.
- 10/26/13 Rounds and readings per checklist. Wash down Headworks.
- 10/27/13 Rounds and readings per checklist. Wash down Headworks.
- 10/28/13 Rounds and readings per checklist. Cleaned Headworks. Calibrated pH and DO meters and took weekly pond readings, influent/effluent compliance samples, and Settleable Solids test. BACTi sample collected – CL2 residual at 8.5 ppm. Adjusted CL Pump #1 to 60% and CL Pump #2 to 60% stroke. Weed abatement Pond #4.
- 10/29/13 Rounds and readings per checklist. Cleaned Headworks. Weed abatement Pond #4. Purchase Card Procurement webinar meeting. JBN Electric onsite to connect electrical to Aerator #1 and look into electrical and pump issues with Aeration Pond #3 Aerators. All City Staff meeting. So. Field irrigation on.



- 10/30/13 Rounds and readings per checklist. Cleaned Headworks. City Staff meeting. Weed abatement Pond #4. JBN Electric onsite working on Aeration Pond #3 pumps. Monthly Log Report and Quarterly City Council Report delivered to City. Rotated lines and began discharge to No. Irrigation Field.
- 10/31/13 Rounds and readings per checklist. Cleaned Headworks. Weed abatement Pond #4

**SPILLS AND UNAUTHORIZED DISCHARGES:**

- 10/06/13 5 East Main – lateral. SSO spill approx. 50 gallons.  
Control number 13-6252

**CALL OUTS (8):**

- 10/01/13 409 Russell Street – Lateral  
10/04/13 1113 McArthur - Lateral  
10/06/13 5 East Main Street - Lateral  
10/08/13 409 Russell Street - Lateral  
10/09/13 1021 McArthur Avenue – Lateral  
10/15/13 514 East Street – Lateral  
10/18/13 427 Abbey Street – Lateral  
10/22/13 409 Russell Street – Lateral

**Projects Completed:**

- Complete grounds keeping and landscaping at East Street Facility
- Chlorine Pumps delivery tube replacement

**November 2013 Goals:**

- Marking of sampling point locations at Ponds
- Installation of Storage Pond #4 Depth Gauge
- Completion of Storage Pond #4 cleaning

Respectively submitted,

Jim Keating  
Project Manager  
Severn Trent Services



**SUCCESSOR AGENCY TO THE WINTERS COMMUNITY DEVELOPMENT AGENCY  
STAFF REPORT**

**TO:** Honorable Chair and Successor Agency Board Members  
**DATE:** November 5, 2013  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** Dan Maguire, Economic Development and Housing Manager *DM*  
**SUBJECT:** Third Amendment to the Cross Development Purchase and Sale Agreement

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**RECOMMENDATIONS:**

Staff recommends that the City acting as Successor Agency Adopt Resolution SA 2013-09 approving the Third Amendment to the Purchase and Sale Agreement with Cross Development, LLC.

**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. On May 13, 2013, the California State Controller issued a determination that the property transfer was an unallowable transfer based on Health & Safety Code 34167.5, and ordered the City of Winters to reverse the transfer of that and certain other real property assets.

Prior to that ruling, at the October 2, 2013 City Council meeting, the City Council authorized the City Manager to execute a Purchase and Sale Agreement ("Agreement") with Cross Development for commercial development on the property, consistent with

the original intent of the acquisition. The Agreement allowed for up to 180 days for Cross to complete its due diligence review, with the close of escrow to be completed by May 24, 2013. City Council subsequently approved the First Amendment to the Purchase and Sale Agreement, extending the agreement by an additional 90 days.

The Successor Agency, upon receiving a Finding of Completion from the Department of Finance, approved the Property Management Plan ("PMP") and the Purchase and Sale Agreement ("P&S") with Cross Development at the July 2, 2103 Council meeting. The PMP and Cross P&S agreement then went to the Oversight Board for approval on July 8, 2103. The PMP and Cross P&S agreement was submitted to the Department of Finance on July 8, 2013.

In order to complete the Purchase and Sale Agreement with Cross Development, 1) the Successor Agency, Oversight Board, and the Department of Finance must approve the Successor Agency's Property Management Plan, and 2) the Successor Agency, Oversight Board, and the Department of Finance must approve the individual Purchase and Sale Agreement.

On July 18, 2013, the City received a call from DOF indicating that if the P&S agreements were executed by the Successor Agency, the sales proceeds would go directly to the Redevelopment Property Tax Trust Fund ("RPTTF"). At the August 20, 2013 City Council meeting, the City Council and the Successor Agency Board approved Staff's recommendations assigning the Purchase and Sale Agreement to the Successor Agency and extending the deadlines for Inspection to 11/1/2013, with Close of Escrow extended to 12/1/2013 to accommodate the anticipated approval timelines. The Assignment and Second Amendment was subsequently approved by the Oversight Board, with the Long Range Property Management Plan and the Purchase and Sale Agreement then resubmitted to the Department of Finance.

Recent conversations between City staff and DOF staff make it clear that the necessary DOF approvals of the LRPMP and the Cross P&S Agreement may not happen by the timelines called for in the current agreement. Staff recommends the Successor Agency Board adopt Resolution SA 2013-09 and approve the Third Amendment to the Purchase and Sale Agreement, extending the deadlines for Inspection to 7/1/2014, with Close of Escrow extended to 8/1/2014, a nine month extension.

**FISCAL IMPACTS:**

The City's and Successor Agency's costs associated with selling the properties are to-be-determined; however, at the proposed sales price, approximately \$251,124.00 in sales proceeds would be considered RPTTF and used to pay the Successor Agency's enforceable obligations.

**ATTACHMENTS:**

Purchase and Sale Agreement with Cross Development (*Please see 7/2/2013 City Council Agenda Packet*)

Third Amendment to the Real Estate Purchase Contract  
Resolution SA 2013-09

THIRD AMENDMENT TO  
REAL ESTATE PURCHASE CONTRACT

\_\_\_\_\_, 2013 (the "**Effective Date**")

THIS THIRD AMENDMENT TO REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this "**Amendment**") is entered into by and between CITY OF WINTERS, SUCCESSOR AGENCY TO THE DISSOLVED COMMUNITY DEVELOPMENT AGENCY ("**Seller**" or "**Successor Agency**"), as seller, and CROSS DEVELOPMENT, LLC, a Texas limited liability company ("**Buyer**"), as Buyer.

**Recitals**

A. Buyer and Seller entered into that certain Real Property Purchase and Sale Agreement and Joint Escrow Instructions (the "**Contract**"), whereby Buyer agreed to purchase from Seller, and Seller agreed to sell to Buyer, that certain real property located in Winters, California.

B. Buyer and Seller have agreed to amend the Contract as set forth below.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other valuable consideration, the receipt and adequacy of which hereby are acknowledged, the undersigned parties hereby agree as follows:

**Agreements**

1. **Defined Terms.** All capitalized terms not defined herein shall have the meanings ascribed to them in the Purchase Agreement.
2. **Inspection Period.** The Inspection Period is hereby extended to run through July 1, 2014.
3. **Closing.** The Closing Date shall be on or before August 1, 2014.
4. **Effect of this Amendment.** Except as expressly modified in this Amendment, the Purchase Agreement shall continue in full force and effect.
5. **Counterpart; Facsimile Signature.** Facsimile signatures appearing hereon shall be deemed an original and this document may be executed simultaneously on two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Seller and Buyer execute this Amendment to be effective as of the Effective Date.

**SELLER:**

CITY OF WINTERS, SUCCESSOR AGENCY TO  
THE DISSOLVED COMMUNITY  
DEVELOPMENT AGENCY

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John W Donlevy, Jr.  
Executive Officer

**BUYER:**

CROSS DEVELOPMENT, LLC,  
A Texas limited liability company

By:

Steve Rumsey, Managing Member

**RESOLUTION No. SA-2013-09**

**A RESOLUTION OF THE SUCCESSOR AGENCY TO THE DISSOLVED WINTERS COMMUNITY DEVELOPMENT AGENCY APPROVING AN THIRD AMENDMENT TO REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS BY AND BETWEEN THE CITY OF WINTERS, SUCCESSOR AGENCY TO THE WINTERS COMMUNITY DEVELOPMENT AGENCY AND CROSS DEVELOPMENT, LLC**

**WHEREAS**, 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 (APNs: 003-370-028, 029 and 030); and

**WHEREAS**, 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

**WHEREAS**, at the October 2, 2013 City Council meeting, the City Council authorized the City Manager to execute a Purchase and Sale Agreement with Cross Development for commercial development on a portion of the property (the “Site”), consistent with the original intent of the acquisition. The Agreement allowed for up to 180 days for Cross to complete their due diligence review, with the close of escrow to be completed by May 24, 2013. City Council subsequently approved the First Amendment to the Purchase and Sale Agreement, extending the agreement by an additional 90 days; and

**WHEREAS**, On May 13, 2013, the California State Controller issued a determination that the property transfer of March 2011 was an unallowable transfer based on Health and Safety Code 34167.5, and ordered the City of Winters to reverse the transfer of that property and certain other real property assets; and

**WHEREAS**, Health and Safety Code Section 34191.5(b) requires the Successor Agency to submit a Property Management Plan to the Successor Agency’s oversight board and the Department of Finance for approval no later than six months following the issuance to the Successor Agency of the finding of completion pursuant to Health and Safety Code Section 34179.7; and

**WHEREAS**, the Successor Agency, upon receiving a Finding of Completion from the Department of Finance, prepared and approved a Property Management Plan (“PMP”) and the Purchase and Sale Agreement (“P&S”) with Cross Development at the July 2, 2103 Council meeting. The PMP and Cross P&S agreement then went to the Oversight Board for approval on July 8, 2103. The PMP and Cross P&S agreement was submitted to the Department of Finance on July 8, 2013; and

**WHEREAS**, on July 18, 2013, the City received a call from the Department of Finance indicating that if the P&S agreements were executed by the Successor Agency, the sales proceeds would go directly to the Redevelopment Property Tax Trust Fund (“RPTTF”); and

**WHEREAS**, on August 20, 2013, the City, Successor Agency and Cross Development approved an Assignment and Second Amendment to the Purchase and Sale Agreement, The PMP and the Assignment and Second Amendment then went to the Oversight Board for approval on August 26, 2013. The PMP and Cross Assignment and Second Amendment Purchase and Sale Agreement was submitted to the Department of Finance on September 5, 2013, and

**WHEREAS**, the City, Successor Agency and Cross Development have prepared a Third Amendment to the P&S Agreement (“Third Amendment”) to extend certain deadlines in the P&S Agreement, and make certain other clarifying changes relating thereto; and

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

**NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE FORMER WINTERS COMMUNITY DEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Recitals.** The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

**Section 2. CEQA Compliance.** The Successor Agency to the dissolved Winters Community Development Agency determines that approval of the proposed Third Amendment does not qualify as a project for purposes of the California Environmental Quality Act. The City Clerk is authorized and directed to file, on behalf of the Successor Agency, a Notice of Exemption with the appropriate official of the County of Yolo, California, within five (5) days following the date of adoption of this Resolution.

**Section 3. Approval of Third Amendment.** The Successor Agency hereby approves the Third Amendment to Real Property Purchase And Sale Agreement and Joint Escrow Instructions by and between the City of Winters, Successor Agency to the Dissolved Winters Community Development Agency and Cross Development LLC, in substantially the form currently on file with the City Clerk.

**Section 4. Authorization to Take Action.** The Successor Agency to the dissolved Winters Community Development Agency hereby authorizes and directs the City Manager to take all actions and do all things required by or necessary and proper to perform and carry out the proposed Purchase and Sale Agreement, as amended by the Third Amendment, including without limitation the sale of the Site to Cross Development pursuant to the Purchase and Sale Agreement, and to execute and deliver all certifications, agreements and other documents necessary or required under the Purchase and Sale Agreement, as amended by the Second Amendment to effectuate sale of the Site to Cross Development. Furthermore, the City Manager is hereby authorized and directed to take any action necessary to carry out the purposes of this Resolution and comply with applicable law regarding including submitting the Purchase and Sale Agreement to the Successor Agency’s oversight board and Department of Finance for approval.

**Section 5. Certification.** The City Clerk shall certify to the adoption of this Resolution.

**Section 6. Effectiveness.** This Resolution shall take effect immediately upon its adoption.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the Successor Agency to the dissolved Winters Community Development Agency on the 5th day of November, 2013, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Keith Fridae, Agency Chair

ATTEST:

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Nanci G. Mills, Agency Secretary



**SUCCESSOR AGENCY TO THE WINTERS COMMUNITY DEVELOPMENT AGENCY  
STAFF REPORT**

**TO:** Honorable Chair and Successor Agency Board Members  
**DATE:** November 5, 2013  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** Dan Maguire, Economic Development and Housing Manager *DM*  
**SUBJECT:** Third Addendum to the Yolo Federal Credit Union Purchase and Sale Agreement

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**RECOMMENDATIONS:**

Staff recommends that the Successor Agency Adopt Resolution SA 2013-10 approving the Third Addendum to the Purchase and Sale Agreement with Yolo Federal Credit Union.

**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. On May 13, 2013, the California State Controller issued a determination that the property transfer was an unallowable transfer based on Health and Safety Code 34167.5, and ordered the City of Winters to reverse the transfer of that property and certain other real property assets.

Prior to that ruling, 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 its due diligence review, and 180 days for the close of escrow, with the purchase to be completed by July 14, 2013. Subsequently the City Council approved a request for the Agreement to be extended by an additional 90 days.

The Successor Agency, upon receiving a Finding of Completion from the Department of Finance approved the Property Management Plan ("PMP") and the Purchase and Sale Agreement ("P&S") with Yolo Federal Credit Union at the July 2, 2013 City Council meeting. The PMP and YFCU P&S agreement then went to the Oversight Board for approval on July 8, 2013. The PMP and the YFCU P&S agreement were submitted to the Department of Finance on July 8, 2013.

In order to complete the Purchase and Sale Agreement with Yolo Federal Credit Union, 1) the Successor Agency, Oversight Board, and Department of Finance must approve the Successor Agency's Property Management Plan, and 2) the Successor Agency, Oversight Board, and Department of Finance must approve the individual Purchase and Sale Agreement.

On July 18, 2013, the City received a call from DOF indicating that if the P&S agreements were executed by the Successor Agency, the sale proceeds would go directly to the Redevelopment Property Tax Trust Fund ("RPTTF"). At the August 20, 2013 City Council meeting, the City Council and the Successor Agency Board approved Staff's recommendations assigning the Purchase and Sale Agreement to the Successor Agency and extending the deadlines for Inspection to 11/1/2013, with Close of Escrow extended to 12/1/2013 to accommodate the anticipated approval timelines. The Assignment and Second Amendment was subsequently approved by the Oversight Board, with the Long Range Property Management Plan and the Purchase and Sale Agreement then resubmitted to the Department of Finance.

Recent conversations between City staff and DOF staff make it clear that the necessary DOF approvals of the LRPMP and the YFCU P&S Agreement may not happen by the timelines called for in the current agreement. Staff recommends the Successor Agency Board adopt Resolution SA 2013-10 and approve the Third Addendum to the Purchase and Sale Agreement, extending the deadlines for Inspection to 4/1/2014, with Close of Escrow extended to 5/1/2014, a six month extension.

**FISCAL IMPACTS:**

The City's and Successor Agency's costs associated with selling the properties are to-be-determined; however, at the proposed sales price, approximately \$160,986.00 in sales proceeds would be considered RPTTF and used to pay the Successor Agency's enforceable obligations.

**ATTACHMENTS:**

Purchase and Sale Agreement with Yolo Federal Credit Union (*Please see 7/2/2013 City Council Agenda Packet*)

Third Addendum to Real Property & Sale Agreement  
Resolution SA 2013-10

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

This THIRD 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 5th of November, 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**, the First Addendum to the PSA amended the defined Escrow Closing Date as 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, and amended the PSA to provide the Due Diligence Period to be defined as two hundred forty (240) calendar days following the Escrow Opening Date; and

**WHEREAS**, the Second Addendum to the PSA amended the defined Escrow Closing Date as "The date that is not later than December 1, 2013, or such other date mutually agreed upon in writing between the Parties for the Close of Escrow", and amended the PSA to provide the Due Diligence Period to be defined as "The date not later than November 1, 2013"; and

**WHEREAS**, SELLER and BUYER acknowledge that further time is needed to finalize the Project due to delays in receiving final approval of the Long Range Property Management Plan (LRPMP) and Purchase and Sale Agreement by the State Department of Finance;

**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 May 1, 2014; 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 date not later than April 1, 2014"*.

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

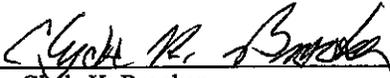
**ASSIGNOR / CITY:**

CITY OF WINTERS, a California  
municipal corporation

By: \_\_\_\_\_  
John W. Donlevy, Jr.  
City Manager

**BUYER:**

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

By:  \_\_\_\_\_  
Clyde K. Brooker  
President and CEO

**SELLER / SUCCESSOR AGENCY:**

SUCCESSOR AGENCY TO THE  
DISSOLVED WINTERS COMMUNITY  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Cecilia Aguiar – Curry

**RESOLUTION No. SA-2013-10**

**A RESOLUTION OF THE SUCCESSOR AGENCY TO THE DISSOLVED WINTERS COMMUNITY DEVELOPMENT AGENCY APPROVING AN THIRD ADDENDUM TO REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTURCTIONS BY AND BETWEEN THE CITY OF WINTERS, SUCCESSOR AGENCY TO THE DISSOLVED WINTERS COMMUNITY DEVELOPMENT AGENCY AND YOLO FEDERAL CREDIT UNION**

**WHEREAS**, 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 (APNs: 003-370-028, 029 and 030); and

**WHEREAS**, 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

**WHEREAS**, 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 a portion of the property (the “Site”), 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. Subsequently, the City Council approved a request for the Agreement to be extended by an additional 90 days; and

**WHEREAS**, On May 13, 2013, the California State Controller issued a determination that the March 2011 property transfer was an unallowable transfer based on Health and Safety Code 34167.5, and ordered the City of Winters to reverse the transfer of that property and certain other real property assets; and

**WHEREAS**, Health and Safety Code Section 34191.5(b) requires the Successor Agency to submit the Property Management Plan to the Successor Agency’s oversight board and the Department of Finance for approval no later than six months following the issuance to the Successor Agency of the finding of completion pursuant to Health and Safety Code Section 34179.7; and

**WHEREAS**, the Successor Agency, upon receiving a Finding of Completion from the Department of Finance, prepared and approved a Property Management Plan (“PMP”) and the Purchase and Sale Agreement (“P&S”) with Yolo Federal Credit Union (“YFCU”) at the July 2, 2103 Council meeting. The PMP and YFCU P&S agreement then went to the Oversight Board for approval on July 8, 2103. The PMP and YFCU P&S agreement was submitted to the Department of Finance on July 8, 2013; and

**WHEREAS**, on July 18, 2013, the City received a call from the Department of Finance indicating that if the P&S agreements were executed by the Successor Agency, the sales proceeds would go directly to the Redevelopment Property Tax Trust Fund (“RPTTF”); and

**WHEREAS**, on August 20, 2013, the City, Successor Agency and YFCU approved an Assignment and Second Addendum to the P&S Agreement (“Second Addendum”) to provide for the assignment of the P&S Agreement to the Successor Agency, extend certain deadlines in the P&S Agreement, and make certain other clarifying changes relating thereto; and

**WHEREAS**, on August 26, 2013, the PMP and Yolo Federal Credit Union Assignment and Second Addendum to the Purchase and Sale Agreement went to the Oversight Board for approval. The PMP and YFCU Assignment and Second Amendment Purchase and Sale Agreement was submitted to the Department of Finance on September 5, 2013; and

**WHEREAS**, the City, Successor Agency and Yolo Federal Credit Union have prepared a Third Addendum to the P&S Agreement (“Third Addendum”) to extend certain deadlines in the P&S Agreement, and make certain other clarifying changes relating thereto; and

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

**NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE FORMER WINTERS COMMUNITY DEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Recitals.** The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

**Section 2. CEQA Compliance.** The Successor Agency to the dissolved Winters Community Development Agency determines that approval of the proposed Third Addendum does not qualify as a project for purposes of the California Environmental Quality Act. The City Clerk is authorized and directed to file, on behalf of the Successor Agency, a Notice of Exemption with the appropriate official of the County of Yolo, California, within five (5) days following the date of adoption of this Resolution.

**Section 3. Approval of Third Addendum.** The Successor Agency hereby approves the Third Addendum to Real Property Purchase And Sale Agreement and Joint Escrow Instructions by and between the City of Winters, Successor Agency to the Dissolved Winters Community Development Agency and Yolo Federal Credit Union, in substantially the form currently on file with the City Clerk.

**Section 4. Authorization to Take Action.** The Successor Agency to the dissolved Winters Community Development Agency hereby authorizes and directs the City Manager to take all actions and do all things required by or necessary and proper to perform and carry out the proposed Purchase and Sale Agreement, as amended by the Third Addendum, including without limitation the sale of the Site to Yolo Federal Credit Union pursuant to the P&S Agreement, and to execute and deliver all certifications agreements and other documents necessary or required under the Purchase and Sale Agreement, as amended by the Second Addendum to effectuate sale of the Site to YFCU. Furthermore, the City Manager is hereby authorized and directed to take any action necessary to carry out the purposes of this Resolution and comply with applicable law

regarding including submitting the Purchase and Sale Agreement to the Successor Agency's oversight board and the Department of Finance for approval.

**Section 5. Certification.** The City Clerk shall certify to the adoption of this Resolution.

**Section 6. Effectiveness.** This Resolution shall take effect immediately upon its adoption.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the Successor Agency to the dissolved Winters Community Development Agency on the 5th day of November, 2013, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Keith Fridae, Agency Chair

ATTEST:

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Nanci G. Mills, Agency Secretary