



Winters City Council Meeting  
City Council Chambers  
318 First Street  
Tuesday, March 20, 2007  
7:30 p.m.  
**AGENDA**

*Members of the City Council*

*Woody Fridae, Mayor  
Mike Martin, Mayor Pro Tempore  
Harold Anderson  
Cecilia Curry  
Tom Stone*

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

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

Roll Call

Pledge of Allegiance

Approval of Agenda

**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 City Council of the City of Winters Held March 6, 2007 (pp 1-4)
- B. Yolo County Animal Services Contract (pp 5-14)
- C. Review the Minutes of the Hispanic Advisory Committee meetings of January 23, 2007 and February 13, 2007 (pp 15-19)
- D. Approve Consultant Services Agreement with RMC Water, for preparation of a Recycled Water Planning Grant Application (pp 20-23)

- E. Street Closure Request – April 3, May 1, June 5, July 3, August 7, September 4, 2007 - Car Show sponsored by the Buckhorn (pp 24-26)
- F. Proclamation Recognizing National Agriculture Week (pp 27)

PRESENTATIONS

2006 Police Officer of the Year – Creighton Urquhart  
Plaques of Appreciation - Departing Police Officer Scott Leach  
Yolo County Resource Conservation District (RCD) – Paul Robbins

DISCUSSION ITEMS

- 1. Ordinance No. 2007-01, Public Hearing and consideration of amendment to the Winters Municipal Code (Title 15, Buildings and Construction) to require the installation of smoke alarms whenever the City issues a building permit for a Group R Occupancy (residential) and establish a minimum addressing standard (pp 28-33)
- 2. Continued public hearing and consideration of Anderson Place Subdivision. The project is a proposed subdivision of 2.13 acres to create 24 residential lots with a total of 28 residential units and 9 office suites, an internal roadway/parking area ("Lot A"), a pedestrian pathway ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D") at 723 Railroad Avenue. APN: 003-220-22 (2.13 acres). Applicant: Eva Brzeski. Entitlements include Tentative Subdivision Map; Development Agreement; Rezone to add the Planned Development Overlay over the 2.13-acre site; Planned Development Permit for PD Overlay; Modifications to adopted Street Cross Sections; Site Plan for residential units/office suites and landscaping; and Demolition Permit (pp 34-116)
- 3. Continued public hearing and consideration of the Mary Rose Gardens Subdivision. The project is a proposed subdivision of 5.69 acres to create 28 single-family lots including two half-plex lots (Lots 12A and B) and Parcel X for an 18,433 square foot subdivision feature/green space area at 415 Grant Avenue (northwest corner of Grant Avenue and Cemetery Lane). APN: 003-524-19 (5.69 acres). Applicant: Dave Snow. Entitlements include Tentative Subdivision Map; Development Agreement; Rezoning to add the Planned Development Overlay over the 5.69-acre site; Planned Development Permit for PD Overlay; Site Plan for residential units and landscaping of Parcel X; and Demolition Permit (pp 117-196)
- 4. Smoking Ordinance (No Backup)

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COMMUNITY DEVELOPMENT AGENCY

- 1. Request for Proposals- Downtown Streetscape Design and Engineering Services (pp 197-210)
- 2. Main Street Mini Park Improvements (pp 211)

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CITY MANAGER REPORT

COUNCIL/STAFF COMMENTS

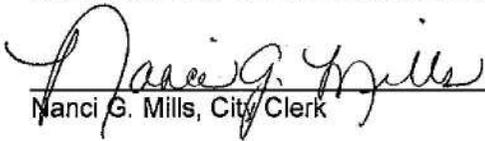
INFORMATION ONLY

EXECUTIVE SESSION

1. Executive Session to discuss litigation matters regarding an Administrative Civil Liability Complaint filed by the Central Valley Regional Water Quality Control Board Per Government Code Section 54956.9 (a)
2. Executive Session regarding real estate negotiations- 247 East Baker St. APN # Per Government Code Section 54956.8

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the March 20, 2007, regular meeting of the Winters City Council was personally delivered to each Councilmember's mail boxes in City Hall and posted on the outside public bulletin board at City Hall, 318 First Street on March 14, 2007, and made available to the public during normal business hours.

  
Nanci G. Mills, City Clerk

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

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

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

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

How to obtain City Council Agendas:

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

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

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

Winters Library – 201 First Street

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

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

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

Wednesday at 10:00 a.m.

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



**Minutes of the Regular Meeting of the Winters City Council  
Held on Tuesday, March 6, 2007 @ 7:30 p.m.**

Mayor Fridae called the meeting to order at 7:30 p.m. Mayor Fridae requested a moment of silence in memory of friend and community member Dan Martinez. Those present at the meeting were Council Members Anderson, Curry, Martin, Stone and Mayor Fridae. Also present were City Manager John Donlevy, City Attorney John Wallace, City Engineer Nick Ponticello, Management Analyst Carol Scianna, Community Development Director Dan Sokolow, and City Clerk Nanci Mills.

APPROVAL OF AGENDA: Discussion Item #1, Continued Public Hearing and Consideration of the Mary Rose Garden Subdivision, is being postponed until the March 20, 2007 City Council Meeting. Discussion Items #3, Waster Water Services Contract, and #4, Winters Library Architect, are being moved to Discussion Items #1 and #2. Discussion Item #2, Continued Public Hearing and Consideration of Anderson Place Subdivision, is being moved to Discussion Item #3. The Community Development Agency Item #1, Purchase of Parking Lot & Access Easement for the Main Street Village, is being pulled from tonight's agenda and will be brought back at a future date to be determined. Council Member Curry made a motion to approve the agenda as modified. Seconded by Council Member Martin. Motion carried unanimously.

PUBLIC COMMENTS: None

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the City Council of the City of Winters Held February 20, 2007
- B. Proclamation recognizing March 7, 2007 as California Arbor Day
- C. Consultant Services Agreement with Larry Walker Associates for Technical Review and Preparation of the City's Sanitary Sewer System Operation, Maintenance, Overflow Prevention and Response Plan
- D. Economic and Planning Consulting Services Contract with Kathryn Kelly
- E. Purchase of New 85HP Pump for East Street Lift Station in the amount of \$34,033.61
- F. Proclamation Declaring March 2007 "Women's History Month" For "Generations of Women Moving History Forward"
- G. Janitorial Services Contract Agreement with Redwood Building Maintenance Co.

City Manager Donlevy gave an overview. Council Member Stone made a motion to approve the consent calendar. Seconded by Council Member Anderson. Motion carried unanimously.

PRESENTATIONS: Mrs. B.J. Ford was present to receive the Proclamation read aloud by Mayor Fridae, Declaring March 2007 "Women's History Month" for "Generations of Women Moving History Forward." Mrs. Ford invited everyone to attend a luncheon at Holy Rosary Church in Woodland on March 8<sup>th</sup>, which would include a dramatization of eleven pioneer women of Yolo County.

## DISCUSSION ITEMS

### **1. Wastewater Services Contract Review with Eco Resources, Inc.**

City Manager John Donlevy gave an overview, addressing the issues regarding the recent sewer spills, a sewer spill response plan, and the overall need for Eco Resources, Inc. to address these issues and get the wastewater service operations back to an acceptable level. Tom O'Neill, Eco Resources, Inc. Regional Vice President of Operations, was present to address these issues. The following changes will be taking place: Eco Resources, Inc. has hired Rick Harris, the previous Eco Resources facility manager, to be available in Winters every Friday; replace the current facility manager; the current District Operations Manager has also been removed from their responsibilities regarding the City of Winters contract, and once a new facility manager is hired, this person will report directly to Tom O'Neill; one employee will be retained and will work with the new District Operations Manager to facilitate Standard Operations Procedures. A program is also being implemented containing a checklist regarding safety, training, operations & maintenance, standard operating procedures, based on the contract between Eco Resources and the City of Winters. City Manager John Donlevy indicated that Council has previously approved phone dialer systems for each lift station, which would alert Eco Resources of power outages or high water warnings via telephone. Backup generation will also be included in the upcoming budget in the event of power failure. Council Member Martin asked if staff will monitor the compliance of Eco's standard operation procedures and asked if this is a normal activity. Council Member Anderson asked if the residents at Yolo Housing will be given information regarding the development of a response plan for emergencies occurring at Yolo Housing. A response plan will be developed as per Tom O'Neill. Council Member Stone inquired about the root-bound problem areas discovered by Specialized Pipeline Services (SPS). How long will it take to get these problem areas taken care of? City Manager John Donlevy indicated that SPS video taped half of the entire system and removed the roots as they went along. The City will work with Eco Resources to continue eliminating the lines of invasive roots. Mayor Fridae asked if Eco Resources would take responsibility for the \$70,000 fine; Tom O'Neill indicated they will take responsibility for the spills that are directly related to Eco Resources negligence. Mayor Fridae indicated that the City is concerned about the environment and not just the fine. Council Member Stone added that it is disheartening to fall from Award-winning to the current situation. This item will come back to Council for review during the month of July.

### **2. Winters Library Architect**

On February 26, 2007, the library partners committee consisting of representatives from Winters Joint Unified School District, the City of Winters and the Yolo County Library, met with Architect Paul Roberts to review the cost estimate for the design development phase of the Winters Library Project. The cost estimate came in 48% over budget. The committee has recommended that the County end the contractual relationship with Architect Paul Roberts regarding the construction of the Winters library. Council Member Curry inquired why the cost estimate was so high, which is due in part to anticipated steel and concrete prices. Council Member Curry made a motion to approve the determination to terminate the contract of Paul Roberts & Partners as the architect for the Winters Joint Use Library, and support the immediate release of a new RFQ for Library Architecture Services. Seconded by Council Member Stone. Motion carried unanimously.

3. **Continued public hearing and consideration of Anderson Place Subdivision.** The project is a proposed subdivision of 2.13 acres to create 24 residential lots with a total of 28 residential units and 9 office suites, an internal roadway/parking area ("Lot A"), a pedestrian pathway ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D") at 723 Railroad Avenue. APN: 003-220-22 (2.13 acres). Applicant: Eva Brzeski. Entitlements include Tentative Subdivision Map; Development Agreement; Rezone to add the Planned Development Overlay over the 2.13-acre site; Planned Development Permit for PD Overlay; Modifications to adopted Street Cross Sections; Site Plan for residential units/office suites and landscaping; and Demolition Permit.

Community Development Director Dan Sokolow gave an overview. Nick Ponticello, City Engineer, noted right-of-way restraints within the project. The applicant, Eva Brzeski, introduced her team, who provided exhibits of the prospective project. The Council Members and Mayor voiced the following concerns: Council Member Stone felt the proposed landscaping would break up the site for variety, but was concerned with the entrance to the business fronts being at the foot of the stairs, with side access for non-owner business member. Council Member Curry admired the project, thought it might be a little risky, but wished the applicants success. She was a little concerned regarding the fiscal neutrality and would like to learn more as the project moves forward. Council Member Martin was in favor of the project and inquired about the possibility of parking on Railroad Avenue. The appearance of the project, ie: color, roof design, and set backs, doesn't appear to be an issue, although three stories seems massive. The success of commercial businesses at this location is desired, but would like to look further into the parking options. Council Member Anderson complimented the applicants for their presentation of a mixed-use project, and for improvising where needed. He was not totally in favor of parallel parking, but was in favor of the landscape pockets. He was also concerned with the fiscal neutrality and the sustainability of the project. Overall, he supports the project. Mayor Fridae was concerned regarding the viability of the businesses and the variation of design elements within the project. He would also like to review the fiscal neutrality and to see the elevation of all six buildings.

This project will be brought back to the March 20, 2007, City Council Meeting for further review.

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### **COMMUNITY DEVELOPMENT AGENCY**

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**CITY MANAGER REPORT:** There will be a Putah Creek Master Plan meeting at the Community Center on Saturday, March 10. The Winters Healthcare Foundation will be having an award ceremony on Saturday, March 10 to recognize several individuals who have been certified in various aspects of health training. On Thursday, March 22, The Hispanic Advisory Committee will be having a community meeting at St. Anthony's Parish Hall. The public is welcome to attend.

**COUNCIL/STAFF COMMENTS:** Council Member Anderson asked staff to bring forth a resolution regarding the timing of agenda packet availability and requested that all materials be prepared six days prior to each meeting. Council Member Martin would like to re-visit the fee schedule for city services re: Community Center rentals. Is sales tax applicable or collected? He would like to have an over-all review of the City Fee Schedule in order to seek possible revenue sources. City Manager Donlevy will provide this information to City Council members. Mayor Fridae inquired

about the smoking ordinance and would like to bring this item back to be addressed before the City Council. He noted the City of Emeryville recently passed a Smoking Ordinance. This item will be placed on the March 20, 2007 agenda as a discussion item.

INFORMATION ONLY

1. Treasurer Report for Period Ending January 31, 2007
2. Investment Report for Period Ending January 31, 2007

EXECUTIVE SESSION

Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator – John W. Donlevy, Jr., City Manager – Property at the Northeast Corner of Railroad Avenue and Main Street, Yolo County APN 3-224-03, Winters, California.

ADJOURNMENT: The meeting was adjourned at 11:35 p.m.

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

ATTEST:

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



**CITY COUNCIL  
STAFF REPORT**

**TO:** Honorable Mayor and Councilmembers

**DATE :** March 20, 2007

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

**FROM:** Bruce K. Muramoto, Chief of Police

**SUBJECT:** Yolo County Animal Services Contract

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**RECOMMENDATION:**

Approve the attached Animal Services Agreement between the County of Yolo and the City of Winters.

**BACKGROUND:**

The City of Winters and the County of Yolo has had a contract for Animal Services for several years. The attached contract is a renewal of services for fiscal year 2006/2007. The County of Yolo through the Sheriff-Coroner's Department is contractually responsible for providing all cities, unincorporated areas and the University of California, Davis campus with animal control ordinance enforcement, dog licensing, shelter operation and spay/neuter education services. The County Administrative Office takes the lead in reaching concurrence with the County's partners on the calculation of each entity's portioned cost of the program's \$1.79 million budget.

The contract has been reviewed and approved by City Attorney John Wallace.

It should be noted that the City's cost for these services has increased \$6,977.00 over the previous contract for services. This is due to increased operational costs of the County's Animal Services program.

**FISCAL IMPACT:**

The costs for contact services for FY 2006/2007 is estimated at \$55,000.00. The estimated \$55,000.00 includes the basic rate for seven days a week coverage between 8:00am-8:00pm of \$51,300.00 and approximately \$3,700.00 for after hours charges. After hours charges are \$93.63 per hour with a two-hour minimum for each occurrence.

**JOHN C. WALLACE**

ATTORNEY AT LAW  
312A RAILROAD AVENUE  
P. O. Box 578  
WINTERS, CA 95694

CA State Bar #63121  
PHONE (530) 795-4171  
FAX (530) 795-3578

**MEMORANDUM**

Date: March 9, 2007

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

FROM: John C. Wallace,

RE: Yolo County Animal Control  
Services Contract – 2006/2007

Dear John:

I have reviewed the extension of our current animal services contract, and it is in proper legal form. The amount of the contract is subject to Council approval when the extension is before them. Please call if you have questions.

JCW/j  
Enc.



# COUNTY OF YOLO

Office of the County Administrator

*Sharon Jensen*  
County Administrator

625 Court Street, Room 202 Woodland, CA 95695  
(530) 666-8150 FAX (530) 668-4029  
www.yolocounty.org

November 15, 2006

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

Dear John:

Enclosed is an amendment to the city/county animal services agreement to extend the term of the current agreement by one year, for fiscal year 2006-07. As you may recall, the agreement is based on the city's selection of the service option that provides regular service from 8:00 am to 8:00 pm, 7 days a week. Service outside these hours is provided and billed by each occurrence, as authorized in advance by a representative of the city.

The amendment also revises the payment rate schedule, Exhibit A of the amendment. The City of Winters' service payment for 2006-07 is \$6,977 greater than the prior year amount. The new payment rate is the same as the amount projected in the fall of 2005 during development of the current animal service contract. The increase results from a \$121,202 (7%) increase in the adopted 2006-07 Sheriff-Coroner Animal Services budget.

The following table compares the amount of the service payment to the prior year.

<u>Contract Year</u>	<u>Annual Service Payment</u>	<u>After Hours Rate</u>
July 1, 2005 to June 30, 2006	\$44,326	\$84.84/occurrence
July 1, 2006 to June 30, 2007	\$51,303	\$93.63/occurrence

Approval of the amended agreement is tentatively scheduled for the December 12 meeting of the Board of Supervisors, which necessitates the city's approval and return of the signed amendment to the County Administrator's Office by December 4. Please let me know if there is any difficulty in achieving this timeline.

If you have any questions regarding administration of the agreement, please contact Don Hoff of my office at (530) 666-8157.

Sincerely,

Sharon Jensen  
County Administrator

Attachments: First Amendment for Animal Control Services (FY 2006-07)  
Agreement for Animal Control Services (FY 2005-06)

cc: Ed Prieto, Yolo County Sheriff - Coroner

**AGREEMENT NO. \_\_\_\_\_**

(First Amendment to Agreement Between County of Yolo and City of Winters  
for Animal Control Services)

This Amendment ("First Amendment") to Agreement No. 06-162 is entered into this \_\_\_\_ day of \_\_\_\_\_, 2006, between the County of Yolo ("County"), and the City of Winters ("City").

**WITNESSETH:**

**WHEREAS**, the County and City entered into Agreement No. 06-162 on June 20, 2006 for animal control services; and

**WHEREAS**, there is need to amend the total compensation for the services provided by County to City and to extend the term to June 30, 2007;

**THEREFORE**, the parties hereto agree as follows:

1. Paragraph I.D. of Agreement No. 06-162 is amended to read as follows:

D. The complete Agreement shall include the following Exhibit attached hereto and incorporated herein by this reference:

Exhibit A: Amended Payment Rate Schedule

2. Paragraph VII.A. of Agreement No. 06-162 is amended to read as follows:

A. The term of this Agreement shall be from July 1, 2005 through June 30, 2007.

3. All other terms and conditions of Agreement No. 06-162 shall remain in effect.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year set forth above.

County of Yolo

City of Winters

By \_\_\_\_\_  
Frank Sieferman, Jr., Chair  
Yolo County Board of Supervisors

By \_\_\_\_\_  
Woody Fridae, Mayor  
City of Winters

Attest: Ana Morales, Clerk  
Board of Supervisors

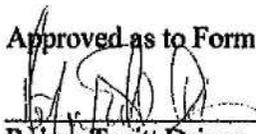
Attest: Nanci Mills, Clerk  
City of Winters

By \_\_\_\_\_  
Deputy (Seal)

By \_\_\_\_\_  
Nanci Mills, Clerk

Approved as to Form:

Approved as to Form:

  
\_\_\_\_\_  
Robyn Truitt Drivon, County Counsel

\_\_\_\_\_  
John Wallace, Esq., Attorney for City of Winters

**EXHIBIT A**

**AMENDED**

**PAYMENT RATE SCHEDULE**

**FOR**

**AGREEMENT BETWEEN COUNTY OF YOLO**

**AND THE CITY OF WINTERS FOR**

**ANIMAL CONTROL SERVICES**

City agrees to compensate the County annually, on a quarterly basis, the following amount. Quarterly payment is due and payable by check, within the first thirty (30) days of the quarter to prevent contract termination.

<u>Contract Year</u>	<u>Annual Compensation</u>	<u>Quarterly Payment</u>
07/01/2005-06/30/2006	\$44,326	\$11,081.50
07/01/2006-06/30/2007	\$51,303	\$12,825.75

Hourly Rates – For services provided by the County outside of 8:00 a.m. to 8:00 p.m., seven days a week, the reimbursement rate for 2005-06 shall be \$84.84 per hour with a two-hour minimum for each occurrence. For fiscal year 2006-07 the reimbursement rate shall be \$91.63 with a two-hour minimum for each occurrence. These charges shall be billed quarterly.

Savings – Any unspent portion of annual payment resulting from unanticipated animal services savings will be placed in a special “Animal Services Trust” for future shelter projects, animal services equipment and/or replacements items. Savings will be identified within the “Animal Services Budget Forecast” due to City from County.

**YOLO COUNTY AGREEMENT NO. \_\_-\_\_**

**AGREEMENT BETWEEN COUNTY OF YOLO  
AND THE CITY OF WINTERS FOR  
ANIMAL CONTROL SERVICES**

This Agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the County of Yolo, a political subdivision of the State of California ("County") and the City of Winters, a municipality under the laws of the State of California ("City").

**RECITALS**

WHEREAS, the City has a need for animal control services within its corporate limits; and

WHEREAS, the County has been competently providing these animal control services to the City for several years; and

WHEREAS, the City has expressed its desire to have the County continue to provide animal control services within the City's corporate limits subject to the terms of this Agreement; and

WHEREAS, the County is willing to continue to provide animal control services within the corporate limits of the City subject to the terms of this Agreement;

**NOW, THEREFORE**, the City and the County agree as follows:

**I. SERVICES TO BE PROVIDED BY THE COUNTY**

**A.** Subject to the terms of this Agreement, the County shall provide animal control services, through the Animal Control Division of its Sheriff's Department within the corporate limits of City. Such services shall be provided as determined by the Sheriff and shall be consistent with those services provided by the County in the unincorporated area of Yolo County. Services shall be limited to 8:00 a.m. to 8:00 p.m., seven days a week. Services will be provided outside these hours only when authorized in advance by a representative of the City, except for when required by Health and Safety Code sections 121595 and 121600 or Penal Code section 597f.

**B.** County agrees to maintain its kennels and animal shelter in a in a sanitary condition at all times in accordance with the laws of the State of California.

**C.** County shall provide all facilities, equipment, personnel, labor, supervision, supplies, and materials necessary to provide the animal control services required by this Agreement; however, in all instances wherein special supplies, stationary, notices, forms and the like must be issued in the name of the City, the same shall be supplied by the City at its own cost and expense.

**D.** The complete Agreement shall include the following Exhibit attached hereto and incorporated herein by this reference:

Exhibit A: Payment Rate Schedule

## **II. COMPENSATION TO BE PAID BY THE CITY**

A. For and in consideration of the rendition of services by County pursuant to this Agreement, City shall timely compensate the County in accordance with the rates as described in Exhibit A.

B. In further consideration of the rendition of the foregoing services by County, City agrees that County shall be entitled to any and all license and other fees provided for in the Yolo County Code and/or the Municipal Animal Ordinance and collected pursuant hereto.

C. County shall retain all impounding fees and revenue derived from the adoption and redemption of animals at the County shelter as additional compensation for care and feeding of these animals.

D. County shall not be entitled to reimbursement for any expenses.

## **III. METHOD OF PAYMENT OF COMPENSATION**

The City agrees to compensate the County on a quarterly basis, in the amounts described in Exhibit A. Payment shall be made by the City within the first thirty (30) days of the beginning of each quarter.

## **IV. REPORTS**

The County shall provide the City with monthly and year-end statistical reports regarding field hours, calls, citations, adoptions, redemptions, licenses, and such additional information, as the County deems appropriate. No charge will be made for these materials.

## **V. OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS**

All professional and technical documents and information developed under this Agreement, and all work products, including writings, work sheets, reports, and related data, materials, copyrights and all other rights and interests therein, shall remain the property of the County.

## **VI. RECORDS RETENTION**

The County agrees to keep such books and records concerning the services it provides pursuant to this Agreement in such form and manner as the County Auditor may specify. These books and records shall be open for examination by City officials at all reasonable times.

## **VII. TERM AND TERMINATION**

A. The term of this Agreement shall be from July 1, 2005 until June 30, 2006, unless sooner terminated as hereinafter provided.

B. Should either party fail to substantially perform its obligations in accordance with this Agreement, the other party may notify the defaulting party of such default in writing and provide not less than fifteen (15) days to cure the default. Such notice shall describe the default, and shall not be

deemed a forfeiture or termination of this Agreement. If such default is not cured within said fifteen day period (or such longer period as is specified in the notice or agreed to by the parties), the party that gave notice of default may terminate this Agreement upon not less than fifteen (15) days advance written notice. The foregoing notwithstanding, neither party waives the right to recover damages against the other for breach of this Agreement.

C. This Agreement may be terminated for any reason by either party at any time during the term of this Agreement, provided that written notice is given on or before February 1 of the year in which termination is sought and that the termination is effective the end of the fiscal year.

### VIII. APPLICABLE LAWS

In the performance of the services required by this Agreement, both parties shall comply with all applicable Federal, State, and County statutes, ordinances, regulations, directives and laws. Any action or proceeding arising out of this Agreement shall be filed and resolved in a California State court located in Woodland, California.

### IX. NOTICE

A. All notices shall be deemed to have been given when made in writing and delivered or mailed to the respective representatives of City and County at their respective addresses as follows:

City of Winters:      City of Winters  
                                 318A First Street  
                                 Winters, CA 95916  
                                 Attn: Chief Bruce Muramoto  
                                 (530) 795-4910

County:                Yolo County Sheriff's Department—Animal Services Division  
                                 41797 Gibson Road  
                                 Woodland, CA 95776-9327  
                                 Attn: Liz Morgan, Accounting  
                                 (530) 668-5268

B. In lieu of written notice to the above addresses, any party may provide notices through the use of facsimile machines provided confirmation of delivery is obtained at the time of transmission of the notices and provided the following facsimile telephone numbers are used:

City:      (530) 795-4935                      County: (530) 666-8147

C. Any party may change the address or facsimile number to which such communications are to be given by providing the other parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change.

D. All notices shall be effective upon receipt and shall be deemed received through delivery if personally served or served using facsimile machines, or on the fifth (5th) day following deposit in the mail if sent by first class mail.

**X. AMENDMENT**

This Agreement may be amended only by written instrument signed by the County and City.

**XI. WAIVER**

The waiver by either party to this Agreement or any of their respective officers, agents or employees or the failure of the County or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement shall not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this Agreement.

**XII. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the City and the County and supersedes all prior negotiations, representations, or agreements, whether written or oral. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year above set forth.

**County of Yolo**

**City of Winters**

By \_\_\_\_\_  
Frank Siefertman, Jr., Chair  
Yolo County Board of Supervisors

By \_\_\_\_\_  
Woody Fridae, Mayor  
City of Winters

Attest:  
Ana Morales, Clerk  
Board of Supervisors

Attest:  
Nanci Mills, Clerk  
City of Winters

By \_\_\_\_\_  
Deputy (Seal)

By \_\_\_\_\_  
Nanci Mills, Clerk

Approved as to Form:

Approved as to Form:

Steven M. Basha  
Steven M. Basha, County Counsel

\_\_\_\_\_  
John Wallace, Esq.  
Attorney for City of Winters

EXHIBIT A

**PAYMENT RATE SCHEDULE  
FOR  
AGREEMENT BETWEEN COUNTY OF YOLO  
AND THE CITY OF WINTERS FOR  
ANIMAL CONTROL SERVICES**

City agrees to compensate the County annually, on a quarterly basis, the following amount. Quarterly payment is due and payable by check, within the first thirty (30) days of the quarter to prevent contract termination.

<u>Contract Year</u>	<u>Annual Compensation</u>	<u>Quarterly Payment</u>
07/01/2005-06/30/2006	\$44,326	\$11,081.50

Hourly Rates – For services provided by the County outside of 8:00 a.m. to 8:00 p.m., seven days a week, the reimbursement rate shall be \$84.84 per hour with a two-hour minimum for each occurrence. These charges shall be billed quarterly.

Savings – Any unspent portion of annual payment resulting from unanticipated animal services savings will be placed in a special “Animal Services Trust” for future shelter projects, animal services equipment and/or replacements items. Savings will be identified within the “Animal Services Budget Forecast” due to City from County.



**CITY COUNCIL  
STAFF REPORT**

**TO:** Honorable Mayor and Councilmembers  
**DATE :** March 20, 2007  
**THROUGH:** John W. Donlevy, Jr., City Manager *JWD*  
**FROM:** Hispanic Advisory Committee  
**SUBJECT:** Minutes from Hispanic Advisory Committee

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**RECOMMENDATION:**

The City Council receive the minutes from Hispanic Advisory Committee meetings held January 23, 2007 and February 13, 2007 for their review.

**BACKGROUND:**

The Hispanic Advisory Committee was formed June 20, 2007 to increase and improve the overall communication and access to City services for Latino members of the community.

**FISCAL IMPACT:**

To be determined.

**City of Winters  
Hispanic Advisory Committee Minutes  
January 23, 2007**

Present: Cecilia Aguiar-Curry, Juan Avalos, Elizabeth Del Toro, John Donlevy, Lourdes Figueroa, Humberto Izquierdo, Karla Knabke, Leticia Quirarte, Cheryl Rheuby  
Excused: Sandra Cortes, Woody Fridae, Enrique Uribe

John Donlevy called the meeting to order.

- Lourdes Figueroa asked if the Hispanic Advisory Committee (HAC) meetings are open to the public or if just committee members could attend. John encouraged as much public participation as possible. The HAC meetings are open to anyone interested in attending.
- Lourdes brought in a flyer about a clinic being sponsored by Healthy Families and asked if the information could be added to the calendar of the City of Winters newsletter. John asked her to email the information to Cheryl Rheuby.
- Karla Knabke asked if signs at City Hall were posted in Spanish where offices are located and what services are offered. There is one sign listing where offices are located and space is limited. There are Spanish speakers available during most office hours. 2 police officers (Sergio Gutierrez, Albert Ramos) and 1 firefighter (Art Mendoza) are usually available during regular business hours unless they are out on a call. Mary Lou Mendoza is available in the Finance Department in the afternoons. Nancy Gonnella speaks limited Spanish and is available late morning/early afternoon.

**Old Business:**

- John asked the committee to review the Staff Report summarizing issues and recommendations from the HAC meeting held January 9, 2007. The Staff Report is to keep the City Council aware of what the committee is discussing and recommendations the committee makes. The City Council can then make decisions and take action on the recommendations. (e.g.: to have the monthly City newsletter format changed to a dual translation similar to the "Waste News" publication from Waste Management)

The City newsletter is currently published in English but a "current events" page summarizing the newsletter is published with English on one side and Spanish on the other. This "current events" page is mailed to apartment units and Yolo Housing.

The committee reviewed the January "current events" publication and noticed some translation errors. He reiterated the need to avoid using literal word-for-word English to Spanish translation. This type of translation method makes for publications that are usually confusing to Spanish-only speakers. They don't understand what is being offered.

Karla suggested the City hire a translator on a "piece-work" basis to work on all City items that need to be in Spanish. John asked if the committee members know of anyone who would be interested in this kind of work to contact him. Juan mentioned he does this type of work for the Winters Express. Charlie or Debra email articles written in English and he will summarize and translate into Spanish.

A suggestion was made about expanding the Spanish section of the Winters Express. Offering this service may increase subscriptions to Spanish-speaking households, which would help offset the increased publication costs. Spanish-speaking advertising may increase as well. John said he would bring this suggestion to Charlie Wallace.

Another suggestion was made about having the City's "current events" publication available at local businesses. In addition to El Pueblo meat market and La Mexicana suggested at last month's meeting it was suggested the "current events" page be made available at First Northern Bank, Winters Healthcare Clinic, and the break room at Mariani.

- When Channel 20 is up and running again all program information will be offered in Spanish and English.
- Last month having a Community Forum was brought up. The idea for this forum will be 100% Spanish outreach to be held at Yolo Housing to find out what's important to the Spanish-speaking community. Cecilia mentioned the League of California Cities has a Spanish Caucus who may be able to help facilitate the forum or have a speaker from the Caucus attend the forum. Humberto offered to help facilitate the forum and suggested there be a specific agenda. Need to find out what is important to the Spanish-speaking community and what the City can do for them. (Suggested speakers: Tony Cardenas-League of California Cities; Woody Fridae-Winters City Council; Art Pimentel-Woodland City Council)

Lourdes mentioned she has many people approach her about how to get affordable housing in Winters. John said to have more affordable housing available requires more housing development. Winters has a faction that doesn't want growth in Winters. The City needs to hear from the Spanish-speaking community to encourage growth to encourage more affordable homes being built. (For example at a 1% growth rate = 20 houses each year. Out of those 20 homes 3 would be classified affordable.) The last group of affordable housing available in Winters (Carter Ranch) consisted of 31 homes. There was a waiting list of 400 people. Out of the 31 homes, 27 homes went to Winters residents.

- John asked if any of the committee members would be available to attend the City Council Meeting on February 6<sup>th</sup> to present the Staff Report. Humberto said he would be available and Lourdes said she might be able to attend. John encouraged all HAC members to attend the City Council meeting.

**New Business:**

- Topic for the evening: Service Improvements to the Spanish-speaking community

Issues	Recommendations
Housing	
Recreation-High School students	<ul style="list-style-type: none"> <li>• Teen Center: art, music, vocational/technical activities, computers, video games</li> <li>• Affordable dance lessons-possibly folklorico</li> </ul>
Recreation-Adults	<ul style="list-style-type: none"> <li>• Adult dance classes-possibly salsa</li> <li>• Soccer-over age 30</li> <li>• Recreation at WHS gym-volleyball, basketball, tennis, swim, have lights on track a few evenings a week</li> <li>• English/Spanish classes</li> </ul>
Outdoor activities	<ul style="list-style-type: none"> <li>• Hiking</li> <li>• Fishing</li> <li>• Canoeing</li> <li>• Water safety</li> <li>• Summer/Day camps               <ul style="list-style-type: none"> <li>○ Slide Park</li> <li>○ Cache Creek</li> </ul> </li> </ul>

- Discussion about Service Improvements will be continued at the next meeting to be held February 13, 2007

**City of Winters  
Hispanic Advisory Committee Minutes  
February 13, 2007**

Present: John Donlevy, Humberto Izquierdo, Karla Knabke, Leticia Quirarte, Cheryl Rheuby, and Thelma Garcia

Humberto called the meeting to order.

The minutes from the January 23, 2007 meeting were reviewed and approved as presented. (Motion: Karla, 2<sup>nd</sup>: Leticia, motion carried)

Karla asked if anyone had shown interest in translating documents for the City. She mentioned that Karen Olsen may be interested in this opportunity.

Humberto mentioned that the HAC presentation at the February 6<sup>th</sup> City Council meeting went well. The Council thought the presentation was good but the recommendations were a bit too general. They suggested the HAC come back with more specific recommendations.

**Community Forum:** Karla wondered who was responsible for organizing the Community Forum. Per John the City will make arrangements for the forum. The main purpose of the forum is community outreach to the Spanish-speaking population in Winters. The HAC will bring their recommendations followed by an open session for discussion of these and other items presented by those in attendance. John emphasized the goal of the HAC is outreach. More information needs to get out about meetings to facilitate getting as many people as possible to attend this forum. The forum will be held entirely in Spanish to keep the meeting flowing smoothly.

John asked what was done to get such a large turnout for the meeting held at St. Anthony's hall a few months back. Leticia described (in Spanish) what was done to make people aware of that meeting.

The following suggestions were made about how to spread the word about the Community Forum: post notices at church, Yolo Housing, and various businesses downtown: contact Brian Heller, contact Amigos Unidos at high school; mail flyers to apartment mailing list City uses for current events page. Karla also suggested posting at the Library. Thelma highly recommended getting youth to attend and give input about what types of programs they would like to see started. If we don't get input from the youth her experience has been the youth most likely won't participate in the activity.

The main topic for the Community Forum will be to determine services the Spanish-speaking community needs.

A couple ideas were suggested for the meeting format. Karla suggested having an invited speaker open the meeting. Next have the audience break into smaller discussion/brain-storming groups where notes are taken. After a set time have each group report their suggestions and have those ideas written on an easel. Hand out 5-6 stickers to audience and have them vote for which suggestions are the most important to them. Humberto suggested a more informal format where the audience would get up and offer suggestions and recommendations. Thelma mentioned she has been recently trained as a meeting facilitator and she may be able to get other UCD students to assist as well.

John felt that having small break-out groups would encourage more people to give input. Large groups can be intimidating and you may not get as much audience participation. This forum needs to be a success in order for people to continue attending forums held in the future.

Community Forum tentatively scheduled for March 22 at 7:00 p.m. The location to be determined later.

John will design the flyer and send to Leticia & Humberto to verify information.

Thelma mentioned UCD has funding opportunities that are underutilized. Many UCD programs have funding resources; it's a matter of finding out who to contact and make a presentation. As the President of the UCD Latino Club which is planning to hold 2 events with Yolo Housing to get youth living at Yolo Housing to spend the day at UCD.

John feels we need to break down barriers and get services to the Spanish-speaking population. Their voice needs to be heard. The biggest issue is affordable housing. There are affordable housing projects coming in the future. There are plans to hold classes in how to save to buy a house and building your credit rating.

Next meeting will be February 27, 2007. John will have a sample flyer available and spend more time discussing the format of the Community Forum.



## STAFF REPORT

**TO:** Honorable Mayor and Councilmembers  
**DATE :** March 20, 2007  
**THROUGH:** John W. Donlevy, Jr., City Manager *JWD*  
**FROM:** Nicholas J. Ponticello, City Engineer *NJP*  
**SUBJECT:** Consultant Services Agreement with RMC Water, for preparation of a Recycled Water Planning Grant Application

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**RECOMMENDATION:** Authorize the City Manager to execute a Consultant Services Agreement with RMC Water, for preparation of a Recycled Water Planning Grant Application, and authorize expenditures in an amount not to exceed \$12,000.

**BACKGROUND:** The City of Winters will be expanding and upgrading its wastewater treatment plant, depending on future development. At the same time, the City continues to expand its water service area and increase the overall demand on its water system. Many cities are using recycled water as a way to both increase water supply and to decrease wastewater disposal costs. The State is encouraging the use of recycled water and has a grant program to offset some of the costs associated with developing a recycled water master plan. Based on these various factors, this is the optimum time to move forward with a recycled water master plan to evaluate the potential for recycled water use within the City and the potential areas of annexation.

The State Water Resources Control Board administers a Water Recycling Funding Program that covers 50% of the cost for preparing a recycled water facilities plan, up to a maximum amount of \$75,000. The process for securing a planning grant is illustrated in the attached Figure 1.

RMC Water was the consultant that prepared the updates to the Water and Sewer Master Plans and they are experienced with the Grant program. They submitted the attached scope of work, which is deemed fair and reasonable for the services.

**FISCAL IMPACT:** The costs associated with the RMC Contract will be funded out of Water Enterprise funds. The authorization amount requested (\$12,000) includes a contingency, which will allow the City Manager the flexibility to authorize additional funds, if required to address unforeseen issues associated with the process.

Attachments: Figure 1 – Grant Program Process  
RMC Scope of Work

**Figure 1- Facilities Planning Grant Program Process**

Request grant application	Grant application is distributed to interested applicants upon request.
Grant application submittal	Applicant submits grant application, including plan of study and other required documents.
Review of Application	SWRCB staff reviews grant application.
Applicant Meeting	SWRCB staff and applicant meet to discuss the plan of study and grant program procedures.
Grant Commitment	Grant commitment approved by the Division Chief.
Grant Agreement Execution	Grant agreement prepared and executed.
Draft Facilities Planning Report Submittal	Applicant proceeds with feasibility study, prepares draft facilities planning report, and submits to SWRCB staff.
Draft Facilities Planning Report Review	SWRCB staff reviews draft report and issues draft report approval.
50 Percent Payment	Applicant requests first 50 percent grant disbursement. SWRCB staff processes 50 percent grant payment.
Final Facilities Planning Report Submittal	Applicant completes plan and submits Final planning report (including market assurances) and a copy of a locally adopted resolution approving final environmental documents.
Facilities Planning Report Approval	SWRCB staff approves Final facilities planning report.
Final Payment	SWRCB staff processes remaining grant payment.

## **SCOPE OF WORK**

RMC has identified the following tasks to complete the Scope of Work for this project.

### **Task 1 Project Coordination and Meetings**

This task involves the coordination and communications between the RMC team and the City throughout the duration of the project, and the Quality Assurance/ Quality Control (QA/QC) activities for project deliverables. It also includes attendance at the Applicant Meeting (a requirement of the planning grant – see Figure 1).

#### Deliverables:

1. Project Status Report
2. Applicant Meeting

#### Assumptions:

- Applicant meeting will take place at the SWRCB offices in Sacramento.

### **Task 2 Preparation of Planning Grant Application**

This task involves the following activities:

**Data Collection and Review.** RMC will collect and review any pertinent information needed to complete the planning grant application and prepare the Plan of Study.

**Plan of Study.** In accordance with the Planning Grant requirements, RMC will prepare a Plan of Study which includes discussion of the following:

- Description of the recycled water service area that will be studied
- Potential sources of recycled water and a summary of the unit processes currently in use at the existing treatment facilities
- A description of the current disposal/reuse of the wastewater that is proposed to be recycled
- A map of the study area showing the sources of recycled water and potential service area(s)
- Identification of the water and wastewater agencies having jurisdictions over the sources of recycled water and/or the potential service area.
- A general description of water recycling and potable water supply alternatives that will be evaluated
- A description of the opportunities for stakeholder participation (e.g., public meeting with local community members, potential users, etc)
- A schedule with the start and completion dates of major tasks associated with the facilities planning study
- A list of potential problems that may cause delay in the progress of the study and description of the proposed actions to reduce the impact of these potential problems
- Identification of the entities that will be conducting the study and description of their roles.
- Proposed budget for the study, including estimated costs of specific tasks, sources of financing, and sources of funds for cash flow until grant reimbursement.

A draft plan of study will be submitted to the City for review. Comments will be incorporated into the version that is submitted to the SWRCB.

Deliverables:

1. Draft Plan of Study (submitted to City)
2. Final Plan of Study (submitted to SWRCB)

Assumptions:

- Pertinent information will be readily accessible.

**FEE ESTIMATE**

As shown in the table below, the fee estimate and for this scope of work is \$10,000.

Recycled Water Grant Application

Fee Estimate

Task	Description	RMC Labor Hours				RMC Labor (\$)	ODCs	TOTAL COST (\$)
		Hermanson PM	PE 1	Admin	Total Hours			
		2007	\$210/hr	\$138/hr	\$98/hr			
<b>1.0</b>	<b>PROJECT COORDINATION</b>	<b>7</b>	<b>0</b>	<b>3</b>	<b>10</b>	<b>\$1,700</b>	<b>\$30</b>	<b>\$1,730</b>
	Project Coordination	4		3	7	\$1,100		\$1,100
	Applicant Meeting	3			3	\$600	\$30	\$630
<b>2.0</b>	<b>PLANNING GRANT APPLICATION</b>	<b>10</b>	<b>44</b>	<b>0</b>	<b>54</b>	<b>\$8,200</b>	<b>\$70</b>	<b>\$8,270</b>
	Data Collection	4	6		10	\$1,700	\$70	\$1,770
	Draft Planning Grant Application	4	30		34	\$5,000		\$5,000
	Final Planning Grant Application	2	8		10	\$1,500		\$1,500
<b>TOTAL</b>								
	Hours	17	44	3	64			
	Total Cost (\$)					\$9,900	\$100	\$10,000

**SCHEDULE**

RMC will complete the Draft Planning Grant Application materials within two weeks of receiving a Notice to Proceed. Final Planning Grant Application materials will be completed within one week of receiving comments

RMC greatly appreciates this opportunity to continue providing our consulting services to the City of Winters. If you have any questions or require further information, please do not hesitate to call me at 916.273.1500.

Very truly yours,  
RMC Water and Environment



Glenn E. Hermanson, P.E.  
Principal



**CITY COUNCIL  
STAFF REPORT**

**TO:** Honorable Mayor and Councilmembers  
**DATE :** 3/20/2007  
**THROUGH:** John W. Donlevy, Jr., City Manager   
**FROM:** Tracy Jensen, Records Clerk, for Nanci G. Mills; Director of Administrative Services and City Clerk  
**SUBJECT:** Street Closure Requested by The Buckhorn for Monthly Car Show

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**RECOMMENDATION:**

Approve the closure of Main Street between Railroad Avenue and First Street to allow for The Buckhorn to sponsor a Car Show on Tuesday evenings from 5:00 p.m. to 8:00 p.m. and includes the following dates: April 3, May 1, June 5, July 3, August 7 and September 4, 2007.

**BACKGROUND:**

Linda Rodriguez of The Buckhorn has requested the closure of Main Street between Railroad Avenue and First Street for the dates specified above. She has requested that barricades be placed at these intersections.

This event allows the community to come out, enjoy the spring and summer evenings while strolling up and down Main Street, viewing the classic automobiles on display.

Linda Rodriguez has notified the Main Street business owners located between Railroad Avenue and First Street of the requested closure dates between April and September. She has provided a listing of the names and signatures of these business owners who have acknowledged and agreed to these street closures.

Closure notification will be posted on all affected streets a minimum of 48 hours prior to the scheduled closures.

Per the City's Street Closure Ordinance, it requires Council approval on identified streets on the attached form.

**FISCAL IMPACT:**

To be Determined (Police staff overtime, signage, barricade placement).



**City of Winters Request for Street Closure**

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

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

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

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

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

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

Name: <u>Buckhorn</u>	Organization: _____
Address: <u>2 Main Street Winters</u>	Mailing Address: _____
Telephone: <u>530-795-4503</u>	Today's Date: <u>3/12/07</u>
Streets Requested: _____	
Date of Street Closure: <u>4/3; 5/1; 6/5; 7/3; 8/7; 9/4</u> Time of Street Closure: <u>5:00-8:00pm</u>	
Description of Activity: <u>Cat Show</u>	
Services Requested of City: <u>Block of Street - Railroad to 1st St.</u>	
APPROVED: _____ Police Department _____ Public Works Department	

Dates - 1st Tuesday of the Month - 4/3, 5/1, 6/5, 7/3, 8/7, 9/4  
5:00-8:00 P.M.

CITY OF WINTERS  
REQUEST FOR STREET CLOSURE

Please provide a listing of the names and signatures of people living on the street (s) to be closed and acknowledging that they know why the closure is requested and that they agree to the closure.

Name	Address	Signature
1. Elizabeth <sup>Buckhorn</sup> <del>Dummett</del>	10 main St Winters	[Signature]
2. Paulette Weill	14 Main St Winters	Paulette Weill
3. Chris <del>Spencer</del>	22 main Winters	Chris <del>Spencer</del>
4. Lacie Hendrich	26 Main Winters	Lacie Hendrich
5. Carmen P Estada	30 Main St Winters	Carmen P Estada
6. Dahl <del>Master</del>	38 Main St	Dahl <del>M</del>
7. <del>Madison</del>	40 Main St	<del>Madison</del>
8. First Northern Bank	48 Main St.	[Signature]
9. Metro PCS	47 Main St	[Signature]
10. El Pueblo Meat MK	43 Main St	[Signature]
11. Velo City	41 Main St.	[Signature]
12. <del>Mon</del> Realty <del>wood</del>	37 Main St	[Signature]
13. Berke Hardware	35 main	[Signature]
14. Winters Healthcare	23 Main St	[Signature]
15. Charles Hair Salon	19 main	[Signature]
16. <del>Winters</del> <del>Assoc.</del>	"	"
17. <del>Winters</del>	15 main	[Signature]
18. CLOTH CAROUSEL	9 MAIN ST	[Signature]
19. WFF Foundation	7 main	[Signature]
20. Dave Fleming	13 Main St	David Fleming
21. <del>Fleming</del>	1 main - st	[Signature]
22. DR BOB	34A main	[Signature]



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

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

**WHEREAS**, it is also very important to the local economy with Yolo County generating \$332,720,000 agricultural sales in 2005; and

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

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

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

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINTERS**, do hereby proclaim March 18 - 24, 2007, as "National Agriculture Week" in the City of Winters in recognition of the importance of agriculture to our community.

**PASSED AND ADOPTED** this 20th day of March, 2007, by the following roll call vote:

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

\_\_\_\_\_  
Councilmember Harold Anderson

\_\_\_\_\_  
Councilmember Cecilia Aguiar-Curry

\_\_\_\_\_  
Councilmember Mike Martin

\_\_\_\_\_  
Councilmember Tom Stone

\_\_\_\_\_  
Mayor Woody Fridae

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

\_\_\_\_\_  
**ATTEST: City Clerk Nanci G. Mills**



**CITY COUNCIL STAFF REPORT**

March 20, 2007

TO: Honorable Mayor and Councilmembers

THROUGH: John W. Donlevy, Jr. – City Manager *[Signature]*

FROM: Dan Sokolow – Community Development Director *[Signature]*

**SUBJECT: Ordinance No. 2007-01, Amendment to the Winters Municipal Code (Title 15, Buildings and Construction) to require the installation of smoke alarms whenever the City issues a building permit for a Group R Occupancy (residential) and amend the current addressing standard.**

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**RECOMMENDATION:** Staff recommends that the City Council (1) receive the staff report and (2) conduct the public hearing, and (3) waive the first reading of Ordinance No. 2007-01, (4) and schedule the second reading and adoption of Ordinance No. 2007-01 for the April 3, 2007 City Council meeting.

**BACKGROUND:** Many of the City's residences were constructed before the California Code of Regulations (California Building Code) required the installation of smoke alarms. The proposed ordinance would require the installation of smoke alarms whenever the City issues a building permit for a Group R Occupancy (residential). The intent of the ordinance is to protect lives, particularly the elderly and young children; and minimize property damage resulting from fires. The ordinance would also amend the existing addressing standard for all occupancies by establishing the following new minimum standard.

1. All address numbering shall be clearly visible from the street fronting the property.
2. All buildings shall be identified by either four (4) inch high illuminated numbers or six (6) inch high non-illuminated numbers on contrasting background.
3. For residences on alleyways, the address numbering shall appear on the front and rear of the structure.

This above addressing standard has been incorporated into the conditions of approval for new residential and commercial projects. The addressing aspect of the ordinance would also require an existing occupancy to satisfy the minimum addressing standard whenever a building permit is issued. A number of the City's residences do not meet the proposed minimum standard. As a result, this creates a potential and ongoing problem for first responders to locate specific properties, particularly at night.

**DISCUSSION:** The Winters Fire Department has reviewed the proposed ordinance

and supports its adoption.

**FISCAL IMPACT:** The City will incur expenses to advertise the new requirements to install smoke alarms whenever a building permit is issued for a Group R Occupancy and satisfy the minimum addressing standard whenever a building permit is issued for any occupancy. Building inspections will be lengthened in order to confirm the presence of smoke alarms and ensure that the addressing satisfies the minimum addressing standard.

**ATTACHMENTS:**

Ordinance No. 2007-01

Public Hearing Notice

California Code of Regulations (sections on smoke alarms)

Z+B+E/Smoke Alarms CC Stf Rpt 20Mar07

**CITY COUNCIL  
ORDINANCE NO. 2007-01**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS  
AMENDING THE WINTERS MUNICIPAL CODE, TITLE 15 (BUILDINGS AND  
CONSTRUCTION) TO REQUIRE THE INSTALLATION OF SMOKE ALARMS  
WHENEVER THE CITY ISSUES A BUILDING PERMIT FOR A GROUP R  
OCCUPANCY (RESIDENTIAL) AND AMENDING THE ADDRESSING STANDARD  
FOR ALL OCCUPANCIES**

The City Council of the City of Winters, State of California, does hereby ordain as follows:

1. Purpose. The purpose of this ordinance is to require the installation of smoke alarms whenever the City issues a building permit for a Group R Occupancy (residential). The smoke alarms shall be installed in accordance with the California Code of Regulations Title 24, Part 2, Volume 1, Sections 310.9.1.3, 310.9.1.4, and 310.9.1.5. The ordinance would also amend the addressing standard for all occupancies.

- a. All address numbering shall be clearly visible from the street fronting the property.
- b. All buildings shall be identified by either (4) inch high illuminated numbers or six (6) inch high non-illuminated numbers on contrasting background.
- c. For residences on alleyways, the address numbering shall appear on the front and rear of the structure.
- d. An existing occupancy shall satisfy the minimum addressing standard contained in items "a" through "c" whenever a building permit is issued.

2. Authority. The City of Winters has authority to adopt this ordinance pursuant to the general police power granted to cities by Article 11, Section 7 of the California Constitution.

3. Findings. Many of the City's residences were constructed before the California Code of Regulations (California Building Code) required the installation of smoke alarms and the Winters Fire Department's fire station is not staffed on a 24-hour basis. A number of the City's residences do not have adequate addressing. As a result, this creates a potential and ongoing problem for first responders to locate specific properties, particularly at night.

4. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

**INTRODUCED** at a regular meeting on March 20, 2007 and **PASSED AND ADOPTED** at a regular meeting of the Winters City Council, County of Yolo, State of California, on the 3rd day of April 2007, by the following roll call vote:

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

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**Keith W. Fridae, MAYOR**

**ATTEST:**

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**Nanci G. Mills, CITY CLERK**

Z+B+E/Smoke Alarms CC Ord 20Mar07

# Winters Express

2/22/07 P. B5

## Notice of Public Hearing

### NOTICE OF PUBLIC HEARING

The Winters City Council will conduct a public hearing on the project application as described below, beginning at 7:30 P.M. on March 20, 2007, or as soon as possible thereafter, in the Council Chambers, City Offices, 318 First Street, Winters, California 95694.

**APPLICATION TYPE:** The City Council of the City of Winters is conducting a public hearing to solicit comments regarding the proposed ordinance to amend the Winters Municipal Code (Title 15, Buildings and Construction) to require the installation of smoke alarms whenever the City issues a building permit for a Group R Occupancy (residential) and to establish a minimum addressing standard for all occupancies.

**PROJECT DESCRIPTION:** The proposed amendment to the Winters Municipal Code (Title 15, Buildings and Construction) would require the installation of smoke alarms in accordance with the California Code of Regulations Title 24, Part 3, Volume 1, Sections 310.9.1.3, 310.9.1.4, and 310.9.1.5 whenever the City issues a building permit for a Group R Occupancy (residential) and establish a minimum addressing standard for all occupancies. The ordinance would also require an existing occupancy to satisfy the minimum addressing standard whenever a building permit is issued.

The purpose of the public hearing will be to give citizens an opportunity to make their comments known. If you are unable to attend the public hearing, you may direct written comments to the City of Winters, Community Development Department, 318 First Street, Winters, California 95694 or you may telephone (530) 795-4910, extension 112. In addition, a public information file is available for review at the above address between the hours of 8:00 a.m. and 5:00 p.m. on weekdays.

**ALL INTERESTED PERSONS ARE INVITED TO APPEAR AT THE MEETING DATE(S) IDENTIFIED ABOVE AT 7:30 P.M. IN COUNCIL CHAMBERS TO COMMENT. COPIES OF ALL THE ABOVE PROJECT DESCRIPTIONS, PLANS AND THE COMPLETE FILE, CAN BE VIEWED AT THE OFFICE OF THE COMMUNITY DEVELOPMENT DEPARTMENT, 318 FIRST STREET, CITY HALL, AT LEAST FIVE DAYS PRIOR TO THE HEARING, OR CALL THE STAFF CONTACT PERSON AT (530) 795-4910, EXTENSION 112. ALL INTERESTED PERSONS ARE INVITED TO ATTEND THE HEARING AND EXPRESS THEIR COMMENTS. WRITTEN COMMENTS WILL BE ACCEPTED PRIOR TO, AT, AND DURING THE HEARING. ALL COMMENTS RECEIVED WILL BE GIVEN TO THE CITY COUNCIL FOR THEIR CONSIDERATION.**

**PURSUANT TO SECTION 65009 (B) (2), OF THE STATE GOVERNMENT CODE "IF YOU CHALLENGE ANY OF THE ABOVE PROJECTS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING(S) DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY COUNCIL AT, OR PRIOR TO, THIS PUBLIC HEARING".**

Jen Michaelis- Administrative Assistant,  
Community Development Department  
Published February 22, 2007

vided there is adequate light and ventilation and adequate means of egress.

**310.7 [For HCD 1] Efficiency Dwelling Units.** An efficiency dwelling unit shall conform to the requirements of the code except as herein provided or as provided in Health and Safety Code Section 17958.1.:

- 1. The unit shall have a living room of not less than 220 square feet (20.4 m<sup>2</sup>) of superficial floor area. An additional 100 square feet (9.3 m<sup>2</sup>) of superficial floor area shall be provided for each occupant of such unit in excess of two.
- 2. The unit shall be provided with a separate closet.
- 3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
- 4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

*NOTE: Subject to other provisions of law, the applicable subsection of the Health and Safety Code is repeated here for clarity and reads as follows:*

*Section 17958.1. Subject to Sections 17922, 17958 and 17958.5, a city or county may, by ordinance, permit efficiency units for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities, as specified by the ordinance. In all other respects, these efficiency units shall conform to minimum standards for those occupancies otherwise made applicable pursuant to this part.*

*"Efficiency unit," as used in this section, has the same meaning specified in the Uniform Building Code of the International Conference of Building Officials, as incorporated by reference in Chapter 2-12 of Part 2 of Title 24 of the California Code of Regulations.*

**310.8 Shaft and Exit Enclosures.** Exits shall be enclosed as specified in Chapter 10.

Elevator shafts, vent shafts, dumbwaiter shafts, clothes chutes and other vertical openings shall be enclosed and the enclosure shall be as specified in Section 711.

In nonsprinklered Group R, Division 1 Occupancies, corridors serving an occupant load of 10 or more shall be separated from corridors and other areas on adjacent floors by not less than approved fixed wired glass set in steel frames or by 20-minute smoke- and draft-control assemblies, which are automatic closing by smoke detection.

**310.9 Smoke Alarms and Sprinkler Systems.**

**310.9.1 Smoke alarms.**

**310.9.1.1 General.** Dwelling units, congregate residences and hotel or lodging house guest rooms [for SFM] and residential care facilities classified as Group R, Divisions 2.1.1, 2.2.1, 2.3.1 and Group R, Division 6 Occupancies that are used for sleeping purposes shall be provided with smoke alarms or multiple-station smoke alarms. Smoke alarms shall be installed in accordance with this code and the approved manufacturer's instructions.

*EXCEPTION: A fire alarm system with smoke detectors located in accordance with Sections 310.9.1.4 and 310.9.1.5 may be installed in lieu of smoke alarms. Upon actuation of the detector, only those notification appliances in the dwelling unit or guest room shall activate.*

**310.9.1.2 Additions, alterations or repairs to Group R Occupancies.** When the valuation of an addition, alteration or repair to a Group R Occupancy exceeds \$1,000 and a permit is required, or when one or more sleeping rooms are added or created in exist-

ing Group R Occupancies, smoke alarms shall be installed in accordance with Sections 310.9.1.3, 310.9.1.4 and 310.9.1.5 of this section.

*EXCEPTION: Repairs to the exterior surfaces of a Group R Occupancy are exempt from the requirements of this section.*

\* **310.9.1.3 Power source.** In new construction, required smoke alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source and shall be equipped with a battery backup. The smoke alarm shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than those required for over-current protection. Smoke alarms may be solely battery operated when installed in existing buildings; or in buildings without commercial power; or in buildings which undergo alterations, repairs or additions regulated by Section 310.9.1.2.

\* **310.9.1.4 Location within dwelling units.** In dwelling units, a smoke alarm shall be installed in each sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit has more than one story and in dwellings with basements, a smoke alarm shall be installed on each story and in the basement. In dwelling units where a story or basement is split into two or more levels, the smoke alarm shall be installed on the upper level, except that when the lower level contains a sleeping area, a smoke alarm shall be installed on each level. When sleeping rooms are on an upper level, the smoke alarms shall be placed at the ceiling of the upper level in close proximity to the stairway. In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches (610 mm) or more, smoke alarms shall be installed in the hallway and in the adjacent room. Smoke alarms shall sound an alarm audible in all sleeping areas of the dwelling unit in which they are located.

\* **310.9.1.5 Location in efficiency dwelling units, congregate residences and hotels.** In efficiency dwelling units, hotel suites and in hotel [for SFM] motel or lodging house and congregate residence and residential care and group care facility sleeping rooms, smoke alarms shall be located on the ceiling or wall of the main room or each sleeping room. When sleeping rooms within an efficiency dwelling unit or hotel suite are on an upper level, the smoke alarms shall be placed at the ceiling of the upper level in close proximity to the stairway. When actuated, the smoke alarms shall sound an alarm audible within the sleeping area of the dwelling unit or congregate residence, hotel suite, or sleeping room in which it is located.

\* **310.9.1.6. Single- and multiple-station smoke alarms and smoke detectors installed within dwelling units, congregate residences and hotel rooms shall not be connected to the building fire alarm system.**

*EXCEPTION: Connection of such devices for annunciation only.*

*Buildings containing Group R, Division 2.1 Occupancies shall be provided with an approved manual and automatic fire alarm system in accordance with Chapters 3, 9 and 35 and the California Fire Code.*

*EXCEPTION: Buildings housing nonambulatory clients on the first story only, and which are protected throughout by the following:*

- 1. An approved and supervised automatic sprinkler system, as specified in Chapter 9, which upon activation will initiate the fire alarm system to notify all occupants.
- 2. A manual fire alarm system in accordance with Chapters 9 and 35.
- 3. Smoke alarms required by Section 310.9.1.

**310.9.2 Sprinkler and standpipe systems.** When required by Section 904.2.1 or other provisions of this code, automatic sprin-



**CITY COUNCIL STAFF REPORT**

March 20, 2007

**TO:** Honorable Mayor and Council Members  
**THROUGH:** John W. Donlevy, Jr. – City Manager *JWD*  
**FROM:** Dan Sokolow – Community Development Director *DS*  
**SUBJECT:** **ANDERSON PLACE SUBDIVISION (Continued Public Hearing)**

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**SUMMARY OF MARCH 7, 2007 CITY COUNCIL MEETING:** A number of changes have been made to the recommended conditions of approval, development agreement, and other documents pertaining to the project in response to questions from City Councilmembers. Staff will describe these changes in detail at tonight's meeting.

**SUMMARY OF PROJECT:** The project site is located in the north central area of the City of Winters at 723 Railroad Avenue. The project site, which is on the east side of Railroad, totals 2.13 acres comprised of APN 003-220-22 and is north of Grant Avenue (State Route 128), south of Betty Court, east of the existing section of Anderson Avenue, and west of Dutton Street. The project is a proposed rezoning and subdivision of 2.13 acres to create 24 residential lots with a total of 28 residential units and 9 office suites, an internal roadway/parking area ("Lot A"), a pedestrian pathway area ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D").

**PLANNING COMMISSION RECOMMENDATION:** At a hearing held December 19, 2006, the Planning Commission voted 6-1 (Guelden opposed) to support the staff recommendation of approval of the project (Attachments 5 and 6 to this report).

**DEVELOPMENT AGREEMENT:** The City and the applicant have concluded the Development Agreement (DA) negotiations and the proposed DA "public benefit" features are detailed below. It should be noted that there are many other requirements of the project that the City will achieve through the mitigation measures and conditions of approval. The items below are the items that would be gained to the community's "net benefit", in addition to the requirements of the mitigation measures and conditions of approval.

- **School Funding** – Payment of Level Three School Impact Fees (low- and very low- income units exempt).
- **Fiscal Neutrality** – Pay an annuity per an Economic and Planning Systems report to offset any cost increase to the City general fund.

- Parks – Fund new parks at seven acres per thousand through in-lieu fees.
- Energy – All of the units to be constructed as EPA Energy Star units. Photovoltaic solar energy systems capable of producing 2.4 peak rated direct current (DC) kilowatts to be installed on seven of the proposed buildings. (Note: Because of the small roof sizes and non-standard roof designs, a number of the buildings proposed for the project cannot accommodate photovoltaic solar energy systems capable of producing 2.4 peak rated direct current). All of the market rate units not installed with photovoltaic solar energy systems to be pre-wired for these systems and photovoltaic solar energy systems to be offered as an option to potential purchasers of these units.
- Public Safety Facility – Contribute \$25,000 towards construction of the facility.
- Library Fund – Contribute \$20,000 towards library improvements.
- Water Impact Fees Advance Payment – Pay the City impact fees for Water at Final Map.

It should be noted that the Fiscal Neutrality and Parks items are General Plan requirements and therefore are not true "net benefit" items, but they have been detailed here for clarity purposes.

### **RECOMMENDED ACTIONS:**

If the Council supports the Planning Commission and staff recommendation then the following actions should be taken:

A) The staff recommends the City Council have the applicant indicate for the record, their acceptance of the Development Agreement and conditions of approval.

B) Assuming the applicant indicates their acceptance of the final terms of the DA and conditions of approval, the staff recommends that the City Council take the following actions subject to the identified findings of fact and conditions of approval:

1) Adopt Resolution No. 2007-xx (Attachment 8 to this report) approving CEQA findings of fact, adopting a mitigation monitoring plan, and certifying the final mitigated negative declaration for the Anderson Place Project.

2) Adopt Resolution No. 2007-xx (Attachment 9 to this report) approving the project by enacting the following:

a) Approval of the Tentative Subdivision Map No. 4859 on 2.13 acres creating 24 residential lots with a total of 28 residential units and 9 office suites, an internal roadway/parking area ("Lot A"), a pedestrian pathway area ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D").

b) Amendment of the Circulation Master Plan (May 19, 1992) and Standard Street Cross Sections (adopted October 2, 2001; City Council Resolution 2001-61) to allow Anderson Avenue to be constructed to Collector Street improvement standards with a 50-foot right of way, 40-foot face of curb to face of curb roadway section, and 5-foot sidewalks each side to the existing Railroad Avenue roadway and to allow interim Railroad Avenue improvements to include interim landscaping within the future roadway on east side of Railroad Avenue, with a 10-foot concrete pedestrian/bike path from the northern

terminus of the development to the southern terminus of the development.

- c) Approval of a Conditional Use Permit to allow the construction of multi-family housing in the O-F and C-2 Zones.
  - d) Approval of Site Plan for the design of the residences and office suites and the conceptual landscaping for the subdivision feature/green space area ("Lot B"), the Railroad Avenue frontage, and internal areas.
  - e) Approval of a demolition permit to remove one existing structure on the Property.
  - f) Approval of Findings of Fact and Conditions of Approval.
- 3) Introduce and waive the first reading of Ordinance No. 2007-xx (Attachment 10 to this report) approving the rezoning as described below. (Note: The ordinance must return for second reading and adoption):
- a) Change the Zoning Map for the project site (2.13 acres) as follows: 1) 0.71 acres designated Office (O-F) to Office/Planned Development (O-F/PD) and 2) 1.42 acres designated Central Business District (C-2) to Central Business District/Planned Development (C-2/PD).
  - b) Adoption of Planned Development (PD) Permit No. 2007-02 allowing for the following modifications as detailed on the tentative map and site plan for the project.
    - (1) Lot sizes less than the minimums for the C-2 and O-F Zones.
    - (2) Lot widths/depths less than the minimums for the C-2 and O-F Zones.
    - (3) Floor area ratios less the minimums for the C-2 and O-F Zones.
    - (4) Setbacks less the minimums for the C-2 and O-F Zones.
    - (5) Off-street parking spaces less than the minimums for multi-family housing and office uses.
- 4) Introduce and waive the first reading of Ordinance No. 2007-xx (Attachment 11 to this report) approving and authorizing execution of the Anderson Place Development Agreement. (Note: The ordinance must return for second reading and adoption. It must be signed by the applicant prior to the second reading and adoption.)

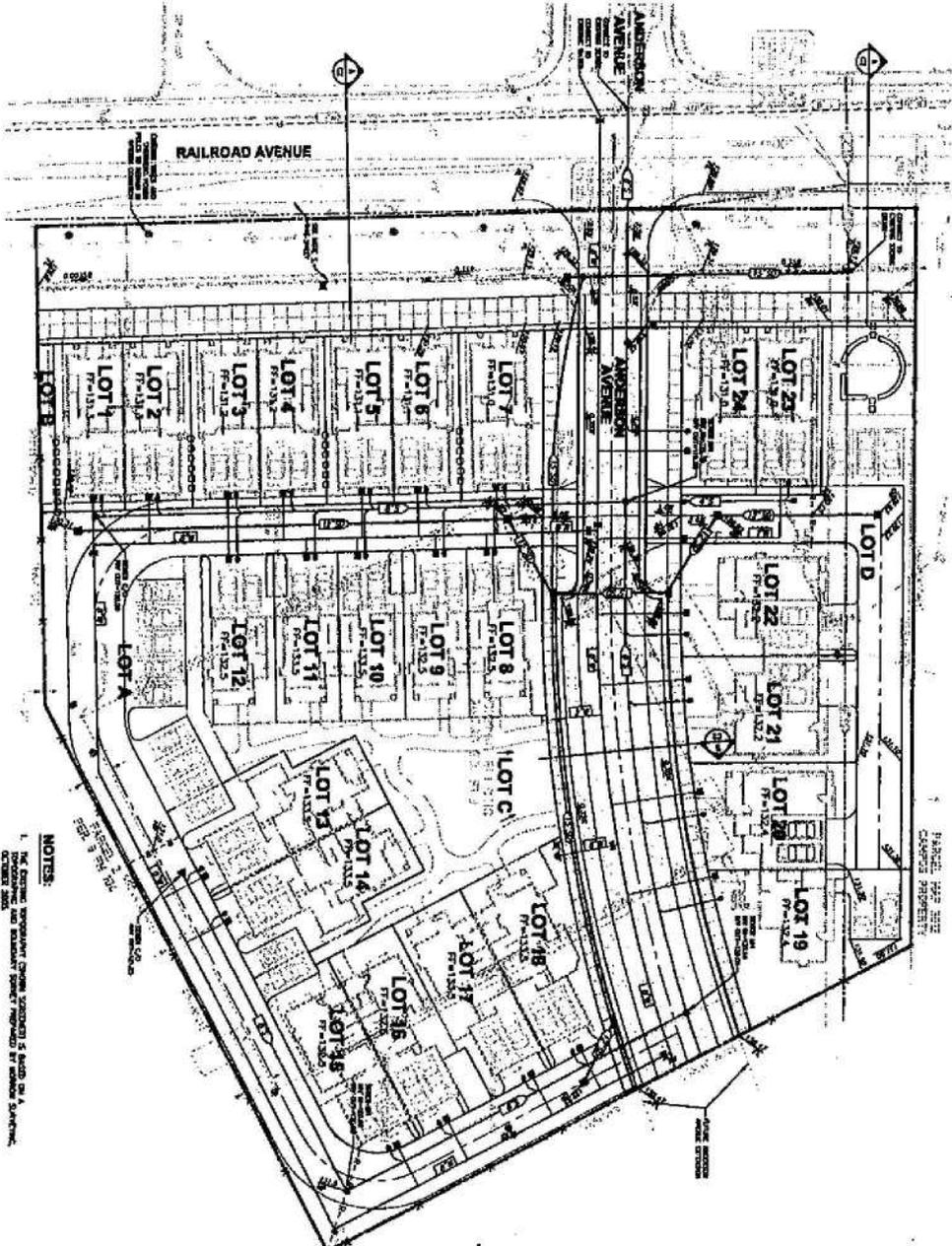
## ATTACHMENTS

- 1) Tentative Subdivision Map
- 2) Conditions of Approval
- 3) EPS Fiscal Impact Analysis (January 22, 2007)
- 4) EPS Fiscal Impact Analysis (September 15, 2006)
- 5) December 19, 2006 Planning Commission Minutes (provided in March 7, 2007 City Council agenda packet)
- 6) December 19, 2006 Planning Commission Staff Report (provided in March 7, 2007 City Council agenda packet)

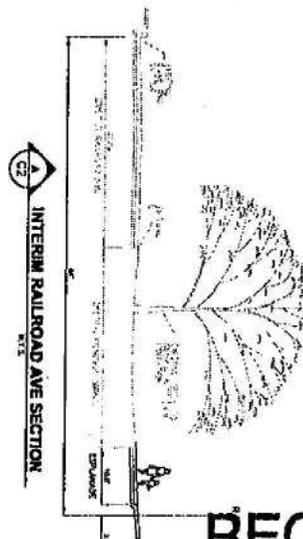
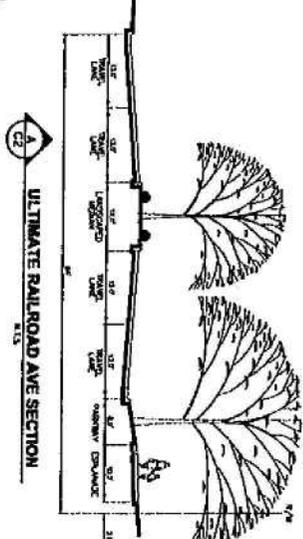
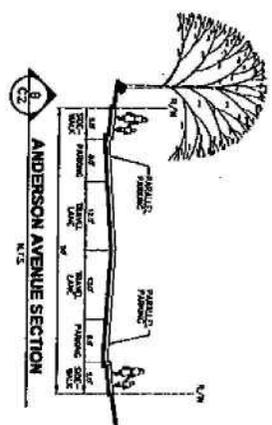
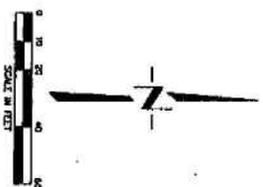
- 7) November 28, 2007 Planning Commission Staff Report (provided in March 7, 2007 City Council agenda packet)
- 8) Resolution Certifying the Mitigated Negative Declaration
- 9) Resolution Approving the Project
- 10) Rezoning Ordinance
- 11) Final Development Agreement and Ordinance

Anderson Place/TM CC Stf Rpt 20Mar07





- NOTES:**
1. THE EXISTING UTILITY LOCATIONS SHOWN ON THIS MAP ARE BASED ON THE RECORD DRAWINGS AND FIELD SURVEY CONDUCTED BY THE ENGINEER, OCTOBER 2005.
  2. ALL INFORMATION ON THIS MAP IS DEEMED TO BE OF A PRELIMINARY NATURE AND IS NOT TO BE RELIED ON FOR THE PURPOSES OF PROPERTY LINE ADJUSTMENTS.
  3. THE EXISTING MAP HAS BEEN REPRODUCED UNDER THE DIRECTION OF CHIEF ENGINEER, COUNTY OF BUTTE, CALIFORNIA.
  4. UTILITY LOTS ARE TO BE OWNED AND MAINTAINED BY PROJECT HOMEOWNERS ASSOCIATION.
  5. ALL UTILITY EASEMENTS SHOWN ON THIS MAP ARE BASED ON THE RECORD DRAWINGS AND FIELD SURVEY CONDUCTED BY THE ENGINEER, OCTOBER 2005.
  6. THE EXISTING EASEMENTS AND RELATED SETBACKS ARE TO BE MAINTAINED.
  7. THE EXISTING EASEMENTS AND RELATED SETBACKS ARE TO BE MAINTAINED.
  8. THE EXISTING EASEMENTS AND RELATED SETBACKS ARE TO BE MAINTAINED.
  9. THE EXISTING EASEMENTS AND RELATED SETBACKS ARE TO BE MAINTAINED.



APPROVED BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
CITY OF WINTERS  
COMMUNITY DEVELOPMENT DEPARTMENT

**ANDERSON PLACE**  
**TENTATIVE SUBDIVISION MAP NO. 4859**  
**WATER, SEWER, GRADING AND DRAINAGE PLAN**  
WINTERS CALIFORNIA

**CUNNINGHAM ENGINEERING**  
2840 SHAWFORD  
WINTERS, CA 95986  
PHONE: (530) 762-2222  
FAX: (530) 762-2222  
WWW.CUNNINGHAMENGINEERING.COM

NO.	DATE	BY	APPROVED BY	DATE

**RECEIVED**  
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CITY OF WINTERS  
39

# **FINDINGS OF FACT AND CONDITIONS OF APPROVAL FOR THE ANDERSON PLACE PROJECT**

## **FINDINGS OF FACT**

### **Findings for Adoption of Mitigated Negative Declaration**

1. The City Council has considered the proposed Mitigated Negative Declaration before making a decision on the project.
2. The City Council has considered comments received on the Mitigated Negative Declaration during the public review process.
3. The City Council finds that the environmental checklist/initial study identified potentially significant effects, but: a) mitigation measures agreed to by the Applicant before the mitigated negative declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant impact would occur; and b) there is no substantial evidence, in light of the whole record before the City, that the project as revised to include the mitigation measures may have a significant effect on the environment.
4. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Winters.
5. The Mitigated Negative Declaration has been prepared in compliance with CEQA and the State CEQA Guidelines, and as amended/revised is determined to be complete and final.
6. The custodian of the documents, and other materials, which constitute the record of proceedings is the Community Development Director. The location of these items is the office of the Community Development Department at City Hall, 318 First Street, Winters, California 95694.
7. The Mitigation Monitoring Plan is hereby adopted to ensure implementation of mitigation measures identified in the Mitigated Negative Declaration. The City Council finds that these mitigation measures are fully enforceable as conditions of approval of the project, and shall be binding on the Applicant, future property owners, and affected parties.
8. The City Council hereby adopts The Anderson Place Subdivision Mitigated Negative Declaration.

### **Findings for PD Overlay and PD Permit**

1. The project, as modified and conditioned, is consistent with the General Plan and the purposes of Section 17.48.010 (Planned Development Overlay Zone – Purpose) of the Winters Municipal Code.
2. Deviations from specified provisions of the basic zoning district on the property have been justified as necessary to achieve an improvement design for the development and/or the environment. The development complies with the remaining applicable provisions of the basic zoning district on the property.
3. The proposed development, as modified and conditioned, is desirable to the public comfort and convenience.
4. The requested plan, as modified and conditioned, will not impair the integrity or character of the neighborhood nor be detrimental to the public health, safety, or general welfare.

5. Adequate utilities, access roads, sanitation, and/or other necessary facilities and services will be provided or available.
6. The development, as modified and conditioned (including execution of the Development Agreement) will not create an adverse fiscal impact for the City in providing necessary services.

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

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

**Findings for Development Agreement**

1. The DA is consistent with the objectives, policies, general land uses and programs specified in the General Plan.
2. The DA is compatible with the uses authorized in, and the regulations prescribed for, the zoning district in which the real property is or will be located.
3. The DA is in conformity with and will promote public convenience, general welfare and good land use practice.
4. The DA will not be detrimental to the health, safety and general welfare.
5. The DA will not adversely affect the orderly development of property or the preservation of property values.
6. The DA will meet the intent of Section 15.72.100(a) (Public Benefits) of the Winters Municipal Code.
7. The DA is consistent with Chapter 15.72 (Development Agreements) of the Winters Municipal Code.

**CONDITIONS OF APPROVAL**

The following conditions of approval are required to be satisfied by the Applicant/developer prior to Final Map, unless otherwise stated.

**General**

1. In the event any claim, action or proceeding is commenced naming the City or its agents, officers, and employees as defendant, respondent or cross defendant arising or alleged to arise from the City's approval

of this project, the project Applicant shall defend, indemnify, and hold harmless the City or its agents, officers and employees, from liability, damages, penalties, costs or expense in any such claim, action, or proceeding to attach, set aside, void, or annul an approval of the City of Winters, the Winters Planning Commission, any advisory agency to the City and local district, or the Winters City Council. Project Applicant shall defend such action at Applicant's sole cost and expense which includes court costs and attorney fees. The City shall promptly notify the Applicant of any such claim, action, or proceeding and shall cooperate fully in the defense. Nothing in this condition shall be construed to prohibit the City of Winters from participating in the defense of any claim, action, or proceeding, if City bears its own attorney fees and cost, and defends the action in good faith. Applicant shall not be required to pay or perform any settlement unless the subdivider in good faith approves the settlement, and the settlement imposes not direct or indirect cost on the City of Winters, or its agents, officers, and employees, the Winters Planning Commission, any advisory agency to the City, local district and the City Council.

2. All conditions identified herein shall be fully satisfied prior to acceptance of the first Final Map unless otherwise stated.
3. The project is as described in the October 30, 2006 Planning Commission staff report. The project shall be constructed as depicted on the maps and exhibits included in the October 30, 2006 Planning Commission staff report, except as modified by these conditions of approval. Substantive modifications require a public hearing and Council action.

### **General Plan Requirements**

4. Pursuant to General Plan Policy II.C.1 and VI.F.2, energy efficient design shall be used. Pursuant to Policy II.C.2 of the Housing Element, energy conservation and weatherization features shall be incorporated into the home design. At a minimum this shall include: a) maximization of energy efficient techniques as identified in the July 27, 2004 Planning Commission staff report on "Proposed Energy Resolution", b) attainment of EPA Energy Star Standards in all units, c) low emission furnaces in all units, d) avoidance of dark colored roofing on all units, and e) a minimum of 50 percent of the market-rate units shall have a photovoltaic solar energy system capable of producing a minimum of 2.4kW (peak-rated DC watts) photovoltaic. The remainder of the market-rate units shall be pre-wired for an equivalent system.
5. Pursuant to General Plan Policy II.D.4 and IV.A.1 necessary public facilities and services shall be available prior to the first occupancy of the project.
6. Pursuant to General Plan Policy IV.A.4 (second sentence), the developer shall pay in-lieu fees for the parkland not provided on site, or at the City's discretion may construct needed improvements according to City specification in lieu of paying the fees.
7. Pursuant to General Plan Policy VI.C.7, drought-tolerant and native plants, especially valley oaks, shall be used for landscaping roadsides, parks, schools, and private properties. Pursuant to General Plan Policy VI.C.8, drainage-detention areas shall incorporate areas of native vegetation and wildlife habitat. All lawn areas in this subdivision shall have "low application rate" lawn sprinkler systems, as approved by the Planning Commission.
8. Pursuant to General Plan Policy IV.B.14, there shall be a water meter on each new hook-up.
9. Pursuant to General Plan Policy IV.C.2, adequate sewer service shall be provided prior to the issuance of any individual building permit.
10. Pursuant to General Plan Policy IV.J.2, all new electrical and communication lines shall be installed underground.
11. Pursuant to General Plan Policy VI.A.6, grading shall be carried out during dry months, when possible. Areas not graded shall be disturbed as little as possible. Construction and grading areas, as well as soil stockpiles, should be covered or temporarily revegetated when left for long periods.

Revegetation of slopes shall be carried out immediately upon completion of grading. Temporary drainage structures and sedimentation basins must be installed to prevent sediment from entering and thereby degrading the quality of downstream surface waters, particularly Putah Creek. The full cost of any necessary mitigation measures shall be borne by the project creating the potential impacts. Pursuant to General Plan Policy VII.B.3, should the City allow any grading to occur during the rainy season, conditions shall be implemented to ensure that silt is not conveyed to the storm drainage system.

12. Pursuant to General Plan Policy VI.E.6, construction-related dust shall be minimized. Dust control measures shall be specified and included as requirements of the contractor(s) during all phases of construction of this project and shall be included as a part of the required construction mitigation plan for the project.
13. Pursuant to General Plan Policy VII.A.1, VII.A.2, and VII.C.4 all site work and construction activities shall be in accordance with the requirements of the City, and other applicable local, regional, state, and federal regulations.
14. Pursuant to General Plan Policy VII.C.1, necessary water service, fire hydrants, and access roads shall be provided to the satisfaction of the Fire Chief and Fire Protection District standards.
15. Pursuant to General Plan Policy VII.C.2, a minimum fire-flow rate of 1,500 gallons per minute is required for all residential uses.
16. Pursuant to General Plan Policy VIII.D.2, street trees shall be planted along all streets, in accordance with the City's Street Tree Plan and Standards. All trees shall be of a type on the approved street tree list and shall be a minimum of fifteen gallons in size with a mature tree canopy of at least a thirty-foot diameter within fifteen years. The intent is that majestic street tree species that create large canopies at maturity will be required in all medians and streetside landscape strips. The goal is create maximum shade canopy over streets and sidewalks. The conceptual landscape plan for the subdivision feature/green space area (Lot C), Railroad Avenue frontage, residential units, and other areas shall be submitted to the Public Works and Community Development Departments for review and final approval. Landscaping of the project shall be completed prior to occupancy of the residential units and office suites.
17. Pursuant to General Plan Policy VIII.D.4, a permanent mechanism for the ongoing maintenance of street trees is required, to the satisfaction of the City Manager and City Finance Director.
18. Pursuant to General Plan Policy VIII.D.7, all lighting including street lighting, shall be designed, installed, and maintained to minimize excess light spillage, unnecessary brightness and glare, and degradation of night sky clarity.

#### **Negative Declaration Mitigation Measures**

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

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

**20. Mitigation Measure #2:**

- a. Construction equipment exhaust emissions shall not exceed Yolo-Solano Air Quality Management District ("District") Rule 2-11 Visible Emission limitations.
- b. Construction equipment shall minimize idling time to 10 minutes or less.
- c. The prime contractor shall submit to the District a comprehensive inventory (i.e. make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower or greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy-duty equipment on the inventory list.

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

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

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

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

**21. Mitigation Measure #3:**

- a. Nontoxic soil stabilizers according to manufacturer's specifications shall be applied to all inactive construction areas (previously graded areas inactive for ten days or more).
- b. Ground cover shall be reestablished in disturbed areas quickly.
- c. Active construction sites shall be watered at least three times daily to avoid visible dust plumes.
- d. Paving, applying water three times daily, or applying (non-toxic) soil stabilizers shall occur on all unpaved access roads, parking areas and staging areas at construction sites.
- e. Enclosing, covering, watering daily, or applying non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) shall occur.
- f. A speed limit of 15 MPH for equipment and vehicles operated on unpaved areas shall be enforced.
- g. All vehicles hauling dirt, sand, soil, or other loose materials shall be covered or shall be maintained at least two feet of freeboard.
- h. Streets shall be swept at the end of the day if visible soil material is carried onto adjacent public paved roads.

22. **Mitigation Measure #4:** Wood burning appliances installed in the homes constructed as part of the project shall only use either pellet-fueled heaters, U.S. EPA Phase II certified wood burning heaters, or a gas fireplace. Installation of open hearth wood burning fireplaces is prohibited.
23. **Mitigation Measure #5:** If cultural resources (historic, archeological, paleontological, and/or human remains) are encountered during construction, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the situation. Project personnel shall not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies.
24. **Mitigation Measure #6:** Special preparation of subgrades and reinforcement of foundations and floor slabs shall be conducted in full and as described in the Geotechnical Engineering Report 723 Railroad Avenue Residential (June 7, 2006) for the proposed project.
25. **Mitigation Measure #7:** Prior to demolition activities, the 27,000 square foot warehouse shall be sampled for the presence of lead-based paint and asbestos-containing materials. If the building surfaces are determined to contain concentrations of lead at or above regulatory limits, then removal in accordance regulations shall be required prior to demolition activities. If building materials are found to contain asbestos, then removal of the asbestos-containing materials in accordance with applicable regulations shall be required prior to demolition activities.
26. **Mitigation Measure #8:** All aspects of the project shall be subject to design review to ensure compatibility with the surrounding area and satisfaction of the Community Design Guidelines and other applicable principles of good neighborhood design. Prior to issuance of a building permit for each phase of construction of the project, the builder shall submit full architectural renderings, including building elevations and floor plans, for design review and approval.
27. **Mitigation Measure #9:** A solid noise barrier 13-feet in height shall be constructed on the southerly property line and a solid noise barrier 10-feet in height shall be constructed on the easterly property line prior to occupancy of the residential units and combined with a 10 dB noise level reduction (correction) in order to comply with the City's exterior noise standards. The barriers should be constructed of concrete masonry (CMU) units, solid concrete panels, earth berms, or any combination of these. Proposed designs/materials for the barriers shall be reviewed and approved by a qualified acoustical consultant prior to construction to ensure that they achieve the required reduction in exterior noise levels.
28. **Mitigation Measure #10:** In order to achieve compliance with the City's interior noise level standards for the residential units along the southerly property line of the project site, STC 40 rated window assemblies shall be required for all second and third floor windows with a view of the Double M Trucking facility. In order to achieve compliance with the City's interior noise level standards for the residential units along the easterly property line of the project site, STC 35 rated window assemblies shall be required for all second floor windows with a view of the Double M Trucking facility. Air conditioning or other suitable mechanical ventilation shall be provided for all residential and office units to allow residents and office users to close windows for the desired acoustical isolation. The building plans for these residences shall be reviewed and approved by a qualified acoustical professional to identify the acoustical treatments necessary to meet the City's interior noise level standards.
29. **Mitigation Measure #11:** A disclosure statement shall be provided to all prospective homebuyers disclosing that the Double M Trucking facility is located adjacent to and the Mariani Nut Company facilities near the Anderson Place Subdivision project and noise from both the Double M and Mariani facilities will be experienced at the Anderson Place project.
30. **Mitigation Measure #12:** The applicant shall fund the preparation of a fiscal impact analysis to examine project impacts on the City's general fund. The applicant shall enter into a Development

Agreement with the City that includes provisions acceptable to the City Council for mitigating any projected fiscal deficit. This may include an on-going Mello-Roos Community Facilities District (CFD) to fund eligible services, a Lighting and Landscaping District which could fund eligible park and landscaping expenses, establishment of an annuity the interest proceeds of which would cover the projected deficit, or other acceptable mechanisms.

31. **Mitigation Measure #13:** The applicant shall pay park mitigation fees to satisfy the obligation for 0.62-acre of developed parkland. Fees shall include both the value of the land and improvements that would otherwise be constructed if the parkland was provided on-site.
32. **Mitigation Measure #14:** The proposed systems for conveying project sewage, water, and drainage shall be finalized and approved by the City Engineer prior to final map. The project is required to fund and construct off-site improvements necessary to support the development. Such improvements could include, but not be limited to a water well, water lines, sewer lines and storm drainage lines. Should property acquisition or additional CEQA clearance be required for off-site improvements, this will be the responsibility of the developer.
33. **Mitigation Measure #15:** The City shall issue building permits only after the new water well is in service.

### **Community Development**

34. Construction activities shall be limited to 7:00 am to 7:00 pm, Monday through Friday only (holidays excluded) in compliance with the City's Noise Ordinance and Standard Specifications. The Applicant shall submit a Construction Noise Control Plan for review and approval by the City prior to acceptance of Final Map. This plan shall address job site noise control and establish protocols for addressing noise complaints. Job site signage with 24-hour contact information for noise complaints shall be included.
35. Foundations shall be poured in place, onsite. No pre-cast foundations will be permitted. This shall be stipulated in all construction contracts.
36. All address numbering shall be clearly visible from the street fronting the property. All buildings shall be identified by either four (4) inch illuminated numbers or six (6) inch non-illuminated numbers on contrasting background. Because the project contains residential units that will be individually owned and will utilize zero lot lines, additional addressing requirements may be necessary as determined by the Fire Department. Naming of streets shall be completed by the Street Naming Committee and the addressing shall be approved by a committee comprised of the Community Development Department, the Fire Department, the Police Department, and the Postal Service.
37. The Applicant shall pay all development impact fees, fees required by other entities, and permit fees.
38. The Applicant shall be responsible for any additional costs associated with the processing of this project including but not limited to: plan check, inspections, materials testing, construction monitoring, and other staff review and/or oversight including staff time necessary to ensure completion/satisfaction of all conditions of approval and mitigation measures. The Applicant shall, on a monthly basis, reimburse the City for all such costs. Project Applicant shall pay all development impact fees adopted by the City Council and shall pay fees required by other entities.
39. The Developer shall obtain the following approvals from the Central Valley Regional Water Quality Control Board, as appropriate: 1) coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activities; 2) compliance with post construction storm water Best Management Practices pursuant to the NPDES General Permit for Small Municipal Separate Storm Sewers Systems; 3) 401 Water Quality Certification for wetlands impacts; 4) Dewatering Permit under Waste Discharge Requirements General Order for Dewatering and Other Low Threat Discharges to Surface Waters Permit.

40. The main electrical panel for each residence and shall be located at the exterior of the residence and capable of total electrical disconnect by a single throw. This same requirement shall apply to each office suite unless waived by the Fire and Community Development Departments.
41. A minimum one-hour occupancy separation shall be required for common walls separating residential units. A minimum one-hour occupancy separation shall be required also for common walls separating commercial and residential units. Wall construction shall be approved by the Fire and Community Development Departments.
42. All wall assemblies separating dwelling units shall comply with Sound Transmission Control per 2001 California Building Code Section 1208.
43. A deed restriction shall be recorded against the nine lots containing office suites to preclude their use as and conversion to livable space. The deed restriction shall also preclude the installation of a gas or electric cooking appliance and a bathtub or shower in the office suites. The deed restriction shall be recorded concurrently with the Final Map.
44. The applicant shall form a homeowners association for the project. A draft of the conditions, covenants, and restrictions (CC&Rs) necessary for the association shall be provided to City staff for review and approval. The CC&Rs shall be recorded concurrently with the Final Map.

#### **Design Review**

45. Prior to recordation of the Final Map, a deed restriction shall be recorded against each property that precludes conversion of garage area to livable areas.
46. Units on opposing sides of a street shall be compatible in terms of design and color.
47. Lights along local streets shall not exceed 20-feet in height and shall be spaced to meet illumination/safety requirements. Lights along collector and arterial streets shall be as low as feasible in order to maintain pedestrian scale. Historic-style street lamps shall be used along all streets including the private internal streets.
48. Exterior colors on residential units shall not be restricted.
49. Landscaping and signage shall be consistent with the applicable requirements of Chapters 17.76 (Landscaping and Design) and 17.80 (Signs) of the Winters Municipal Code.
50. The developer shall offer universal design features in residential units pursuant to State Law and shall provide prospective buyers with a copy of the State's most current "New Home Universal Design Option Checklist". A copy of the checklist shall be provided to the Winters Community Development Department prior to its use.
51. Details for the sound barrier and landscaping along the west and south sides of the project shall be provided for City review and approval during a subsequent Site Plan (Design Review) for the project.

#### **Affordable Housing**

52. Prior to recordation of the Final Map, an inclusionary housing agreement shall be prepared and executed for the identified income-restricted units/properties. Deed restrictions shall be recorded against four lots or four residential units to ensure permanent affordability. All agreements necessary for the affordable housing units shall be reviewed and approved by City staff. Of the four affordable units, two shall be restricted to very low-income households, one shall be restricted to a low-income household, and one shall be restricted to a moderate-income household.
53. The construction of the affordable units shall keep pace or exceed the construction of the market rate units.

54. Pursuant to Policy II.A.13 of the Housing Element, the affordable units shall be visually indistinguishable from the market-rate units.

### Street Improvements

55. All proposed roads within the subdivision shall comply with the City's Public Works Improvement Standards and Construction Specifications, dated September 2003 and as amended, unless otherwise approved by the City. Other than Anderson Avenue and Railroad Avenue, all other streets shall be privately owned streets.
56. Anderson Avenue shall be constructed to Collector Street Improvement standards with a 50-foot right of way, 40-foot face of curb to face of curb and 5-foot sidewalks each side to the existing Railroad Avenue roadway.
57. Anderson Avenue at the intersection of Railroad Avenue – Developer shall construct roadway and curb, gutter, and sidewalk improvements to the existing Railroad Avenue roadway to the satisfaction of the City Engineer.
58. Railroad Avenue:
- a) Interim Railroad Avenue improvements to include interim landscaping within the future roadway on east side of Railroad Avenue, with a 10-foot concrete pedestrian/bike path from the northern terminus of this development to the southern terminus of the development.
  - b) Developer shall design and construct permanent and temporary pedestrian and bicycle improvements on Railroad Avenue from the project site to Grant Avenue (SR 128). On the east side of Railroad Avenue, improvements shall consist of constructing a temporary off-street Class I pedestrian/bicycle asphalt concrete (AC) path from the project site south boundary to Grant Avenue. The path shall be a minimum of 8 feet wide within the existing right of way.
  - c) No parking shall be allowed on Railroad Avenue.
  - d) Developer shall install roadway striping and markings as required by the City Engineer.
59. Local Streets: Local streets shall provide for ADA compliant sidewalk turnouts where sidewalk widths do not meet ADA requirements. All sidewalks at driveway locations shall be 6-inch thick Portland Cement Concrete (PCC).
60. Tentative Map Anderson Avenue Street Cross Section, dated June 5, 2006. Conditions and Changes shall be made as follows: **Anderson Avenue shall be extended to existing Railroad Avenue with full collector roadway improvements with 40-foot curb to curb roadway width and 5-foot sidewalks on each side.**
- a) Street Cross section details as modified by these conditions of approval, including all intersection geometric design, complying with the conditions of approval, shall be revised on tentative map, submitted to the City, and approved by the City Engineer prior to submitting a final map and improvement plans.
  - b) A signing and striping, and stop plan is required and shall be approved by the City Engineer. All signing and striping shall be in accordance with the City of Winters Public Improvements Standards and Construction Standards.
  - c) Street light types shall be those historic types as approved by the City.
61. The internal roadway in the C-2/southerly portion of the project shall be one-way, have a minimum roadway width of 20-feet and minimum vertical clearance of 14-feet, and be signed and striped for no parking. The internal roadway for in the O-F/northerly portion of the project shall have a minimum roadway width

approved by the Winters Fire Department, have a minimum vertical clearance of 14-feet, and be signed and striped for no parking.

### **Storm Drainage and Site Grading**

62. A comprehensive storm drainage plan shall be prepared by a registered civil engineer for project watershed(s), including the plan area. The plan shall identify specific storm drainage design features to control increased runoff from the project site. The drainage plan shall demonstrate the effectiveness of the proposed storm drainage system to prevent negative impacts to existing upstream and downstream facilities and to prevent additional flooding at off-site downstream locations. All necessary calculations and assumptions and design details shall be submitted to the City Engineer for review and approval. The design features proposed by the applicant shall be consistent with the most recent version of the City's Storm Drainage Master Plan criteria and City Public Works Improvement Standards. The plan shall incorporate secondary flood routing analysis and shall include final sizing and location of on-site and off-site storm conduit channels, structures. The Storm Drainage Plan shall be submitted for approval prior to submittal of the final map and/or construction drawings for checking. The applicant shall pay the cost associated with all improvements required by the plan.
63. A topographic survey of the entire site and a comprehensive grading and drainage plan prepared by a registered civil engineer, shall be required for the development. The plan shall include topographic information on adjacent parcels. In addition to grading information, the grading plan shall indicate all existing trees, and trees to be removed as a result of the proposed development, if any. A statement shall appear on the site grading and drainage plan, which shall be signed by a registered civil engineer or land surveyor and shall read, "I hereby state that all improvements have been substantially constructed as presented on these plans". Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.
64. The Tentative map Grading and Drainage plan showing grading and drainage information including topographic information, drainage routing, pipe slopes and sizing and locations and excluding topographic information, and overland drainage routing are preliminary only and do not constitute approval in any way. Final approval for the grading and Drainage Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval.
65. On-site Drainage utilities within the private streets shall be privately owned.
66. Construction materials for storm drainpipes within the water table shall be pre-cast rubber-gasket reinforced concrete pipe (RGRCP).
67. The differential in elevation between rear and side abutting lot lines shall not exceed twelve inches (12") without construction of concrete or masonry block retaining walls. Deviation from this condition may be allowed subject to approval by the City Engineer.
68. Drainage fees shall be paid prior to issuance of a building permit.
69. All perimeter parcels and lots shall be protected against surface runoff from adjacent properties in a manner acceptable to the City Engineer.
70. If disposal and sharing of the excavated soil from the construction of the Development occurs, prior to approval of the first Final Map, Applicant shall prepare a written agreement with the other participating property owners and submit to the City.
71. All projects shall include implementation of post-construction best management practices (BMP). Post construction BMP's shall be identified on improvement plans and approved by the City Engineer.
72. Construction of projects disturbing more than one acre of soil shall require a National Pollution Discharge Elimination System (NPDES) construction permit.

73. Applications/projects disturbing less than one acre of soil shall implement BMP's to prevent and minimize erosion. The improvement plans for construction of less than one acre shall include a BMP to be approved by the City Engineer.
74. An erosion and sedimentation control plan shall be included as part of the improvement plan package. The plan shall be prepared by the applicant's civil engineer and approved by the City Engineer. The plan shall include but not be limited to interim protection measures such as benching, sedimentation basins, storm water retention basins, energy dissipation structures, and check dams. The erosion control plan shall also include all necessary permanent erosion control measures, and shall include scheduling of work to coordinate closely with grading operations. Replanting of graded areas and cut and fill slopes is required and shall be indicated accordingly on plans, for approval by City Engineer.
75. Where possible landscaped slopes along streets shall not exceed 5:1; exceptions shall require approval of the City Engineer. All other slopes shall comply with the City of Winters Public Works Improvements Standards. Level areas having a minimum width of two (2) feet shall be required at the toe and top of said slopes.
76. All inactive portions of the construction site, which have been graded will be seeded and watered until vegetation is grown.
77. Grading shall not occur when wind speeds exceeds 20 MPH over a one hour period.
78. Construction vehicle speed on unpaved roads shall not exceed 15 MPH.
79. Construction equipment and engines shall be properly maintained.
80. If air quality standards are exceeded in May through October, the construction schedule will be arranged to minimize the number of vehicles and equipment operating at the same time.
81. Construction practices will minimize vehicle idling.
82. Potentially windblown materials will be watered or covered.
83. Construction areas and streets will be wet swept.

#### **Wastewater and Sewer Collection System**

84. The Applicant shall obtain a no-cost Wastewater Discharge Permit from the Public Works Department prior to the issuance of a Building Permit.
85. The property shall be connected to the City of Winters sewer system, with a separate sewer lateral and cleanout required for each parcel, in accordance with City of Winters Public Improvement Standards and Construction Standards.
86. On site sewer utilities within the private streets shall be privately owned.
87. A Tentative Map Sewer Collection System Plan shall be submitted for approval by the City Engineer prior to submittal of the final map and/or construction drawings for checking. A registered civil engineer for project shall prepare the sewer collection system plan. The plan shall include final sizing and location of on-site conveyance facilities, structures, and engineering calculations.
88. The Tentative Map Sewer Plan showing sewer routing, pipe slopes and sizing and locations, are preliminary only and do not constitute approval in any way. Final approval for the Sewer Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval.
89. Construction of sewer mains deeper than 16-feet at the bottom of the pipe shall be connected to laterals by parallel mains and connections at manholes.

## Water Infrastructure

90. Based on City water modeling, a new well is needed to serve the development. Per Mitigation Measure #15, no building permits shall be issued until the new well is in service.
91. The Tentative Map Water Plan showing water routing, sizing and locations, are preliminary only and do not constitute approval in any way. Final approval for the Water Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval. Applicant shall comply with making changes to water system distribution pipe sizes and alignments based on the results of the specific water modeling performed for the development. If required, Applicant shall pay for all required water modeling for identifying water infrastructure needs to serve its development and shall construct offsite water improvements to connect to the City water distribution system.
92. The property shall be connected to the City of Winters water system, with a separate water lateral and meter required for each parcel, in accordance with City of Winters Public Improvement Standards and Construction Standards.
93. On site water utilities within private streets shall be privately owned.
94. At the time the Final Map is approved, the applicant will be required to pay the appropriate City connection fees. All domestic water services will be metered. Water meters shall be installed on all water services to the satisfaction of the City Engineer.
95. Per City of Winters Cross Connection Control Program, all types of commercial buildings and landscape irrigation services are required to maintain an approved backflow prevention assembly, at the applicant's expense. Service size and flow-rate for the backflow prevention assembly must be submitted. Location of the backflow prevention assembly shall be per the City of Winters Public Improvements Standards and Construction Standards. Prior to the installation of any backflow prevention assembly between the public water system and the owner's facility, the owner or contractor shall make application and receive approval from the City Engineer or his designated agent.
96. Per the City of Winters Cross Connection Control Program, fire protection systems are required to maintain approved backflow prevention, at the applicant's expense. Required location, service size and flow-rate for the fire protection system must be submitted. Actual location is subject to the review and approval of the Public Works Department, Fire Department, and Community Development Department.
97. The City of Winters Plan Review Fee applies and is due upon submittal of the maps and plans for review.
98. FINAL PLANS, PERIODIC TESTS FOR FIRE HYDRANTS: All final plans for fire hydrant systems and private water mains supplying a fire hydrant system shall be submitted to the City of Winters Fire Department for approval prior to construction of the system. The applicant shall install fire hydrants on the project's Railroad Avenue frontage, Anderson Avenue frontages, along the internal roadways, and potentially in other locations. The number and locations of the fire hydrants shall be determined by the Fire Chief. All fire protection systems and appurtenances thereto shall be subject to such periodic tests as required by the City of Winters Fire Department.
99. WATER PRESSURE: All water lines and fire hydrant systems must be approved by the Fire Chief and operating prior to any construction taking place on the site. Prior to issuance of building permits, water flow must be measured and certified for adequacy by the Winters Fire District. The minimum residual pressure shall be 20 PSI.
100. REFLECTORS FOR FIRE HYDRANTS: Any fire hydrant installed will require, in addition to the blue reflector noted in Standard Drawings, an additional blue reflector and glue kit that is to be supplied to the City of Winters Fire Department for replacement purposes.

101. All construction, new or remodeling, shall conform to the most current Uniform Fire Codes, the Winters Fire Prevention Code, and section of the National Fire Codes that the Winters Fire Chief or his/her agent may find necessary to apply.
102. Forty-eight hours notice shall be given to the Winters Fire District prior to any site inspections.
103. A hydrant use permit shall be obtained from the Public Works Department, for water used in the course of construction.
104. When the fire protection facilities are in the City of Winters, the developer shall contact the Winters Fire District Chief or his/or agent prior to construction for a pre-construction meeting.
105. All required fire accesses that are to be locked shall be locked with a system that is approved by the Fire Chief or his/her agent.
106. Submit four sets of plans for each fire suppression sprinkler system to the Fire Department for review and approval prior to the issuance of each building permit.
107. All buildings shall have fire suppression sprinkler systems meeting or exceeding NFPA 13 and local Fire Department standards. Water laterals shall be appropriately sized to accommodate sufficient water flows for fire suppression sprinkler systems. All occupants of each of the project's buildings shall be notified of a water flow in that building's fire suppression system; the Winters Fire Department shall approve the type, locations, and audible decibel level of the internal water flow alarms. Each of the project's buildings shall have an external horn and strobe unit that is approved by the Winters Fire Department. Individual fire department connections shall be installed for each of the project's buildings.

Backflow devices for each Fire Department connection shall be approved by the City Engineer and the Winters Fire Department. Each device shall be fitted with OS&Y valves at each end. Each system shall be supervised so the general water flow can be detected and water flow to each office or residential unit can be detected. Supervised systems shall be monitored on a 24-hour basis, 7 days per week by an approved monitoring station that can then report the water flow situation to the Fire Department's dispatch center.

#### **General Public Works and Engineering Conditions**

108. The conditions as set forth in this document are not all inclusive. Applicant shall thoroughly review all City, state, and federal planning documents associated with this tentative map and comply with all regulations, mitigations and conditions set forth.
109. Closure calculations shall be provided at the time of initial map check submittal. All calculated points within the map shall be based upon one common set of coordinates. All information shown on the map shall be directly verifiable by information shown on the closure calculation print out. The point(s) of beginning shall be clearly defined and all lot acreage shall be shown and verifiable from information shown on the closure calculation print out. Additionally, the square footage of each lot shall be shown on the subdivision map. Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.
110. A subdivision map shall be processed and shall be recorded prior to issuance of a building permit. The Developer shall provide, to the City Engineer, one recorded Mylar copy and four print copies of the Final Map from the County, prior to issuance of the first building permit.
111. U.S. Post Office mailbox locations shall be shown on the improvement plans subject to approval by the City Engineer and Postmaster.
112. A registered landscape architect shall design public landscape and privacy wall improvements and improvements shall be per City Standards, as applicable.

113. Applicant shall make every attempt to submit joint trench/utility/composite plans for review, prior to approval of the Final Map and improvement plans. Construction will not be allowed to proceed prior to submittal of the joint trench/utility/composite plans for City review.
114. All existing and proposed utilities (electric, phone/data, and cable) shall be installed underground per the subdivision ordinance and shall meet the policies, ordinances, and programs of the City of Winters and the utility providers.
115. Street lighting location plan shall be submitted and approved by the City Engineer, prior to approval of improvement plans and final recordation of Map.
116. Roads must be constructed and paved prior to issuance of any building permit. Under specific circumstances, temporary roads may be allowed, but must be approved by the City Engineer and Fire Department.
117. Occupancy of residential units shall not occur until on-site and off-site improvements have been accepted by the City Council and the City has approved as-built drawings, unless otherwise approved by the City Engineer and Community Development Director. Applicants, and/or owners shall be responsible to so inform prospective buyers, lessees, or renters of this condition.
118. If relocation of existing facilities is deemed necessary, the applicant shall perform the relocation, at the Applicant's expense unless otherwise provided for through a reimbursement agreement. All public utility standards for public easements shall apply.
119. A Subdivision Improvement Agreement shall be entered into and recorded prior construction of improvements, issuance of any building permits, or recordation of a Final Map.
120. At the time of making the survey for the Final Map, the engineer or surveyor shall set sufficient durable monuments to conform to the standards described in Section 8771 of the Business and Professions Code. All monuments necessary to establish the exterior boundaries of the subdivision shall be set or referenced prior to recordation of the Final Map.

#### **Easements and Right of Way**

121. Appropriate easements shall be required for City maintained facilities located outside of City owned property or the public right-of-way.
122. The Applicant shall facilitate, with City cooperation, the abandonment of all City easements and dedications currently held but no longer necessary as determined by the City.
123. A ten (10) foot public utility easement back of sidewalk, adjacent to all public streets within the development shall be dedicated to the City. Additional easements shall be dedicated as requested by the utility companies and approved by the City.

#### **Reimbursements for Applicant Installed Improvements**

124. Applicant shall pay appropriate reimbursements for benefiting improvements installed by others, in the amount and at the time specified by existing reimbursement agreements.
125. Project proponents shall enter into the City wide Landscape and Lighting Maintenance District, in order to maintain and provide for the future needs of parks, open space, street lighting, landscaping, sound walls, and other related aspects of development. The project proponent is responsible for all costs associated with this condition. The project proponent shall fulfill this condition prior to the sale of any buildable lots or parcels within the project area.
126. Prepare, and submit for approval, a utility site plan prior to preparation of full improvement plans.

127. Prepare improvement plans for any work within the public right-of-way and submit them to the Public Works Department for review and approval. The improvement plan sheets shall include the title block as outlined in the City of Winters Public Improvements Standards and Construction Standards. This submittal is separate from the building permit submittal. The Developer shall provide, to the City Engineer, one Mylar original and four sets of the improvement plans and electronic media (AutoCAD .DWG or DXF on Zip Disk or Compact Disk), for approval of plans by the City Engineer.
128. Conform to County Health regulations and requirements for the abandonment of a septic tanks and water wells.
129. Existing public and private facilities damaged during the course of construction shall be repaired by the subdivider, at his sole expense, to the satisfaction of the City Engineer.
130. The area of each lot, in square feet, shall be calculated and shown on the Final Map.
131. Encroachment permits if necessary shall be acquired from Yolo County, Caltrans, and PG&E.
132. All utility poles that are to be relocated in conjunction with this project shall be identified on the improvement plans, with existing and proposed locations indicated.
133. All public landscape areas shall include water laterals with meters and PG&E power service points for automatic controllers.
134. If improvements are constructed and/or installed by a party or parties other than the Applicant, which improvements benefit Applicant's property, prior to issuance of a building permit (approval of the final map) on Applicant's property, Applicant shall pay a proportionate share of the costs of said improvements, including interest, prior to the issuance of building permit(s) (approval of the Final Map) to Applicant.

**ANDERSON PLACE/TM COAs CC 6Mar07**



Economic & Planning Systems

Public Finance  
Real Estate Economics  
Regional Economics  
Land Use Policy

MEMORANDUM

To: Dan Sokolow, Community Development Director, City of Winters  
From: Dave Sanders, Vice President  
Subject: City of Winters – Anderson Place Revised Fiscal Impact Analysis; EPS# 16626  
Date: January 22, 2007

At the request of the City of Winters (City), Economic & Planning Systems, Inc. revised the September 2006 fiscal impact analysis of the proposed new residential subdivision, i.e., Anderson Place (Project), using the most recent land use data. The current City General Plan was adopted in May 1992. It is estimated that buildout of the General Plan will occur by 2010. The objective of this analysis is to determine whether this specific project will generate adequate revenues to meet the costs of providing City services to the new development through the time frame of the current General Plan, that is, whether the net effect of development is likely be a positive or negative one to the fiscal well being of the City.

The Project is located within the current City boundaries and in the RDA project area. The development schedule used for this analysis assumes the construction of 28 single-family attached residential units by the year 2012. Of these new residential units, 6 percent, or 2 units, needs to meet the very-low income affordable housing needs, and 2 percent, or 2 units, need to meet the low- to moderate-income affordable housing needs of the City.

If these development plan assumptions are changed, results of the analysis will vary. The development schedule is based on information provided by the City, combined with historical and projected demographic data from the DOF, EDD, and SACOG.

The analysis is based on the current adjusted FY 2005–06 City Budget, current tax regulations and statutes, and general assumptions shown in the fiscal impact analysis appendices.



## FISCAL IMPACT SUMMARY

As shown on **Table 1**, the Project development will result in a net fiscal deficit for the City's General Fund (i.e., development generated revenues will not be sufficient to fund expenditures for this Project), assuming no additional revenues are generated specifically from the new residential and nonresidential construction.

**Table 1**  
**Fiscal Impact Summary of the Project - FY 2012 (2006 \$'s)**

	With RDA		Without RDA	
	Fiscal Year	Residential	Fiscal Year	Residential
	2012 Totals	Per Unit Cost	2012 Totals	Per Unit Cost
<b><u>General Plan Service Levels</u></b>				
Annual Revenues	\$29,700	\$1,100	\$49,000	\$1,800
Annual Expenses	\$58,900	\$2,100	\$58,900	\$2,100
Operating Surplus / (Deficit)	(\$29,200)	(\$1,000)	(\$9,900)	(\$400)
<b><u>Redevelopment Agency Revenues</u></b>	\$83,500	\$3,000	\$0	\$0

*\*RDA\_Impact*

The analysis projects that, despite paying the existing municipal services tax and citywide assessment tax, the proposed development will result in a net fiscal deficit for the General Fund (i.e., development-generated revenues will not be sufficient to fund expenditures for this project), assuming that no additional revenues are generated specifically from the new residential construction and that services are increased to the General Plan Service Levels. This finding is based on the City having a moderate increase in service levels for police protection and a substantial service level increase in fire protection by FY 2011–12.

**Table 2** shows the \$23,800 annual deficit in 2012 represents about \$1,000 per new unit for the General Fund. However, the RDA \$83,500 annual revenues in 2012 represent about \$3,000 per unit. The following four primary reasons result in the projected deficit from the Project to the City's General Fund

1. The property tax revenues from the Project flow to the RDA since the Project is in the redevelopment area.
2. The fiscal analysis includes increased per capita and per persons served costs for police protection and fire protection to meet the following future City General Plan service levels:
  - Police Services—providing 1.8 sworn officers per 1,000 population.

- Fire Services—providing full-time staffing on a 24-hour basis at the fire station.
3. Winters' estimated "capture rate" of per capita taxable sales from the new residents is approximately \$4,400, or 32 percent of the statewide 2004 average per capita taxable sales of approximately \$13,700. The City's weakness in the capture rate of the per capita taxable sales will not improve until more retail construction occurs within the City's boundaries. The importance of taxable sales and the resulting sales tax revenues in funding City services is illustrated by the fact that if Winters captured the average per capita taxable sales equal to the statewide average at its current population of approximately 6,900, an additional \$641,000 in General Fund sales tax revenues would be available.
  4. The construction of 4 affordable housing single-family units dilutes the total property tax revenue flow from the Project. The affordable housing units will have an estimated taxable AV of 64 percent (for the very low income housing units) compared to the market rate housing units. The affordable housing units generate less property tax revenues to the RDA, while the cost of services provided to these units is the same as those services provided to the market-rate housing units.

Table 2  
City of Winters  
Fiscal Impact Analysis  
Anderson Place  
Annual Fiscal Impact Summary (Constant 2006 Dollars)

DRAFT

General Plan Services Levels

ITEM	Fiscal Year Ending						
	2006	2007	2008	2009	2010	2011	2012
<b>GENERAL FUND</b>							
Total Revenues	\$0	\$0	\$35,367	\$29,946	\$29,851	\$29,777	\$29,721
Total Expenditures	\$0	\$0	(\$58,919)	(\$58,919)	(\$58,919)	(\$58,919)	(\$58,919)
<b>Operating Surplus (Deficit)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$23,552)</b>	<b>(\$28,973)</b>	<b>(\$29,068)</b>	<b>(\$29,142)</b>	<b>(\$29,198)</b>
<b>SUMMARY FIGURES ON A PER DWELLING UNIT BASIS</b>							
<i>Est. Cumulative New Dwelling Uni</i>	0	0	28	28	28	28	28
<b>GENERAL FUND</b>							
Total Revenues	\$0	\$0	\$1,263	\$1,069	\$1,066	\$1,063	\$1,061
Total Expenditures	\$0	\$0	(\$2,104)	(\$2,104)	(\$2,104)	(\$2,104)	(\$2,104)
<b>Operating Surplus (Deficit)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$841)</b>	<b>(\$1,035)</b>	<b>(\$1,038)</b>	<b>(\$1,041)</b>	<b>(\$1,043)</b>
<b>Redevelopment Agency Funds</b>							
Total Tax Increment	\$0	\$0	\$86,610	\$85,551	\$84,685	\$83,991	\$83,450
<b>RDA Revenues per Unit</b>							
80 Percent RDA Funds	\$0	\$0	\$2,452	\$2,422	\$2,398	\$2,378	\$2,363
20 Percent Housing Funds	\$0	\$0	\$619	\$611	\$605	\$600	\$596

*"summary2"*

## MITIGATION MEASURES

If the City decides to require mitigation measures from the Project to achieve the General Plan service levels, possible funding mechanisms include a one-time fee from new development to fund a portion of service costs or an ongoing Mello-Roos Community Facilities District (CFD) to fund eligible services related to future development. A combination of mitigation measures may be used to reduce this deficit.

If a one-time building permit fee was collected for each dwelling unit to offset the fiscal deficits of the General Fund for the 2006–2012 period, the fee would amount to approximately \$5,000 per dwelling unit. The operating revenues produced by this mitigation measure, however, are finite. When the last dwelling unit is built, the one-time service impact fee revenues stop, leaving the cost of the increased operating service levels unfunded.

If an ongoing Mello-Roos CFD was formed to fund eligible services, the maximum annual special tax would amount to approximately \$1,000 per dwelling unit. While this operational revenue source would be permanent, it does create a higher tax burden for residents in the new developing areas of the City that is not paid by the existing city

residents. In addition, the Mello-Roos CFD revenues would not fund the portion of the increased police and fire protection service levels that would be needed to bring the existing population of the City up to the General Plan service levels.

Another, mitigation alternative could recognize the beneficial impact of the RDA Funding for Housing, while partially mitigating the long-term impact on the General Fund. As shown on Table 3, a one-time building permit fee of \$10,000 per unit, depending on the annual interest earnings rate, would fund the annual General Fund deficit per residential unit under the General Plan service levels, recognizing the 20% RDA Housing Funding, for an indefinite time period.

**Table 3**  
**Summary of Fee Analysis to Finance General Fund Expenses**  
**For the Anderson Place Sub-Division**

ITEM	Total	Fiscal Year Ending						
		2006	2007	2008	2009	2010	2011	2012
Population - Estimated Growth	88	0	0	88	88	88	88	88
Households - Estimated Growth	28	0	0	28	28	28	28	28
One-Time Fee per Dwelling Unit to	\$9,995							

Summary Cashflow All Funds - Inflated \$'s								
Beginning Balance		\$0	\$0	\$0	\$293,125	\$293,163	\$292,435	\$290,934
Fee Revenues	3.5% Inflation	\$0	\$0	\$299,799	\$0	\$0	\$0	\$0
Deficit Expenses	3.5% Inflation	\$0	\$0	(\$6,674)	(\$13,153)	(\$13,920)	(\$14,660)	(\$15,375)
Interest Revenue	4.5% Interest	\$0	\$0	\$0	\$13,191	\$13,192	\$13,160	\$13,092
Ending Balance		\$0	\$0	\$293,125	\$293,163	\$292,435	\$290,934	\$288,651

*\*for\_summary2\**

If the City implemented a citywide funding mechanism to fund the higher General Plan service levels for the existing city residents, the separate special taxes imposed on new development could be reduced to avoid double charging the new city residents.

## SUMMARY AND ASSUMPTIONS

### FISCAL IMPACT SUMMARY

**Table A-1** summarizes the City's projected annual revenues and expenditures for the Project subdivision for fiscal years 2006 through 2012. The development is projected to generate an annual fiscal deficit (i.e., projected expenditures exceeding projected revenues) each year ranging from approximately \$23,500 in 2008 to of approximately \$29,200 by 2012. **Table A-2** summarizes the City's projected annual revenues and expenditures for the Project subdivision was built outside of the RDA project area.

## GENERAL ASSUMPTIONS

**Figure A-3** shows the fiscal study's general assumptions such as the estimated inflation rate, legislated property tax escalation rate, property appreciation rate, and general City demographics.

Some revenues and expenses are impacted by both residents and employees. A persons-served methodology that accounts for both residents and employees is used to estimate the impact of revenues and expenses that are impacted by both groups. Persons served methodology is defined as the population plus half of the employees.

The City's population data was provided by the State DOF. Total employees in the City were estimated by EPS based on SACOG's employee estimates and projections.

## LAND USE ASSUMPTIONS

### Residential Development

**Figure A-4** shows the land use assumptions used in this study for each of the different land use categories.

### Development Plan

**Figures A-5 and A-6** show the estimated land use development plan and the estimated absorption schedule for the residential subdivision. Residential valuations are based on the preliminary estimates furnished by the developer. The City furnished the estimated valuations of the potential Affordable Housing units. The persons per dwelling unit estimate was obtained from the California DOF data. **Figure A-7** shows the estimated population growth resulting from the completion of the residential units.

**Table A-1**  
**City of Winters**  
**Fiscal Impact Analysis**  
**Anderson Place**  
**Annual Fiscal Impact Summary – with RDA Impact (Constant 2005-06 dollars)**

General Plan Service Levels
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ITEM	Fiscal Year Ending						
	2006	2007	2008	2009	2010	2011	2012
<b>General Fund Revenues</b>							
Property Tax	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Real Property Transfer Tax	\$0	\$0	\$5,873	\$575	\$580	\$586	\$591
Sales and Use Tax (inc. Public Safety)	\$0	\$0	\$2,486	\$2,487	\$2,489	\$2,490	\$2,492
Property Tax in Lieu of Sales Tax	\$0	\$0	\$729	\$730	\$730	\$731	\$731
Property Tax in Lieu of Motor Vehicle Fees	\$0	\$0	\$10,189	\$10,065	\$9,963	\$9,881	\$9,817
Municipal Services Tax	\$0	\$0	\$3,360	\$3,360	\$3,360	\$3,360	\$3,360
Other Taxes	\$0	\$0	\$7,644	\$7,644	\$7,644	\$7,644	\$7,644
Other Licenses and Permits	\$0	\$0	\$187	\$187	\$187	\$187	\$187
Motor Vehicle in Lieu	\$0	\$0	\$732	\$732	\$732	\$732	\$732
Current Service Charges-Offsetting Costs	\$0	\$0	\$208	\$208	\$208	\$208	\$208
Rents and Concessions	\$0	\$0	\$894	\$894	\$894	\$894	\$894
Other Revenue	\$0	\$0	\$756	\$756	\$756	\$756	\$756
Citywide Assessment District	\$0	\$0	\$2,310	\$2,310	\$2,310	\$2,310	\$2,310
<b>Total General Fund Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$35,367</b>	<b>\$29,946</b>	<b>\$29,851</b>	<b>\$29,777</b>	<b>\$29,721</b>
<b>General Fund Expenditures</b>							
City Council	\$0	\$0	\$3	\$3	\$3	\$3	\$3
City Manager	\$0	\$0	\$248	\$248	\$248	\$248	\$248
Contingency Appropriation	\$0	\$0	\$0	\$0	\$0	\$0	\$0
City Clerk	\$0	\$0	\$140	\$140	\$140	\$140	\$140
City Attorney	\$0	\$0	\$185	\$185	\$185	\$185	\$185
Finance and Treasurer	\$0	\$0	\$28	\$28	\$28	\$28	\$28
Police Services	\$0	\$0	\$22,388	\$22,388	\$22,388	\$22,388	\$22,388
Fire Services	\$0	\$0	\$16,791	\$16,791	\$16,791	\$16,791	\$16,791
Comm. Development & Building Insp.	\$0	\$0	\$5,525	\$5,525	\$5,525	\$5,525	\$5,525
Public Works - Admin and Engineering	\$0	\$0	\$3,038	\$3,038	\$3,038	\$3,038	\$3,038
Streets	\$0	\$0	\$2,571	\$2,571	\$2,571	\$2,571	\$2,571
Gen. Recreation, Swimming, and Comm. Center	\$0	\$0	\$2,572	\$2,572	\$2,572	\$2,572	\$2,572
Administrative Services	\$0	\$0	\$1,716	\$1,716	\$1,716	\$1,716	\$1,716
City Wide Assessment Fund No. 211	\$0	\$0	\$3,715	\$3,715	\$3,715	\$3,715	\$3,715
<b>Total General Fund Expenses</b>	<b>\$0</b>	<b>\$0</b>	<b>\$58,919</b>	<b>\$58,919</b>	<b>\$58,919</b>	<b>\$58,919</b>	<b>\$58,919</b>
<b>General Fund Operating Surplus (Def.)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$23,552)</b>	<b>(\$28,973)</b>	<b>(\$29,068)</b>	<b>(\$29,142)</b>	<b>(\$29,198)</b>
<b>General Fund Surplus (Deficit) per unit</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$841)</b>	<b>(\$1,035)</b>	<b>(\$1,038)</b>	<b>(\$1,041)</b>	<b>(\$1,043)</b>
<b>Winters Redevelopment Agency Funding</b>	<b>\$0</b>	<b>\$0</b>	<b>\$86,610</b>	<b>\$85,551</b>	<b>\$84,685</b>	<b>\$83,991</b>	<b>\$83,450</b>
<b>Total Municipal Surplus (Deficit)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$63,058</b>	<b>\$56,578</b>	<b>\$55,617</b>	<b>\$54,849</b>	<b>\$54,252</b>

"summary"

Table A-2  
 City of Winters  
 Fiscal Impact Analysis  
 Anderson Place

General Plan Service Levels

Annual Fiscal Impact Summary – No RDA (Constant 2005-06 dollars)

ITEM	Fiscal Year Ending						
	2006	2007	2008	2009	2010	2011	2012
<b>General Fund Revenues</b>							
Property Tax	\$0	\$0	\$19,960	\$19,716	\$19,516	\$19,356	\$19,231
Real Property Transfer Tax	\$0	\$0	\$5,873	\$575	\$580	\$586	\$591
Sales and Use Tax (inc. Public Safety)	\$0	\$0	\$2,486	\$2,487	\$2,489	\$2,490	\$2,492
Property Tax in Lieu of Sales Tax	\$0	\$0	\$729	\$730	\$730	\$731	\$731
Property Tax in Lieu of Motor Vehicle Fees	\$0	\$0	\$10,189	\$10,065	\$9,963	\$9,881	\$9,817
Municipal Services Tax	\$0	\$0	\$3,360	\$3,360	\$3,360	\$3,360	\$3,360
Other Taxes	\$0	\$0	\$7,644	\$7,644	\$7,644	\$7,644	\$7,644
Other Licenses and Permits	\$0	\$0	\$187	\$187	\$187	\$187	\$187
Motor Vehicle in Lieu	\$0	\$0	\$732	\$732	\$732	\$732	\$732
Current Service Charges-Offsetting Costs	\$0	\$0	\$208	\$208	\$208	\$208	\$208
Rents and Concessions	\$0	\$0	\$894	\$894	\$894	\$894	\$894
Other Revenue	\$0	\$0	\$756	\$756	\$756	\$756	\$756
Citywide Assessment District	\$0	\$0	\$2,310	\$2,310	\$2,310	\$2,310	\$2,310
<b>Total General Fund Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$55,327</b>	<b>\$49,662</b>	<b>\$49,367</b>	<b>\$49,133</b>	<b>\$48,953</b>
<b>General Fund Expenditures</b>							
City Council	\$0	\$0	\$3	\$3	\$3	\$3	\$3
City Manager	\$0	\$0	\$248	\$248	\$248	\$248	\$248
Contingency Appropriation	\$0	\$0	\$0	\$0	\$0	\$0	\$0
City Clerk	\$0	\$0	\$140	\$140	\$140	\$140	\$140
City Attorney	\$0	\$0	\$185	\$185	\$185	\$185	\$185
Finance and Treasurer	\$0	\$0	\$28	\$28	\$28	\$28	\$28
Police Services	\$0	\$0	\$22,388	\$22,388	\$22,388	\$22,388	\$22,388
Fire Services	\$0	\$0	\$16,791	\$16,791	\$16,791	\$16,791	\$16,791
Comm. Development & Building Insp.	\$0	\$0	\$5,525	\$5,525	\$5,525	\$5,525	\$5,525
Public Works - Admin and Engineering	\$0	\$0	\$3,038	\$3,038	\$3,038	\$3,038	\$3,038
Streets	\$0	\$0	\$2,571	\$2,571	\$2,571	\$2,571	\$2,571
Gen. Recreation, Swimming, and Comm. Center	\$0	\$0	\$2,572	\$2,572	\$2,572	\$2,572	\$2,572
Administrative Services	\$0	\$0	\$1,716	\$1,716	\$1,716	\$1,716	\$1,716
City Wide Assessment Fund No. 211	\$0	\$0	\$3,715	\$3,715	\$3,715	\$3,715	\$3,715
<b>Total General Fund Expenses</b>	<b>\$0</b>	<b>\$0</b>	<b>\$58,919</b>	<b>\$58,919</b>	<b>\$58,919</b>	<b>\$58,919</b>	<b>\$58,919</b>
<b>General Fund Operating Surplus (Def.)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$3,592)</b>	<b>(\$9,258)</b>	<b>(\$9,552)</b>	<b>(\$9,786)</b>	<b>(\$9,966)</b>
<b>General Fund Surplus (Deficit) Per Unit</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$128)</b>	<b>(\$331)</b>	<b>(\$341)</b>	<b>(\$349)</b>	<b>(\$356)</b>
<b>Winters Redevelopment Agency Funding</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Total Municipal Surplus (Deficit)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$3,592)</b>	<b>(\$9,258)</b>	<b>(\$9,552)</b>	<b>(\$9,786)</b>	<b>(\$9,966)</b>

"summary"

**Table A-3  
Anderson Place  
General Assumptions**

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**General Assumptions**

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Fiscal Year of Analysis	2006
Fiscal Year Dollars Discounted to	2006
Cash Flow Base Year	2006
Inflation (Discount) Rate [1]	3.5%
Interest Earnings	3.5%
Legislated Tax Escalation Rate	2.0%
Property Turnover Rate (% per year)	
Residential - Single-Family	10.0%
Residential - Affordable Housing	10.0%
Residential - Multifamily	5.0%
Property Appreciation Rate [2]	4.5%
General Government Services Weighting Factor	100.0%

**General Demographic**

**As of  
Jan. 1, 2006**

Yolo County Population	190,344
Winters Population [3]	6,867
Employees in Winters [4]	1,847
Winters Persons Served [5]	7,791

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*"general\_assumptions"*

[1] The discount rate is the factor used in taking the present value of any inflated dollars.

[2] 1% annual real market appreciation is assumed over the base rate of inflation.

[3] The January 1st population estimate for each year shown is from the State Department of Finance.

[4] Employees were 1,415 in 1/1/2000 based on SACOG data.

216 additional employees per year have been added to estimate new company growth by 2006.

[5] Persons served is defined as population plus 50% of employees.

Sources: State Department of Finance, SACOG, and EPS.

**Table A-4  
Anderson Place  
Land Use Development Plan**

Land Use	Buildout Acreage	Buildout	
		Dwelling Units	Commercial Square Footage
<b>Residential:</b>			
Single-Family Low-Density	0.00	0	--
Single-Family High-Density	0.00	24	--
Multifamily High-Density	0.00	0	--
Affordable Housing - Very Low Income (6%)	0.00	2	--
Affordable Housing - Low to Moderate Income (9%)	0.00	2	--
not used	0.00	0	--
<b>Subtotal Residential</b>	<b>0.00</b>	<b>28</b>	
<b>Nonresidential:</b>			
Business Park	0.00	--	--
Village Commercial	0.00	--	--
Commercial	0.00	--	5,000
Recreation Club	0.00	--	--
Private Golf Course	0.00	--	--
<b>Subtotal Nonresidential</b>	<b>0.00</b>		<b>5,000</b>
<b>Public and Other Use:</b>			
Schools	0.00	--	--
Green-space	0.00	--	--
Cemetery	0.00	--	--
Other Public Facilities	0.00	--	--
Park/Open Space/Wetlands	0.00	--	--
Landscape Medians	0.00	--	--
Major Street Right-of-Way	0.00	--	--
<b>Subtotal Public Use</b>	<b>0.00</b>		
<b>Total</b>	<b>0.00</b>	<b>28</b>	<b>5,000</b>

"land\_use\_plan"

Source: City of Winters, and EPS

**Table A-5  
Anderson Place  
Land Use Assumptions**

Land Use	Descriptive Units	Estimated Number of Units	Secured Value per Unit	Unsecured Val. per Unit	Turnover Rate	Persons per DU	Sq. Ft. per Employee	Vacancy Rate
Single-Family Low-Density	dwelling unit	--	\$0	\$0	10.0%	3.153	0	3.0%
Single-Family High-Density	[1] dwelling unit	24	\$359,000	\$0	10.0%	3.153	0	3.0%
Multifamily High-Density	dwelling unit	--	\$0	\$0	5.0%	2.000	0	8.0%
Affordable Housing - Very Low Income (6%)	[1] dwelling unit	2	\$114,125	\$0	10.0%	3.153	0	3.0%
Affordable Housing - Low to Moderate Income (9%)	[1] dwelling unit	2	\$328,075	\$0	10.0%	3.153	0	3.0%
Not Used	square feet	--	\$0	\$0	5.0%	0.000	300	7.5%
Not Used	square feet	--	\$0	\$0	5.0%	0.000	350	7.5%
Commercial	[2] square feet	5,000	\$240	\$20	5.0%	0.000	500	3.5%
Not Used	square feet	--	\$0	\$0	0.0%	0.000	300	7.5%
Not Used	courses	--	\$0	\$0	0.0%	0.000	30	7.5%
Not Used	--	--	\$0	\$0	0.0%	0.000	0	N/A
Not Used	--	--	\$0	\$0	0.0%	0.000	0	0.0%

"Land\_Use\_Assumptions"

Source: State of California, Department of Finance, City of Winters, and EPS

[1] Based on an average estimated sales price of \$280 per square foot for the market price units.

[2] Based on an average estimated sales price of \$240 per square foot.

**Table A-6  
Anderson Place  
Development Schedule**

Land Use	Total	Fiscal Year Ending						
		2006	2007	2008	2009	2010	2011	2012
Single-Family Low-Density (units)	0	0	0	0	0	0	0	0
Single-Family High-Density (units)	24	0	0	24	0	0	0	0
Multifamily High-Density (units)	0	0	0	0	0	0	0	0
Affordable Housing - Very Low Income (6%) (units)	2	0	0	2	0	0	0	0
Affordable Housing - Low to Moderate Income (9%) (units)	2	0	0	2	0	0	0	0
Business Park (sq. ft.)	0	0	0	0	0	0	0	0
Village Commercial (sq. ft.)	0	0	0	0	0	0	0	0
Commercial (sq. ft.)	0	0	0	5,000	0	0	0	0
Recreation Club (sq. ft.)	0	0	0	0	0	0	0	0
Private Golf Course (course)	0	0	0	0	0	0	0	0
Other Public Facilities	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

**Cumulative Development Schedule**

Single-Family Low-Density (units)	0	0	0	0	0	0	0	0
Single-Family High-Density (units)	24	0	0	24	24	24	24	24
Multifamily High-Density (units)	0	0	0	0	0	0	0	0
Affordable Housing - Very Low Income (6%) (units)	2	0	0	2	2	2	2	2
Affordable Housing - Low to Moderate Income (9%) (units)	2	0	0	2	2	2	2	2
<b>Total Residential Units</b>	<b>28</b>	<b>0</b>	<b>0</b>	<b>28</b>	<b>28</b>	<b>28</b>	<b>28</b>	<b>28</b>
Business Park (sq. ft.)	0	0	0	0	0	0	0	0
Village Commercial (sq. ft.)	0	0	0	0	0	0	0	0
Commercial (sq. ft.)	5,000	0	0	5,000	5,000	5,000	5,000	5,000
Recreation Club (sq. ft.)	0	0	0	0	0	0	0	0
Private Golf Course (course)	0	0	0	0	0	0	0	0
Other Public Facilities	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

"dev\_schedule"

Source: Winters Planning Department, and EPS

**Table A-7**  
**Anderson Place**  
**Resident Population and Employees by Land Use**

Land Use	Total	Fiscal Year Ending						
		2004	2005	2006	2007	2008	2009	2010
<b>Resident Population</b>								
Single-Family Low-Density	0	0	0	0	0	0	0	0
Single-Family High-Density	76	0	0	76	0	0	0	0
Multifamily High-Density	0	0	0	0	0	0	0	0
Affordable Housing - Very Low Income (6%)	6	0	0	6	0	0	0	0
Affordable Housing - Low to Moderate Income (9%)	6	0	0	6	0	0	0	0
<b>Annual Total Population</b>	<b>88</b>	<b>0</b>	<b>0</b>	<b>88</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Cumulative Total Population</b>	<b>88</b>	<b>0</b>	<b>0</b>	<b>88</b>	<b>88</b>	<b>88</b>	<b>88</b>	<b>88</b>
<b>Employees</b>								
Business Park	0	0	0	0	0	0	0	0
Village Commercial	0	0	0	0	0	0	0	0
Commercial	10	0	0	10	0	0	0	0
Recreation Club	0	0	0	0	0	0	0	0
Private Golf Course	0	0	0	0	0	0	0	0
Not Used	0	0	0	0	0	0	0	0
Not Used	0	0	0	0	0	0	0	0
<b>Annual New Employees</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Cumulative Total Employees</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>
<b>Annual Persons Served [1]</b>	<b>93</b>	<b>0</b>	<b>0</b>	<b>93</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Cumulative Persons Served [1]</b>		<b>0</b>	<b>0</b>	<b>93</b>	<b>93</b>	<b>93</b>	<b>93</b>	<b>93</b>

"population"



Economic & Planning Systems

Public Finance  
Real Estate Economics  
Regional Economics  
Land Use Policy

MEMORANDUM

To: Dan Sokolow, Community Development Director, City of Winters  
From: Dave Sanders, Vice President  
Subject: City of Winters – Anderson Place Fiscal Impact Analysis; EPS# 16626  
Date: September 15, 2006

At the request of the City of Winters (City), Economic & Planning Systems, Inc. analyzed the fiscal impact of the proposed new residential subdivision, i.e., Anderson Place (Project), in the City through the buildout time frame of the current General Plan. The current City General Plan was adopted in May 1992. It is estimated that buildout of the General Plan will occur by 2010. The objective of this analysis is to determine whether this specific project will generate adequate revenues to meet the costs of providing City services to the new development, that is, whether the net effect of development is likely be a positive or negative one to the fiscal well being of the City.

The Project is located within the current City boundaries and in the RDA project area. The development schedule used for this analysis assumes the construction of 24 single-family attached residential units by the year 2012. Of these new residential units, 6 percent, or 2 units, needs to meet the very-low income affordable housing needs, and 2 percent, or 2 units, need to meet the low- to moderate-income affordable housing needs of the City.

If these development plan assumptions are changed, results of the analysis will vary. The development schedule is based on information provided by the City, combined with historical and projected demographic data from the DOF, EDD, and SACOG.

The analysis is based on the current adjusted FY 2005–06 City Budget, current tax regulations and statutes, and general assumptions shown in the fiscal impact analysis appendices.

SACRAMENTO  
2150 River Plaza Drive, Suite 400  
Sacramento, CA 95833  
www.epsys.com

phone: 916-649-8010  
fax: 916-649-2070



BERKELEY  
phone: 510-841-9190  
fax: 510-841-9208

DENVER  
phone: 303-623-3557  
fax: 303-623-9049

## FISCAL IMPACT SUMMARY

As shown on **Table 1**, the Project development will result in a net fiscal deficit for the City's General Fund (i.e., development generated revenues will not be sufficient to fund expenditures for this Project), assuming no additional revenues are generated specifically from the new residential and nonresidential construction.

**Table 1**  
**Fiscal Impact Summary of the Project - FY 2012 (2006 \$'s)**

	With RDA		Without RDA	
	Fiscal Year	Residential	Fiscal Year	Residential
	<u>2012 Totals</u>	<u>Per Unit Cost</u>	<u>2012 Totals</u>	<u>Per Unit Cost</u>
<b><u>General Plan Service Levels</u></b>				
Annual Revenues	\$27,700	\$1,200	\$48,000	\$2,000
Annual Expenses	\$51,500	\$2,100	\$51,500	\$2,100
Operating Surplus / (Deficit)	(\$23,800)	(\$1,000)	(\$3,500)	(\$100)
<b><u>Redevelopment Agency Revenues</u></b>	\$87,900	\$3,700	\$0	\$0

The analysis projects that, despite paying the existing municipal services tax and citywide assessment tax, the proposed development will result in a net fiscal deficit for the City (i.e., development-generated revenues will not be sufficient to fund expenditures for this project), assuming that no additional revenues are generated specifically from the new residential construction and that services are increased to the General Plan Service Levels. This finding is based on the City having a moderate increase in service levels for police protection and a substantial service level increase in fire protection by FY 2011-12.

**Table 2** shows the \$23,800 annual deficit in 2012 represents about \$1,000 per new unit for the General Fund. However, the RDA \$87,900 annual revenues in 2012 represent about \$3,700 per unit. The following four primary reasons result in the projected deficit from the Project to the City's General Fund

1. The property tax revenues from the Project flow to the RDA since the Project is in the redevelopment area.
2. The fiscal analysis includes increased per capita and per persons served costs for police protection and fire protection to meet the following future City General Plan service levels:
  - Police Services—providing 1.8 sworn officers per 1,000 population.
  - Fire Services—providing full-time staffing on a 24-hour basis at the fire station.

3. Winters' estimated "capture rate" of per capita taxable sales from the new residents is approximately \$4,400, or 32 percent of the statewide 2004 average per capita taxable sales of approximately \$13,700. The City's weakness in the capture rate of the per capita taxable sales will not improve until more retail construction occurs within the City's boundaries. The importance of taxable sales and the resulting sales tax revenues in funding City services is illustrated by the fact that if Winters captured the average per capita taxable sales equal to the statewide average at its current population of approximately 6,900, an additional \$641,000 in General Fund sales tax revenues would be available.
  
4. The construction of 4 affordable housing single-family units dilutes the total property tax revenue flow from the Project. The affordable housing units will have an estimated taxable AV of 64 percent (for the very low income housing units) compared to the market rate housing units. The affordable housing units generate less property tax revenues to the RDA, while the cost of services provided to these units is the same as those services provided to the market-rate housing units.

**Table 2**  
Annual Fiscal Impact Summary (Constant 2006 Dollars)

ITEM	Fiscal Year Ending						
	2006	2007	2008	2009	2010	2011	2012
<b>GENERAL FUND</b>							
Total Revenues	\$0	\$0	\$33,700	\$27,977	\$27,877	\$27,799	\$27,741
Total Expenditures	\$0	\$0	(\$51,515)	(\$51,515)	(\$51,515)	(\$51,515)	(\$51,515)
Operating Surplus (Deficit)	\$0	\$0	(\$17,815)	(\$23,538)	(\$23,637)	(\$23,715)	(\$23,774)
<b>SUMMARY FIGURES ON A PER DWELLING UNIT BASIS</b>							
<i>Est. Cumulative New Dwelling Unit</i>	0	0	24	24	24	24	24
<b>GENERAL FUND</b>							
Total Revenues	\$0	\$0	\$1,404	\$1,166	\$1,162	\$1,158	\$1,156
Total Expenditures	\$0	\$0	(\$2,146)	(\$2,146)	(\$2,146)	(\$2,146)	(\$2,146)
Operating Surplus (Deficit)	\$0	\$0	(\$742)	(\$981)	(\$985)	(\$988)	(\$991)
<b>Redevelopment Agency Funds</b>							
Total Tax Increment	\$0	\$0	\$91,207	\$90,093	\$89,183	\$88,454	\$87,889
<b>RDA Revenues per Unit</b>							
80 Percent RDA Funds	\$0	\$0	\$3,009	\$2,972	\$2,942	\$2,918	\$2,899
20 Percent Housing Funds	\$0	\$0	\$760	\$751	\$743	\$737	\$732

## MITIGATION MEASURES

If the City decides to require mitigation measures from the Project to achieve the General Plan service levels, possible funding mechanisms include a one-time fee from

new development to fund a portion of service costs or an ongoing Mello-Roos Community Facilities District (CFD) to fund eligible services related to future development. A combination of mitigation measures may be used to reduce this deficit.

If a one-time building permit fee was collected for each dwelling unit to offset the fiscal deficits of the General Fund for the 2006-2012 period, the fee would amount to approximately \$4,700 per dwelling unit. The operating revenues produced by this mitigation measure, however, are finite. When the last dwelling unit is built, the one-time service impact fee revenues stop, leaving the cost of the increased operating service levels unfunded.

If an ongoing Mello-Roos CFD was formed to fund eligible services, the maximum annual special tax would amount to approximately \$1,000 per dwelling unit. While this operational revenue source would be permanent, it does create a higher tax burden for residents in the new developing areas of the City that is not paid by the existing city residents. In addition, the Mello-Roos CFD revenues would not fund the portion of the increased police and fire protection service levels that would be needed to bring the existing population of the City up to the General Plan service levels.

Another, mitigation alternative could recognize the beneficial impact of the RDA Funding for Housing, while partially mitigating the long-term impact on the General Fund. A one-time building permit fee of \$2,700 per unit would fund the \$270 (\$1,000 less \$730) annual General Fund deficit per residential unit under the General Plan service levels, excluding the RDA aspect of the project, for a ten-year time period. A one-time building permit fee of \$5,400 per unit would fund the projected annual General Fund deficit under the General Plan service levels for a twenty-year time period.

If the City implemented a citywide funding mechanism to fund the higher General Plan service levels for the existing city residents, the separate special taxes imposed on new development could be reduced to avoid double charging the new city residents.

## RESOLUTION NO. 2007-xx

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS FINALIZING AND APPROVING THE MITIGATED NEGATIVE DECLARATION FOR THE ANDERSON PLACE SUBDIVISION

WHEREAS, the Anderson Place Subdivision site (APN 003-220-22) consists of approximately 2.13 acres located north of Grant Avenue (State Route 128), south of Betty Court, east of the existing section of Anderson Avenue, and west of Dutton Street at 723 Railroad Avenue, Winters, California 95694;

WHEREAS, on May 19, 1992 the city adopted the General Plan and certified the General Plan EIR. The General Plan identifies that future commercial and residential growth will occur on this parcel and others in the area;

WHEREAS, on April 21, 2006 the applicant submitted an application for the Anderson Place Project which was found to be complete on September 15, 2006;

WHEREAS, on September 28, 2006 a draft Mitigated Negative Declaration was released for public review for a 22-day period during which time two timely comment letters were received;

WHEREAS, pursuant to Section 15070(b)(2) of the CEQA Guidelines, the applicant has agreed to the mitigation measures identified in the Final Mitigation Monitoring Plan.

WHEREAS, all comments received on the Mitigated Negative Declaration have been fully addressed;

WHEREAS, two neighborhood workshops were held on the project on February 21, 2006 and February 26, 2006 and a public workshop was held on the project on March 28, 2006;

WHEREAS, a three legally noticed public hearing on the project have been held before the Planning Commission (October 30, 2006, November 28, 2006, and December 19, 2006) in order to receive input and testimony;

WHEREAS, two legally noticed public hearing on the project have been held before the City Council (February 20, 2007, March 6, 2007, and March 20, 2007) in order to receive input and testimony;

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

1. The City Council has considered the proposed Mitigated Negative Declaration (original and revised) before making a decision on the project.
2. The City Council has considered comments received on the Mitigated Negative Declaration during the public review process;
3. The City Council finds that the environmental checklist/initial study identified potentially significant effects, but: a) mitigation measures agreed to by the applicant before the mitigated negative declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant impact would occur; and b) there is no substantial evidence, in light of the whole record before the City, that the project as revised to include the mitigation measures may have a significant effect on the environment.
4. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Winters.

5. The Mitigated Negative Declaration has been prepared in compliance with CEQA and the State CEQA Guidelines, and is determined to be complete and final.
6. The custodian of the documents, and other materials, which constitute the record of proceedings is the Community Development Director. The location of these items is the office of the Community Development Department at City Hall, 318 First Street, Winters, California 95694.
7. The Mitigation Monitoring Plan in Exhibit A, attached hereto and incorporated herein by this reference is hereby adopted to ensure implementation of mitigation measures identified in the Mitigated Negative Declaration. The City Council finds that these mitigation measures are fully enforceable as conditions of approval of the project, and shall be binding on the applicant, future property owners, and affected parties.
8. The City Council has determined that no special findings related to proximity to public use airports, pursuant to Section 15074(e) of the CEQA Guidelines, are required.
9. The City Council hereby adopts the Anderson Place Subdivision Mitigated Negative Declaration in Exhibit B, attached hereto and incorporated herein by this reference.
10. The City Council hereby confirms that the modified mitigation measures have been made conditions of approval and are incorporated fully into the project approval.
11. A Notice of Determination (NOD) shall be filed with the County Clerk immediately following approval of the project. Appropriate Department of Fish and Game fees shall be filed.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted by the City Council of the City of Winters, County of Yolo, State of California, on the 20th day of March, 2007 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Woody Fridae, Mayor

ATTEST:

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

**Exhibits:**

- A – Final Mitigation Monitoring Plan
- B – Mitigated Negative Declaration

ANDERSON PLACE/TM ND CC Res 20Mar07

**RESOLUTION NO. 2007-xx**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS  
APPROVING THE ANDERSON PLACE SUBDIVISION**

WHEREAS, the Anderson Place Subdivision site (APN 003-220-22) consists of approximately 2.13 acres located at 723 Railroad Avenue and north of Grant Avenue (State Route 128), south of Betty Court, east of the existing section of Anderson Avenue, and west of Dutton Street at 723 Railroad Avenue in the City of Winters in Yolo County, California;

WHEREAS, on May 19, 1992 the city adopted the General Plan and certified the General Plan EIR. The General Plan identifies that future residential growth will occur on this parcel and others in the area;

WHEREAS, on April 21, 2006 the applicant submitted an application for the Anderson Place Project which was found to be complete on September 15, 2006;

WHEREAS, a public workshop on the project was held March 28, 2006 before the Planning Commission;

WHEREAS, a legally noticed public hearing on the project was held December 19, 2006 before the Planning Commission at which time the Commission voted 6-1 to recommend approval of the project;

WHEREAS, a legally noticed public hearing on the project was held March 20, 2007 before the City Council to take final action on the project;

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

1) Tentative Subdivision Map No. 4859 is hereby approved (Exhibit x).

2) The City's Circulation Master Plan (May 19, 1992) and Standard Street Cross Sections (adopted October 2, 2001; City Council Resolution 2001-61) are hereby amended to: a) allow Anderson Avenue to be constructed to Collector Street improvement standards with a 50-foot right of way, 40-foot face of curb to face of curb roadway section, and 5-foot sidewalks each side to the existing Railroad Avenue roadway and b) allow interim Railroad Avenue improvements to include interim landscaping within the future roadway on east side of Railroad Avenue, with a 10-foot concrete pedestrian/bike path from the northern terminus of the development to the southern terminus of the development.

3) A Conditional Use Permit to allow the construction of multi-family housing in the O-F and C-2 Zones is hereby approved.

4) Site Plan for the design of the residences and office suites and the conceptual landscaping for the subdivision feature/green space area ("Lot B"), the Railroad Avenue frontage, and internal areas is hereby approved.

5) Demolition permit to remove one existing structure on the property is hereby approved.

6) All actions herein are subject to the Findings of Fact and Conditions of Approval in Exhibit x, attached hereto and incorporated herein by this reference.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted by the City

Council of the City of Winters, County of Yolo, State of California, on the 20th day of March, 2007 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Woody Fridae, Mayor

ATTEST:

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

**Exhibits:**

A – Findings of Fact and Conditions of Approval

B – Tentative Map No. 4859

ANDERSON PLACE/TM CC Approval Res 2007-xx 20Mar07

**CITY COUNCIL  
ORDINANCE NO. 2007-xx**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS  
REZONING THE ANDERSON PLACE PROPERTY  
AND ADOPTING PLANNED DEVELOPMENT PERMIT 2007-02  
(APN 003-220-22)**

The City Council of the City of Winters, State of California, does hereby ordain as follows:

1. Purpose. The purpose of this ordinance is to rezone the Anderson Place property as specified below and to adopt Planned Development Permit 2007-02.

2. Authority. The City of Winters has authority to adopt this ordinance pursuant to the general police power granted to cities by Article 11, Section 7 of the California Constitution.

3. Rezoning. The subject property is hereby rezoned as shown on Exhibit B, attached hereto and incorporated herein by this reference.

4. Planned Development Permit. Planned Development Permit No. 2007-02 is hereby adopted as a part of the rezoning to allow a) lot sizes less than the minimums for the C-2 and O-F Zones, b) lot widths/depths less than the minimums for the C-2 and O-F Zones, c) floor area ratios less than the minimums for the C-2 and O-F Zones, d) setbacks less the minimums for the C-2 and O-F Zones, e) off-street parking spaces less than the minimums for multi-family housing and office uses, and f) sound barriers in excess of the maximum heights for non-residential zones.

5. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City of Winters.

**INTRODUCED** at a regular meeting on March 20, 2007 and **PASSED AND ADOPTED** at a regular meeting of the Winters City Council, County of Yolo, State of California, on the 3rd day of April 2007, by the following roll call vote:

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

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**Woody Fridae, MAYOR**

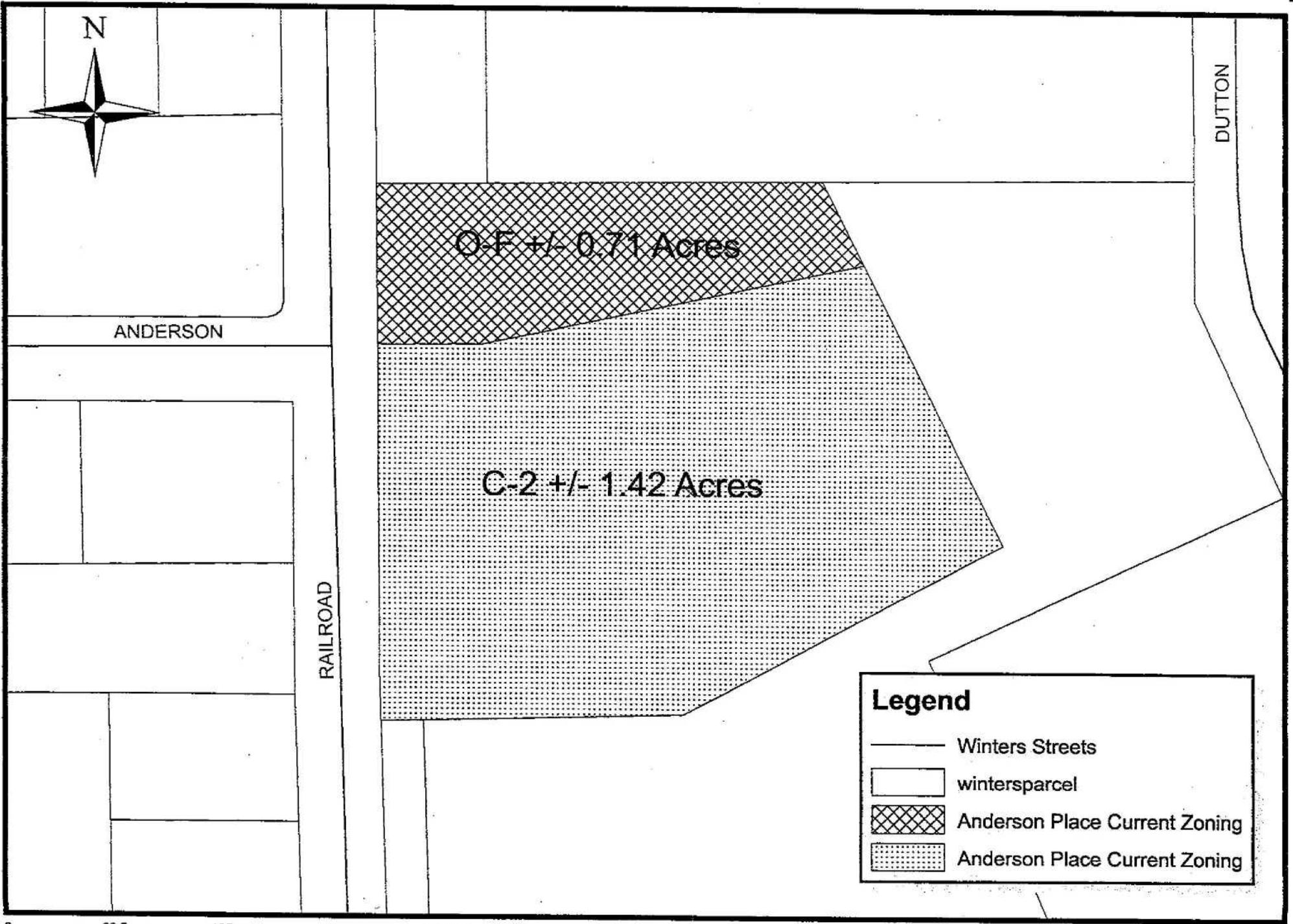
**ATTEST:**

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**Nanci G. Mills, CITY CLERK**

**Exhibits**  
Rezoning Exhibits (2)  
Planned Development Permit 2007-02

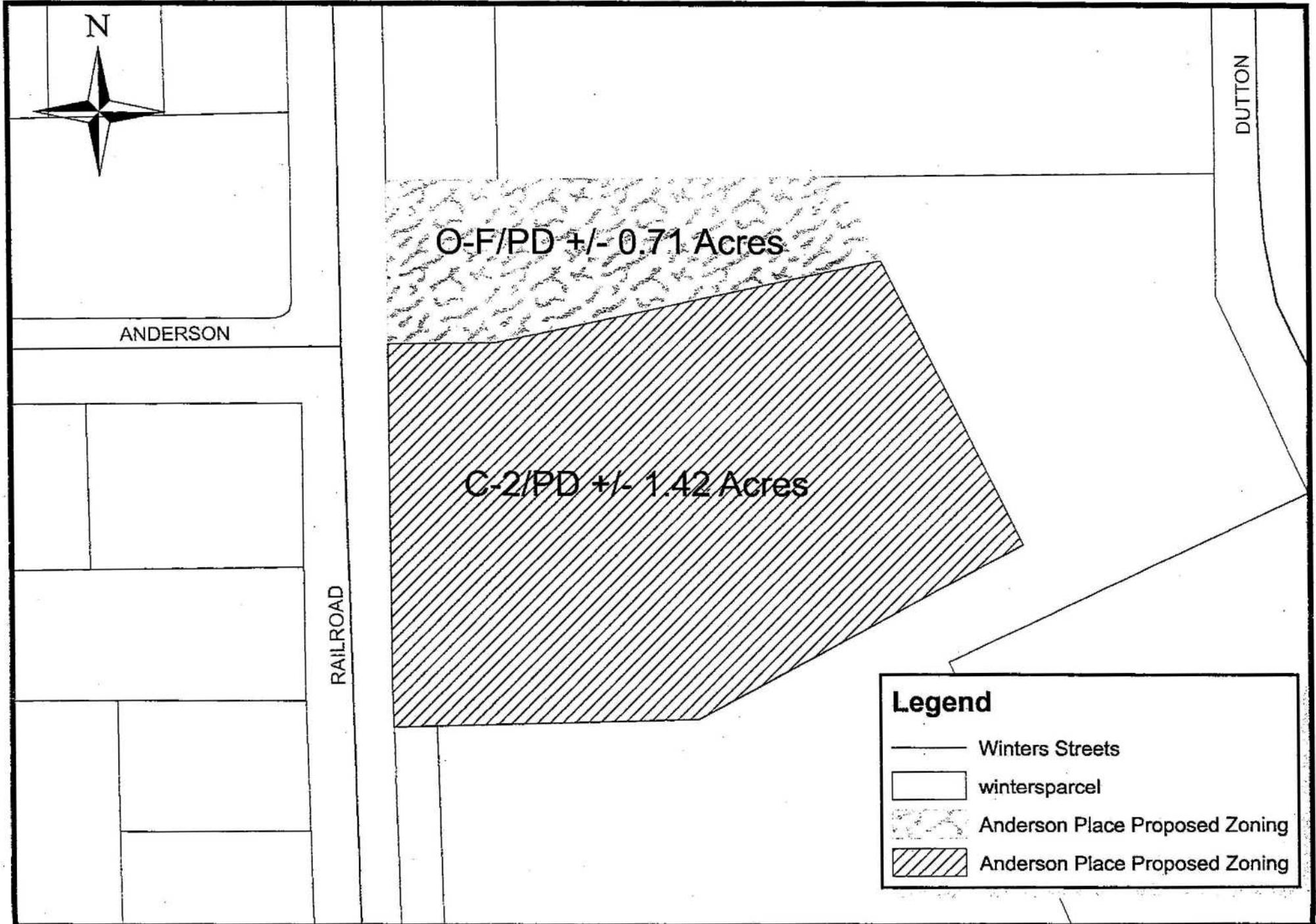
Anderson Place: Exhibit "A" Current Zoning Plan Exhibit



**Legend**

- Winters Streets
- wintersparcel
- ▨ Anderson Place Current Zoning
- ▩ Anderson Place Current Zoning

Anderson Place: Exhibit "B" Proposed Zoning Plan Exhibit



0 62.5 125 250 Feet

**PLANNED DEVELOPMENT (PD) PERMIT No. 2007-02**

**ANDERSON PLACE SUBDIVISION**

APN 003-220-22

Approved April 3, 2007

TERM: Unlimited term pursuant to the requirements of Section 17.48.050 of the Winters Municipal Code (Title 17, Zoning) and subject to compliance with the conditions of approval.

LOT SIZES: Less than the minimums for the C-2 and O-F Zones as detailed on the tentative map and site plan for the project.

LOTS WIDTHS/DEPTHS: Less than the minimums for the C-2 and O-F Zones as detailed on the tentative map and site plan for the project.

FLOOR AREA RATIOS: Less than the minimums for the C-2 and O-F Zones as detailed on the tentative map and site plan for the project.

SETBACKS: Less than the minimums for the C-2 and O-F Zones as detailed on the tentative map and site plan for the project.

OFF-STREET PARKING: Less than the minimums for multi-family housing and office uses as detailed on the tentative map and site plan for the project.

SOUND BARRIERS: In excess of the maximum height for fences/walls located in non-residential zones as detailed in the Mitigation Monitoring Plan for the project.

**ORDINANCE NO. 2007-xx**

**AN ORDINANCE OF THE  
CITY COUNCIL OF THE  
CITY OF WINTERS  
ADOPTING A DEVELOPMENT AGREEMENT  
(ANDERSON PLACE PROPERTY)**

THE CITY COUNCIL OF THE CITY OF WINTERS HEREBY ORDAINS  
AS FOLLOWS:

Pursuant to the provisions of Government Code §65864 et seq. and Chapter 2 of Title 11 of the Winters City Code, the City Council of the City of Winters hereby:

1. Adopts and approves that certain document entitled "AN AGREEMENT BETWEEN THE CITY OF WINTERS AND G STREET SAN BERNADINO, LLC RELATING TO THE DEVELOPMENT OF THE PROPERTY COMMONLY KNOWN AS THE ANDERSON PLACE PROPERTY."

2. Authorizes and directs the Mayor to sign the document on behalf of the City after the second reading of this ordinance and after it has first been signed by a duly authorized representative of G Street San Bernadino, LLC.

3. Authorizes and directs the City Clerk to record the document, after it is signed by both parties, in the Office of the Recorder of Yolo County.

PASSED AND ADOPTED THIS 3rd day of April, 2007 on the following roll call vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

Woody Fridae, MAYOR

Attest:

Nanci G. Mills, CITY CLERK

**A DEVELOPMENT AGREEMENT**  
**BETWEEN THE CITY OF WINTERS AND SAN BERNADINO, LLC**  
**RELATING TO THE DEVELOPMENT OF THE PROPERTY**  
**COMMONLY KNOWN AS THE ANDERSON PLACE PROPERTY**

**THIS DEVELOPMENT AGREEMENT** ("Agreement") is entered into between the CITY OF WINTERS, a municipal corporation (the "City"), and San Bernadino, LLC, a California limited liability company (the "Developer"), under the authority of § 65864 *et seq.* of the Government Code of the State of California and Chapter 2 of Title 11 of the Winters Municipal Code. This Agreement is effective on the date it is recorded in the Office of the County Recorder of Yolo County. The City and the Developer are sometimes referred to herein as the Parties.

**FACTS AND CIRCUMSTANCES**

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

1. The City of Winters is a small city in Yolo County which, among other things, prides itself in being a clean, safe, and family-friendly place to live.
2. In order to meet the needs of the City and the Developer, the Parties agree that the best method of planning the residential development of the Property owned by the Developer, commonly known as the Anderson Place Property and further described in Exhibits A and B to this Agreement, is through the use of a Development Agreement as authorized by the Planning and Zoning Law, Division 1, Chapter 4, Article 2.5(commencing with California Government Code § 65864)

[entitled "Development Agreements"] and Title 11, Chapter 2 of the Winters Municipal Code [entitled "Development Agreements"].

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

**THE PARTIES AGREE AS FOLLOWS:**

**TABLE OF CONTENTS**

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

Article 1. Definitions

Article 2. General Provisions

Article 3. Development of the Property

Article 4. Special Development Obligations

Article 5. Default, Remedies, and Dispute Resolution

Article 6. Hold Harmless and Indemnification

**ARTICLE 1**  
**DEFINITIONS**

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

Section 1.1 "Agreement" means this Development Agreement.

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

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

Section 1.4 "Anderson Place Property" or "The Property" means the real property which is the subject of this Agreement. It is legally identified as Yolo County Assessor's Parcel No. 003-220-22, and is more specifically shown and described in Exhibits A and B.

Section 1.5 "Anderson Place Tentative Subdivision Map" means the tentative map, and the Conditions of Approval, approved for The Property in accordance with the Subdivision Map Act and the City's Subdivision Ordinance. A copy of the Anderson Place Tentative Subdivision Map #4859 is attached as Exhibit C.

Section 1.6 "Anderson Place Subdivision" means the multi-family residential

development created by the Anderson Place Tentative Subdivision Map.

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

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

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

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

Section 1.11 "Developer" means San Bernadino, LLC, a California limited liability company and/or its successor(s) in interest.

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

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

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

Section 1.15 "Land Use Entitlement" means either a Discretionary Approval or Ministerial Approval.

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

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

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

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

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

their successors.

Section 1.21 "Public Improvements" or "Infrastructure" means facilities constructed for use in accommodating residential use on The Property.

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

Section 1.23 "Affiliated Entity" means any entity where members of the Developer are officers, shareholders or employees of such entity.

## **ARTICLE 2**

### **GENERAL PROVISIONS**

Section 2.1 All Exhibits Deemed Incorporated By Reference.

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

Section 2.2 Property to be Developed.

The Property to be developed under this Agreement is the property commonly known in the City of Winters as the Anderson Place Property, Yolo County Assessor's Parcel No. 003-220-22 (consisting of approximately 2.13 acres). A map showing the location and boundaries of The Property is attached as Exhibit A and a legal description describing The Property is attached as Exhibit B. In this Agreement the Anderson Place Property will, in most instances, be referred to simply as "the Property."

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

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

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

Section 2.4 Equitable Servitudes and Covenants Running With the Land.

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

Section 2.5 Right to Assign; Non-severable obligations.

a. Except as otherwise provided, the Developer shall have the right to sell, encumber, convey, assign or otherwise transfer (collectively "assign"), in

whole or in part, its rights, interests and obligations under this Agreement to a third party during the term of this Agreement.

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

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

2. The proposed assignee has adequate experience with residential developments of comparable scope and complexity to that being undertaken on The Property and has successfully completed such developments.

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

#### Section 2.6 Amendment of the Agreement.

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

Section 2.7 Whole Agreement; Conflict with Municipal Code.

a. This Agreement, together with any subsequent addenda, amendments, or modifications, shall constitute the entire agreement of the Parties as to the development of The Property. All prior agreements of the Parties, whether written or oral, are of no further force or effect.

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

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

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

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

Section 2.9 Notices.

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

1. Via certified U.S. Mail, return receipt requested.
2. Via an overnight mail service of the type normally used by the business community, such as Federal Express, UPS Overnight, and California Overnight.
3. By facsimile, provided a "hard" copy is sent at the same time by regular U.S. Mail.

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

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

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

San Bernadino, LLC  
206 A Bulkley Avenue  
Sausalito, CA 94965  
Attn: Eva Brzeski  
Telephone (415) 887-9300  
FAX

**ARTICLE 3**  
**DEVELOPMENT OF THE PROPERTY**

Section 3.1 Land Use Entitlements.

a. The Property shall be developed under the following land use entitlements, all of which have been adopted or approved by the City Council:

1. Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Resolution No. 2007-xx adopted on March 20, 2007).

2. This Development Agreement (Ordinance No. 2007-xx adopted March 20, 2007 and effective on xxx x, 2007, (the "Enacting Ordinance")).

3. Zoning Ordinance amendment to rezone 0.71 acres from O-F to O-F PD Overlay and 1.42 acres C-2 to C-2 PD Overlay (Ordinance No. 2007-xx adopted March 20, 2007 and effective on xxx x, 2007).

4. Anderson Place Tentative Subdivision Map, with Findings of Fact and Conditions of Approval, dividing The Property into 24 residential lots to create 28 residential units and 9 office suites, an internal roadway/parking areas ("Lot A"), a pedestrian pathway area ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D"). (Resolution No. 2007-xx adopted on March 20, 2007).

5. A Planned Development Permit (Ordinance No. 2007-xx adopted March 20, 2007 and effective on xxx x, 2007).

6. Amendment of the Circulation Master Plan (May 19, 1992) and Standard Street Cross Sections (adopted October 2, 2001; City Council Resolution 2001-61) to allow Anderson Avenue to be constructed to Collector Street improvement standards with a 50-foot right of way, 40-foot face of curb to face of curb roadway section, and 5-foot sidewalks each side to the existing Railroad Avenue roadway and to allow interim Railroad Avenue improvements to include interim landscaping within the future roadway on east side of Railroad Avenue, with a 10-foot concrete pedestrian/bike path from the northern terminus of the development to the southern terminus of the development (Resolution No. 2007-xx adopted on March 20, 2007).

7. Conditional Use Permit to allow the construction of multi-family housing in the O-F and C-2 Zones (Resolution No. 2007-xx adopted on March 20, 2007).

8. A Demolition Permit to remove one existing structure on The Property (Resolution No. 2007-xx adopted on March 20, 2007).

9. Site Plan for the design of the residences and office suites and the conceptual landscaping for the subdivision feature/green space area ("Lot B"), the Railroad Avenue frontage, and internal areas (Resolution No. 2007-xx adopted on March 20, 2007).

b. Under the provisions of Government Code § 66452.6(a), the term of the Anderson Place Subdivision Tentative Subdivision Map is co-terminus with the term of this Agreement.

### Section 3.2 Consistency with General Plan.

The City finds that the provisions of this Agreement and the development of the Property are consistent with and conform to the General Plan of the City of Winters, as amended.

Section 3.3 Vested Rights of Developer.

a. Unless otherwise provided in this Agreement, the Developer shall have the vested right to develop the Property in accordance with the land use entitlements described in Section 3.1 above, and in conformity with the City rules, regulations, policies and ordinances in effect on the date of adoption of the Enacting Ordinance, regardless of subsequent amendments to the General Plan, the Zoning Ordinance, the Subdivision Ordinance, or any other ordinance, rule, or regulation adopted by the City. This vested right shall include:

1. The right to the number of residential lots, dwelling units, and the density of development (dwelling units per acre) of those units, as shown on the Anderson Place Tentative Subdivision Map.

2. Exclusion from:

a) Subsequently enacted building moratoria.

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

4. The cross-section of streets (including sidewalks, trails, and other thoroughfares) as established in the Conditions of Approval for the Anderson Place Tentative Subdivision Map.

5. The Mitigation Measures.

b. The vested rights set forth in Subdivision a. do not apply to changes effecting development of the Property as mandated by state and/or federal laws effective after the date this Agreement is recorded. In the event of such changes, the City will permit the development of the Property as originally permitted by this Agreement to the greatest extent reasonably feasible taking into consideration the changes in the law.

Section 3.4 Rights Retained by the City.

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

1. Discretionary approvals. (The only discretionary approval contemplated at this time is site plan review (design review) pursuant to the Zoning Code.)
2. Subdivision standards in effect when a final subdivision map is approved.
3. The California Building Code, National Fire Protection Act, and local building code standards in effect at the time a building permit for a specific dwelling unit is issued.
4. Fees (including, but not limited to, fees commonly referred to as "impact fees") and charges, including, but not limited to, fees and charges for

building permits, traffic signalization, sewer infrastructure, water infrastructure, traffic and pedestrian circulation, library services, and police and fire buildings and equipment, which are in effect and collected at the time of the approval of a final subdivision map or the issuance of a building permit, as provided in this Agreement or as generally applicable throughout the City of Winters.

b. The City may make and enforce ordinances, resolutions, and other rules and regulations pertaining to the Property under its general police power, provided they are of general applicability to all developments of a similar nature in the City of Winters.

Section 3.5 Other Vesting Laws Inapplicable.

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

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

c. The Developer shall not make any application to develop the Property, in whole or in part, under any vesting law, unless the right to do so is

specifically granted by state and/or federal law which becomes effective after the date of the recording of this Agreement.

Section 3.6 Commencement of Development.

a. Unless excused by the City for circumstances beyond the control of the Developer, the Developer shall, within 150 days after this Agreement is recorded, submit for review/approval by the City the final map for the Anderson Place Subdivision and accompanying subdivision improvement plans. For purposes of this subsection a., "circumstances beyond the control of the Developer" shall include, but are not limited to, inclement weather, acts of God, natural disasters, acts of the state and/or federal government, a referendum of the ordinance adopting this Agreement, or third party litigation challenging the validity of this Agreement. However, "circumstances beyond the control of the Developer" do not include a change in economic conditions which affect either the Developer individually or the land development/building industry generally.

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

Section 3.7 Installation of Public Improvements.

Public improvements (infrastructure) in the nature of roads, sidewalks, trails, sewers, water service, third party utilities, and similar items will be constructed both on-site and off-site during the development of the Anderson Place Subdivision. When the final map for the Anderson Place Subdivision is approved, the Developer shall enter into a separate written agreement with the City by which

it contracts to build and dedicate the public improvements required. Security for the construction of the improvements shall be provided as required by law.

Section 3.8 Property for Public Improvements; Offsite Improvements.

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

b. In any instance where the Developer is required to construct any public improvement on land in which neither the Developer nor City has sufficient title or interest, the Developer shall, at its sole cost and expense, obtain the real property interests necessary for the construction of such public improvements. The Developer shall exercise all reasonable efforts, as determined by the City, to acquire the real property interests necessary for the construction of such public improvements by the time the final subdivision map for the Anderson Place Subdivision is filed with the City.

c. In the event the Developer is unable to acquire the necessary property interest or interests, the City shall either a) negotiate the purchase of the necessary property interests to allow Developer to construct the public improvements as required by this Agreement, or b) if necessary, in accordance with the procedures established by law, use its power of eminent domain to acquire the Property interests. Prior to commencing negotiations, the City may require the Developer to enter into a separate agreement to provide the funding necessary to acquire the Property interests and/or to pay for the cost of any eminent domain action. Such costs include, but are not limited to, the price of the Property

acquired, and for purposes of eminent domain, the City's attorneys' fees, expert witness fees, jury fees, and related matters, and litigation expenses awarded by the court to the Property owner against the City.

Section 3.9 Reimbursement for Oversizing of Public Improvements; Advanced Funding of Certain Improvements; Credit for Improvements Installed.

a. In some instances, the Developer, through the process commonly referred to as "oversizing," will be required to install public improvements to a size and/or capacity greater than that which is required to serve only the residents of the Anderson Place Subdivision. These improvements will benefit other properties. In such an instance, the Developer shall be entitled to reimbursement for such oversizing from fees paid by other properties.

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

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

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

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

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

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

d. The Developer understands and agrees that reimbursement for a particular oversized improvement will come only from other developing properties or from mitigation fees as described in subsection b.1. When reimbursement is from mitigation fees, such fees shall come only from the fund into which fees for that type of improvement are made. (Example: If an oversized sewer main is reimbursed through mitigation fees, only those fees collected for sewer improvements, and not fees from any other fund, including, but not limited to, the City's General Fund, will be used.)

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

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

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

f. In the event the Developer installs an improvement for which a fee is normally collected at the time of the issuance of a building permit, the Developer shall be deemed to have paid that fee for the number of building permits which is equal to the cost of the installed improvement as determined by the City Engineer. (Example: If a fee of \$1,000 is normally collected at the time a building permit is issued for improvement X, and the Developer installs improvement X at a cost of \$20,000, then the Developer will be credited with having paid that fee for 20 building permits.)

1. The City Engineer shall have the exclusive right to interpret this section in case of any disagreements concerning its applicability.

### Section 3.10 Subsequent Discretionary Approvals.

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

good faith within a reasonable time to insure that the Developer may proceed to develop The Property in the manner contemplated by this Agreement.

b. The only remaining discretionary approval which is contemplated at this time is site plan review (design review) under the Zoning Ordinance.

Section 3.11 Review of Agreement.

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

Section 3.12 Compliance with Government Code § 66006.

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

**ARTICLE 4**

**SPECIFIC DEVELOPMENT OBLIGATIONS**

Section 4.1 Schools.

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

Developer and the Winters Joint Unified School District. A copy of the agreement is attached as Exhibit E.

b. The Developer shall enter into an agreement with the Winters Joint Unified School District ("School District"), substantially in the form of Exhibit E that provides, among other matters, that the Developer will pay to the School District:

1. for each of the 28 residential units in the Anderson Place Subdivision, Level 2 fees, payable at the time of issuance of a building permit; and

2. for all units in the Anderson Place Subdivision (including the units referenced in subparagraph 1 above), except the very low income and low income affordable units, the difference between Level 3 and Level 2 fees, payable at the close of escrow.

The Developer has represented to the City that it intends to fully and faithfully perform this agreement with the School District, and the City has relied upon this representation in entering into this Development Agreement. A failure to perform the agreement, or amendments thereto, with the School District by the Developer shall be deemed to be a default of this Development Agreement and subject to the provisions of Article 5.

Section 4.2 0.62 +/- Acre Park.

a. Developer shall provide a 0.62 +/- acre neighborhood park ("the Park Obligation"). The Park Obligation consists of three components:

1. Providing land.

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

b. The Parties acknowledge that it is in the best interests of the community that the City accept a sum of money which represents the monetary value of the Park Obligation rather than have the Developer include a fully operational 0.62 +/- acre park within the Anderson Place Subdivision. The payment of the Park Obligation by the Developer is in lieu of the payment of any park impact fees as provided by City ordinance.

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

1. At the time of filing the final map for the Anderson Place Subdivision a payment of one hundred percent (100%) of the amount calculated by the City Engineer as set forth in e., below.

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

- a) The additional fifty percent (50%) shall be divided by the number of market rate units in the Anderson Place Subdivision (24 units). The resulting amount shall be paid each time a building permit is issued for one of the 24 market rate units.

- b) If at the end of thirty (30) months from the recording of the final map for the Anderson Place Subdivision, the full amount under this subsection 2. has not been fully paid, then the Developer shall pay the remaining amount owing within ten (10) business days of being notified by the City to do so.

(Example: If at the end of thirty (30) months, the Developer has obtained twenty (20) building permits for market rate units and has paid fees under this subsection, then the Developer, upon notice from the City, shall pay the fees owed under this subsection for the remaining four (4) market rate units.)

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

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

1. The land value will be determined by an appraisal made at the Developer's expense. The Developer shall provide to the City the names of three (3) qualified appraisers acceptable to the City who are both licensed by the State of California and members of the Appraisal Institute (MAI) and knowledgeable in appraising property similar in nature to The Property. The City shall select the appraiser to be used from the list and notify the Developer of its decision. The appraisal shall be presented to the City within ninety (90) days thereafter, unless the Parties agree to a different date. The appraisal shall determine the fair market value of 0.62 +/- acres of The Property with the development entitlements specified in this Agreement. The date of value shall be the date of the recording of this Agreement.

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

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

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

Section 4.3 Advance Funding of Fees For Construction of New Water Well.

a. The Parties acknowledge that the City intends to construct a new water well near the northwest corner of the intersection of West Grant Avenue and West Main Street. In order to provide sufficient funds for the City to commence construction of this facility, the Developer shall, concurrently with the filing of the final subdivision map for the Anderson Place Subdivision pay to the City the following development fee.

1. A water facilities fee at its then current rate for all 28 residential units in the Anderson Place Subdivision.

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

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

Section 4.4 Annuity in Lieu of Mello-Roos District.

a. The Developer agrees that the City will establish, and the Developer will fund, an annuity to offset the projected fiscal deficit to the General Fund of the City created by the development of The Anderson Place Subdivision per the Economic & Planning Systems reports titled "City of Winters – Anderson Place Revised Fiscal Impact Analysis", dated January 22, 2007. Such an annuity is in lieu of the creation of a Mello-Roos Community Facilities District or other similar financing device.

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

1. Subject to the provisions of b.3., below, from the escrow for the sale of each residential unit to a third party the Developer will pay to the City the sum of Seven Thousand Three Hundred Fifty Dollars (\$7,350.00).

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

Section 4.5 Payments to Public Safety Facility and Library Fund.

a. Prior to recording of the final map for the Anderson Place Subdivision the Developer shall pay to the City the sum of Twenty-Five Thousand Dollars (\$25,000.00). This amount shall be kept in a specific designated account and used solely for constructing the new Public Safety Facility in the City of Winters.

b. Prior to recording of the final map for the Anderson Place Subdivision the Developer shall pay to the City the sum of Twenty Thousand Dollars (\$20,000.00). This amount shall be kept in a separate account designated for library improvement funds by the City and used solely for constructing, maintaining, and/or improving a public library facility in the City of Winters.

Section 4.6 Energy Efficiency.

In order to obtain energy efficiency in each unit with the Anderson Place Subdivision, to the maximum extent possible the techniques identified in the July 27, 2004 Planning Commission staff report on the "Proposed Energy Resolution" shall be utilized; provided, however, that the following techniques are mandatory:

a. Photovoltaic solar energy systems capable of producing 2.4 peak rated direct current (DC) kilowatts shall be installed on seven of the proposed buildings for The Project. The market rate units not constructed with photovoltaic solar energy systems shall be pre-wired for these systems and prospective buyers of these units shall be offered these systems as an option.

b. All units shall be constructed to the Energy Star Standards as defined by the U. S. Environmental Protection Agency.

c. All units shall be built with low emission furnaces and tankless water heaters.

d. No unit shall be built with any dark colored roofing material.

## ARTICLE 5

### DEFAULT, REMEDIES, AND DISPUTE RESOLUTION

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

Section 5.2 City's Remedies.

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

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

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

3. Specific performance as provided in subsection c.

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

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

b. Default by the Developer.

1. Notice of Default. With respect to a default by the Developer under this Agreement, the City shall first submit to the Developer a

written notice of default identifying with specificity those obligations of the Developer which have not been performed. Upon receipt of the notice of default, the Developer shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default. The Developer shall complete the cure of the default(s) not later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy the default(s), provided Developer has continuously and diligently pursued such remedy at all times until such default(s) is cured.

2. Procedure After Failure to Cure Default. If, after the cure period has elapsed, the City finds and determines that the Developer remains in default and the City wishes to terminate or modify this Agreement, the City Manager shall make a report to that effect to the City Council and set a public hearing before the City Council in accordance with the notice and hearing requirements of Government Code section 65868 and Section 11-2.802 of the Winters Municipal Code.

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

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

1. To complete or demolish any uncompleted improvements which are located on public property or property which has been offered for dedication to the public, with the choice of whether to demolish or complete such

improvements and the method of such demolition or completion of such improvements to be selected by the City in its sole discretion.

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

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

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

### Section 5.3 Developer's Remedies.

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

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

2. An action for injunctive relief to preserve the physical or legal status quo of the development of The Anderson Place Subdivision pending a

judicial determination of the rights of the Parties in the event of a dispute between the Parties as to their rights and obligations under this Agreement.

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

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

c. Waiver of Damage Remedy. The Developer understands and agrees that the City would not be willing to enter into this Agreement if it created any monetary exposure for damages (whether actual, compensatory, consequential, punitive or otherwise) in the event of a breach by City. For the above reasons, the Parties agree that the remedies listed in subsection a. are the only remedies available to the Developer in the event of the City's failure to carry out its obligations hereunder. The Developer specifically acknowledges that it may not seek monetary damages of any kind in the event of a default by the City under this Agreement, and the Developer hereby waives, relinquishes and surrenders any right to any monetary remedy. The Developer covenants not to sue for, or claim

any monetary remedy for, the breach by the City of any provision of this Agreement, except for attorneys' fees for actions under a., above, and hereby agrees to indemnify, defend and hold the City harmless from any cost, loss, liability, expense or claim (including attorneys' fees) arising from or related to any claim brought by the Developer inconsistent with the foregoing waiver.

## **ARTICLE 6**

### **HOLD HARMLESS AND INDEMNIFICATION**

#### Section 6.1 Limitation of Legal Relationship.

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

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

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

#### Section 6.2 No Liability for Acts of the Developer.

a. It is expressly understood that the development of The Anderson Place Subdivision is an undertaking that may create for the Developer liability to

third parties, including, but not limited to, assignees of all or part of this Agreement, buyers and lessees of residential units, building contractors and sub-contractors, and suppliers. The Developer understands and agrees that the City would not execute this Agreement if, in so doing, it created for the City any liability to any third party.

b. Consequently, the Developer, its successors, heirs, and assigns agrees to defend, indemnify, and hold harmless the City, and all its officers, agents, and employees from any claim of injury to person or property arising out of the operations of the Developer in the development of The Anderson Place Subdivision under the terms of this Agreement or otherwise.

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

Section 6.3 Duty to Defend Challenges to this Agreement.

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

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

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

d. Should the court, in any action challenging this Agreement or the ordinance adopting it, award attorneys' fees, costs and any other litigation expenses

against the City, the Developer shall be responsible for the payment of those fees, costs, and expenses, and shall hold the City harmless from any claim thereto.

e. Notwithstanding subsection b., the City may, at its sole discretion, tender the defense of any action or proceeding brought to challenge this Agreement or the ordinance adopting it to the Developer, in which event the Developer shall have the sole responsibility to defend, on behalf of itself and the City, the matter. However, nothing herein obligates the Developer, should the City tender its defense to the Developer, to defend the action if it determines that it is in its best interests not to do so.

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**SIGNATURE PAGE TO FOLLOW**

**DEVELOPER  
SAN BERNADINO, LLC**

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

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

Dated: \_\_\_\_\_

**CITY OF WINTERS**

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

Mayor

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_

City Clerk

Approved as to form:

\_\_\_\_\_  
John Wallace, City Attorney

\_\_\_\_\_  
XXX XXX  
XXX,  
Attorney for Developer

.....

**LIST OF EXHIBITS**

- EXHIBIT A        Map of Anderson Place Property
- EXHIBIT B        Legal Description of Anderson Place Property
- EXHIBIT C        Anderson Place Tentative Subdivision Map
- EXHIBIT D        Conditions of Approval, including Mitigation Measures
- EXHIBIT E        School Agreement

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This Agreement was adopted by Ordinance No. 2007-xx of the City Council of the City of Winters. Ordinance No. 2007-xx was adopted on April 3, 2007 and is effective on the date it is recorded with the Yolo County Recorder.



**CITY COUNCIL STAFF REPORT**

March 20, 2007

TO: Honorable Mayor and Council Members  
THROUGH: John W. Donlevy, Jr. – City Manager *JD*  
FROM: Dan Sokolow – Community Development Director *DS*  
SUBJECT: **MARY ROSE GARDENS SUBDIVISION (Continued Public Hearing)**

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**SUMMARY OF PROJECT:** The project site is generally located in the northwest area of the City of Winters. The project site totals approximately 5.69 acres comprised of APN 003-524-19 located at the northwest corner of Grant Avenue (State Route 128) and Cemetery Lane. The project site is north of the Waggoner Elementary School, south and east of the Carter Ranch Phase I and II Subdivisions, and west of Cemetery Lane and the Kaiser-Aetna Subdivision. Situs address: 415 West Grant Avenue, Winters, CA 95694. The project is a proposed rezoning and subdivision of 5.69 acres to create 28 single-family lots including two duplex lots (Lots 12A and B) and Parcel X for a 0.503-acre park.

**PLANNING COMMISSION RECOMMENDATION:** At a hearing held November 28, 2006, the Planning Commission voted 7-0 to support the staff recommendation of approval of the project (Attachments 3 and 4 to this report). Two speakers provided testimony on the project. One of the speakers expressed support for the project. The other speaker suggested that the existing flood overland release in the Carter Ranch Subdivision be relocated to the project and advocated for a different location of the green space/park area proposed for the project. In its approval motion, the Planning Commission recommended Option B for the layout of the green space/park area and said the motion permits the applicant to enlarge the green space/park area to one-half acre if necessary. Since the Planning Commission's approval of the project, the applicant has increased the size of Parcel X from 18,433 to 21,892 square feet. Under the City's General Plan, the minimum size for a park is one-half acre (21,780 square feet). The applicant has also added another house plan (Attachment 9 to this report).

**DEVELOPMENT AGREEMENT:** The City and the applicant have concluded the Development Agreement (DA) negotiations and the proposed DA "public benefit" features are detailed below. It should be noted that there are many other requirements of the project that the City will achieve through the mitigation measures and conditions of approval. The items below are the items that would be gained to the community's "net benefit", in addition to the requirements of the mitigation measures and conditions of approval.

- School Funding – Payment of Level Three School Impact Fees (low- and very low- income units exempt).
- Streets – Construct pedestrian and landscape improvements on the south side of Grant Avenue along the frontage of the Waggoner Elementary School.
- Fiscal Neutrality – Pay an annuity per an Economic and Planning Systems report to offset any cost increase to the City general fund.
- Parks – Fund new parks at seven acres per thousand through in-lieu fees. (Note: The applicant will satisfy most of the park obligation through the construction of an on-site park. The remaining obligation will be satisfied through the payment of in-lieu fees.)
- Fire Department – Contribute \$49,400 towards the purchase of a Type I fire engine.
- Library – Contribute \$25,000 towards the new library project.
- Energy – All of the units to be constructed as EPA Energy Star units. Photovoltaic solar energy systems capable of producing 2.4 peak rated direct current (DC) kilowatts to be installed on half of the 24 market rate units while the remaining market rate units to be pre-wired to accommodate such a system.
- Water and Streets Impact Fees Advance Payment – Pay the City impact fees for Water and Streets at Final Map.

It should be noted that the Fiscal Neutrality and Parks items are General Plan requirements and therefore are not true "net benefit" items, but they have been detailed here for clarity purposes.

## RECOMMENDED ACTIONS

The City Council should discuss the three options for the park (Parcel X) and select one of the options; the Planning Commission recommended Option B at its November 28, 2006 meeting. The Council may modify the option it selects. Option A includes a gazebo at the center of the parcel, a children's play structure with adjacent multiple benches and a trash receptacle, lawn areas, a large clock in a brick planter, and landscaping with various shrubs and trees. Option B includes a gazebo with adjacent benches and a trash receptacle at the southwest corner of the parcel, a children's play structure with adjacent benches, a clock located in a brick planter, and landscaping with various shrubs and trees. Option C includes a gazebo with adjacent park benches at the southwest corner of the parcel, a children's play structure with adjacent park benches and a trash receptacle, a bicycle loops bicycle parking area, lawn areas, and landscaping with various shrubs and trees. All options include pedestrian and bicycle paths.

If the Council supports the Planning Commission and staff recommendation then the following actions should be taken:

A) The staff recommends the City Council have the applicant indicate for the record, their acceptance of the Development Agreement and conditions of approval.

B) Assuming the applicant indicates their acceptance of the final terms of the DA and conditions of approval, the staff recommends that the City Council take the following actions subject to the identified findings of fact and conditions of approval:

- 1) Adopt Resolution No. 2007-xx (Attachment 6 to this report) approving CEQA findings of fact, adopting a mitigation monitoring plan, and certifying the final mitigated negative

declaration for the Mary Rose Gardens Project.

- 2) Adopt Resolution No. 2007-xx (Attachment 7 to this report) approving the project by enacting the following:
  - a) Approval of the Tentative Subdivision Map No. 4851 on 5.69 acres creating 28 single family lots (including 2 "duplex" lots) on 5.69 acres and a 0.503-acre park (Attachment 1 to this report).
  - b) Approval of Site Plan for residential units and conceptual landscape plan for the 0.503-acre park ("Parcel X").
  - c) Approval of a demolition permit to remove approximately seven existing on-site structures.
- b) Approval of Findings of Fact and Conditions of Approval (Attachment 2 to this report).
- 3) Introduce and waive the first reading of Ordinance No. 2007-0x (Attachment 8 to this report) approving the rezoning described below. (Note: The ordinance must return for second reading and adoption.):
  - a) Change the Zoning Map for the project site (5.69 acres) from Single Family Residential, 6,000 Square Foot Average Minimum (R-2) to Single Family Residential, 6,000 Square Foot Average Minimum/Planned Development (R-2/PD).
  - b) Adoption of Planned Development (PD) Permit No. 2007-01 allowing for Lots 12A and 12B to utilize a zero lot line, Lot 12B to fall below the minimum lot size for the R-2 Zone, Lots 12A and 12B to utilize tandem parking, and the noise barrier on Grant Avenue to exceed the maximum fence/wall height for residential zones.
- 4) Introduce and waive the first reading of Ordinance No. 2007-0x (Attachment 9 to this report) approving and authorizing execution of the Mary Rose Gardens Development Agreement. (Note: The ordinance must return for second reading and adoption. It must be signed by the applicant prior to the second reading and adoption.)

## ATTACHMENTS

- 1) Tentative Subdivision Map
- 2) Conditions of Approval
- 3) EPS Fiscal Impact Analysis (January 23, 2007)
- 4) November 28, 2006 Planning Commission Minutes (provided in March 6, 2007 City Council agenda packet)
- 5) November 28, 2006 Planning Commission Staff Report (provided in March 6, 2007 City Council agenda packet)
- 6) Resolution adopting the Negative Declaration and MMP
- 7) Resolution approving the Project
- 8) Rezoning Ordinance

9) Development Agreement and Ordinance

10) House Plan 1893 A and B elevations (provided in March 6, 2007 City Council agenda packet)





# FINDINGS OF FACT AND CONDITIONS OF APPROVAL FOR THE MARY ROSE GARDENS PROJECT

## FINDINGS OF FACT

### **Findings for Adoption of Mitigated Negative Declaration**

1. The City Council has considered the proposed Mitigated Negative Declaration before making a decision on the project.
2. The City Council has considered comments received on the Mitigated Negative Declaration during the public review process.
3. The City Council finds that the environmental checklist/initial study identified potentially significant effects, but: a) mitigation measures agreed to by the Applicant before the mitigated negative declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant impact would occur; and b) there is no substantial evidence, in light of the whole record before the City, that the project as revised to include the mitigation measures may have a significant effect on the environment.
4. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Winters.
5. The Mitigated Negative Declaration has been prepared in compliance with CEQA and the State CEQA Guidelines, and as amended/revised is determined to be complete and final.
6. The custodian of the documents, and other materials, which constitute the record of proceedings is the Community Development Director. The location of these items is the office of the Community Development Department at City Hall, 318 First Street, Winters, California 95694.
7. The Revised Mitigation Monitoring Plan is hereby adopted to ensure implementation of mitigation measures identified in the Mitigated Negative Declaration. The City Council finds that these mitigation measures are fully enforceable as conditions of approval of the project, and shall be binding on the Applicant, future property owners, and affected parties.
8. The City Council hereby adopts The Mary Rose Gardens Subdivision Mitigated Negative Declaration.

### **Findings for PD Overlay and PD Permit**

1. The project, as modified and conditioned, is consistent with the General Plan and the purposes of Section 17.48.010 (Planned Development Overlay Zone – Purpose) of the Winters Municipal Code.
2. Deviations from specified provisions of the basic zoning district on the property have been justified as necessary to achieve an improvement design for the development and/or the environment. The development complies with the remaining applicable provisions of the basic zoning district on the property.
3. The proposed development, as modified and conditioned, is desirable to the public comfort and convenience.
4. The requested plan, as modified and conditioned, will not impair the integrity or character of the neighborhood nor be detrimental to the public health, safety, or general welfare.

5. Adequate utilities, access roads, sanitation, and/or other necessary facilities and services will be provided or available.
6. The development, as modified and conditioned (including execution of the Development Agreement) will not create an adverse fiscal impact for the City in providing necessary services.

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

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

#### **Findings for Development Agreement**

1. The DA is consistent with the objectives, policies, general land uses and programs specified in the General Plan.
2. The DA is compatible with the uses authorized in, and the regulations prescribed for, the zoning district in which the real property is or will be located.
3. The DA is in conformity with and will promote public convenience, general welfare and good land use practice.
4. The DA will not be detrimental to the health, safety and general welfare.
5. The DA will not adversely affect the orderly development of property or the preservation of property values.
6. The DA will meet the intent of Section 15.72.100(a) (Public Benefits) of the Winters Municipal Code.
7. The DA is consistent with Chapter 15.72 (Development Agreements) of the Winters Municipal Code.

#### **CONDITIONS OF APPROVAL**

The following conditions of approval are required to be satisfied by the Applicant/Developer prior to Final Map, unless otherwise stated.

#### **General**

1. In the event any claim, action or proceeding is commenced naming the City or its agents, officers, and employees as defendant, respondent or cross defendant arising or alleged to arise from the City's approval

of this project, the project Applicant shall defend, indemnify, and hold harmless the City or its agents, officers and employees, from liability, damages, penalties, costs or expense in any such claim, action, or proceeding to attach, set aside, void, or annul an approval of the City of Winters, the Winters Planning Commission, any advisory agency to the City and local district, or the Winters City Council. Project Applicant shall defend such action at Applicant's sole cost and expense which includes court costs and attorney fees. The City shall promptly notify the Applicant of any such claim, action, or proceeding and shall cooperate fully in the defense. Nothing in this condition shall be construed to prohibit the City of Winters from participating in the defense of any claim, action, or proceeding, if City bears its own attorney fees and cost, and defends the action in good faith. Applicant shall not be required to pay or perform any settlement unless the subdivider in good faith approves the settlement, and the settlement imposes not direct or indirect cost on the City of Winters, or its agents, officers, and employees, the Winters Planning commission, any advisory agency to the City, local district and the City Council.

2. All conditions identified herein shall be fully satisfied prior to acceptance of the first Final Map unless otherwise stated.
3. The project is as described in the October 30, 2006 Planning Commission staff report. The project shall be constructed as depicted on the maps and exhibits included in the October 30, 2006 Planning Commission staff report, except as modified by these conditions of approval. Substantive modifications require a public hearing and Council action.

### **General Plan Requirements**

4. Pursuant to General Plan Policy II.A.18, a minimum of ten percent of the single-family lots (3 lots) shall be offered for sale to local builders or owner-builders. These lots shall not be the same lots as those identified to meet the City's affordable housing requirement.
5. Pursuant to General Plan Policy II.C.1 and VI.F.2, energy efficient design shall be used. Pursuant to Policy II.C.2 of the Housing Element, energy conservation and weatherization features shall be incorporated into the home design. At a minimum this shall include: a) maximization of energy efficient techniques as identified in the July 27, 2004 Planning Commission staff report on "Proposed Energy Resolution", b) attainment of EPA Energy Star Standards in all units. c) low emission furnaces in all units, d) avoidance of dark colored roofing on all units, and e) a minimum of 50 percent of the market-rate units shall have a photovoltaic solar energy system capable of producing a minimum of 2.4kW (peak-rated DC watts) photovoltaic. The remainder of the market-rate units shall be pre-wired for an equivalent system.
6. Pursuant to General Plan Policy II.D.4 and IV.A.1 necessary public facilities and services shall be available prior to the first occupancy of the project.
7. Pursuant to General Plan Policy IV.A.4 (second sentence), the Developer shall pay in-lieu fees for the parkland not provided on site, or at the City's discretion may construct needed improvements according to City specification in lieu of paying the fees.
8. Pursuant to General Plan Policy VI.C.7, drought-tolerant and native plants, especially valley oaks, shall be used for landscaping roadsides, parks, schools, and private properties. Pursuant to General Plan Policy VI.C.8, drainage-detention areas shall incorporate areas of native vegetation and wildlife habitat. All homes in this subdivision shall have "low application rate" lawn sprinkler systems, as approved by the Planning Commission.
9. Pursuant to General Plan Policy IV.B.14, there shall be a water meter on each new hook-up.
10. Pursuant to General Plan Policy IV.C.2, adequate sewer service shall be provided prior to the issuance of any individual building permit.
11. Pursuant to General Plan Policy IV.J.2, all new electrical and communication lines shall be installed underground.

12. Pursuant to General Plan Policy VI.A.6, grading shall be carried out during dry months, when possible. Areas not graded shall be disturbed as little as possible. Construction and grading areas, as well as soil stockpiles, should be covered or temporarily revegetated when left for long periods. Revegetation of slopes shall be carried out immediately upon completion of grading. Temporary drainage structures and sedimentation basins must be installed to prevent sediment from entering and thereby degrading the quality of downstream surface waters, particularly Putah Creek. The full cost of any necessary mitigation measures shall be borne by the project creating the potential impacts. Pursuant to General Plan Policy VII.B.3, should the City allow any grading to occur during the rainy season, conditions shall be implemented to ensure that silt is not conveyed to the storm drainage system.
13. Pursuant to General Plan Policy VI.E.6, construction-related dust shall be minimized. Dust control measures shall be specified and included as requirements of the contractor(s) during all phases of construction of this project and shall be included as a part of the required construction mitigation plan for the project.
14. Pursuant to General Plan Policy VII.A.1, VII.A.2, and VII.C.4 all site work and construction activities shall be in accordance with the requirements of the City, and other applicable local, regional, state, and federal regulations.
15. Pursuant to General Plan Policy VII.C.1, necessary water service, fire hydrants, and access roads shall be provided to the satisfaction of the Fire Chief and Fire Protection District standards.
16. Pursuant to General Plan Policy VII.C.2, a minimum fire-flow rate of 1,500 gallons per minute is required for all residential uses.
17. Pursuant to General Plan Policy VIII.D.2, street trees shall be planted along all streets, in accordance with the City's Street Tree Plan and Standards. There shall be a minimum of one street tree in the front of each single-family lot, and on both frontages for corner lots. All trees shall be of a type on the approved street tree list and shall be a minimum of fifteen gallons in size with a mature tree canopy of at least a thirty-foot diameter within fifteen years. The intent is that majestic street tree species that create large canopies at maturity will be required in all medians and streetside landscape strips. The goal is create maximum shade canopy over streets and sidewalks. The conceptual landscape plan for the subdivision feature/green space area (Parcel X) shall be submitted to the Public Works and Community Development Directors for review and final approval. Landscaping of the project including Parcel X, front yards of the residential units, and the north side of Grant Avenue shall be completed prior to occupancy of the residential units.
18. Pursuant to General Plan Policy VIII.D.4, a permanent mechanism for the ongoing maintenance of street trees is required, to the satisfaction of the City Manager and City Finance Director.
19. Pursuant to General Plan Policy VIII.D.7, all lighting including street lighting, shall be designed, installed, and maintained to minimize excess light spillage, unnecessary brightness and glare, and degradation of night sky clarity.

#### **Negative Declaration Mitigation Measures**

20. **Mitigation Measure #1:** All aspects of the project shall be subject to design review to ensure compatibility with the surrounding area and satisfaction of the Community Design Guidelines and other applicable principles of good neighborhood design. Prior to issuance of a building permit for each phase of construction of the project, the Applicant shall submit full architectural renderings, including building elevations and floor plans, for design review and approval.
21. **Mitigation Measure #2:** Outdoor light fixtures shall be low-intensity, shielded and/or directed away from adjacent areas and the night sky. All light fixtures shall be installed and shielded in such a manner that no light rays are emitted from the fixture at angles above the horizontal plane. High-intensity discharge lamps, such as mercury, metal halide and high-pressure sodium lamps shall be

prohibited. Lighting plans shall be provided as part of facility improvement plans to the City with certification that adjacent areas will not be adversely affected and that offsite illumination will not exceed 2-foot candles.

**22. Mitigation Measure #3:**

- a. Construction equipment exhaust emissions shall not exceed Yolo-Solano Air Quality Management District ("District") Rule 2-11 Visible Emission limitations.
- b. Construction equipment shall minimize idling time to 10 minutes or less.
- c. The prime contractor shall submit to the District a comprehensive inventory (i.e. make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower or greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy-duty equipment on the inventory list.

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

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

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

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

**23. Mitigation Measure #4:**

- a. Nontoxic soil stabilizers according to manufacturer's specifications shall be applied to all inactive construction areas (previously graded areas inactive for ten days or more).
- b. Ground cover shall be reestablished in disturbed areas quickly.
- c. Active construction sites shall be watered at least three times daily to avoid visible dust plumes.
- d. Paving, applying water three times daily, or applying (non-toxic) soil stabilizers shall occur on all unpaved access roads, parking areas and staging areas at construction sites.
- e. Enclosing, covering, watering daily, or applying non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) shall occur.
- f. A speed limit of 15 MPH for equipment and vehicles operated on unpaved areas shall be enforced.
- g. All vehicles hauling dirt, sand, soil, or other loose materials shall be covered or shall be maintained at least two feet of freeboard.

- h. Streets shall be swept at the end of the day if visible soil material is carried onto adjacent public paved roads.
24. **Mitigation Measure #5:** Wood burning appliances installed in the homes constructed as part of the project shall only use either pellet-fueled heaters, U.S. EPA Phase II certified wood burning heaters, or a gas fireplace. Installation of open hearth wood burning fireplaces is prohibited.
25. **Mitigation Measure #6:** The project proponent shall mitigate for potential project-related impacts to burrowing owl by conducting a pre-construction survey no more than 30 days prior to the initiation of construction activity. The pre-construction survey shall be conducted by a qualified biologist familiar with the identification of burrowing owls and the signs of burrowing owl activity. If active burrows are found on the project site, the California Department of Fish and Game (CDFG) shall be consulted regarding appropriate mitigation measures for project-related impacts to burrowing owl. Pursuant to the CDFG document entitled "Staff Report on Burrowing Owl Mitigation" (September 25, 1995), it is likely that replacement habitat will be required by CDFG. The guidelines include specific mitigation to protect nesting and wintering owls and to compensate for loss of breeding sites. In general, if the project would remove habitat of an occupied breeding site (e.g., if an active nest and surrounding habitat are removed), the project proponent will be required to compensate by preserving equivalent suitable habitat for each active nest site. In addition, the project proponent must install artificial burrows to offset the direct loss of the breeding site. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.
26. **Mitigation Measure #7:** The project proponent shall mitigate for potential project-related impacts to Swainson's hawk and nesting raptors by conducting a pre-construction survey of all trees suitable for use by nesting raptors on the subject property or within 500 feet of the project boundary as allowable. The preconstruction survey shall be performed no more than 30 days prior to the implementation of construction activities. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of Swainson's hawks and raptors known to occur in the vicinity of the City of Winters. If active special-status raptor nests are found during the preconstruction survey, a 0.25-mile (1,320-foot) buffer zone shall be established around the nest and no construction activity shall be conducted within this zone during the Swainson's hawk and raptor nesting season (typically March-August) or until such time that the biologist determines that the nest is no longer active. The buffer zone shall be marked with flagging, construction lathe, or other means to mark the boundary of the buffer zone. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.
27. **Mitigation Measure #8:** Focused surveys for Valley Longhorn Elderberry Beetles (VELB) shall be conducted by a qualified biologist to determine presence of the species. The surveys shall be conducted, data collected, and mitigation required according to the USFWS' guidance document Conservation Guidelines for the Valley Elderberry Longhorn Beetle (USFWS 1999). If no plants are found then no further mitigation is required. If plants are found they shall be avoided and a 20-foot buffer from the dripline is required. If the plants can not be avoided then consultation with the USFWS is required and a mitigation plan should be prepared for approval by the Service. At a minimum the mitigation plan should include acquisition of credits at an approved mitigation bank or implementation of onsite mitigation and monitoring plan that includes transplantation of plants and planting elderberry seedlings. If the potential for take is identified following surveys, the project proponent will implement the referenced guidelines through coordination with the USFWS under Section 10 of the federal Endangered Species Act.
28. **Mitigation Measure #9:** If cultural resources (historic, archeological, paleontological, and/or human remains) are encountered during construction, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the situation. Project personnel shall not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-

affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies.

29. **Mitigation Measure #10:** Special preparation of subgrades and reinforcement of foundations and floor slabs shall be conducted in full and as described in the Soils Investigation Report Mary Rose Gardens (June 2, 2006, Raney Geotechnical, Inc.) for the proposed project.
30. **Mitigation Measure #11:** The surficial soil located near the south end of the former above ground storage tank area shall be scraped and stockpiled. The stockpile shall be evaluated by a geotechnical and environmental engineering firm to determine whether the soil requires regulated disposal. If regulated disposal is required, the soil shall be disposed of properly and documentation of the soil evaluation and disposal shall be provided to the City of Winters. If soil with odor or discoloration is encountered during site grading, a geotechnical and environmental engineer firm shall be retained to monitor segregation of the soil and collection of samples for analysis to assist in proper disposal. If disposal is required, documentation of the soil evaluation and disposal shall be provided to the City of Winters.
31. **Mitigation Measure #12:** A solid barrier more than 7-feet in height and no taller than 8-feet in height shall be constructed along Grant Avenue to meet the City of Winters 60 dB CNEL exterior noise level requirement. The barrier shall be constructed of concrete or masonry block, precast concrete, earthen berm, or any combination of these. Other prefabricated barriers may be used. However, barriers constructed with wood shall not be used. The barrier design shall be reviewed by a qualified acoustical professional to ensure that it will achieve the required reduction in exterior noise levels.

For the two-story homes on lots adjacent to Grant Avenue, standard energy conserving double pane windows shall be used on the second floor parallel and perpendicular facades in order to meet the City of Winters 45 dB Ldn interior noise level requirement. Air conditioning or other suitable mechanical ventilation shall be provided for all residential units to allow residents to close windows for the desired acoustical isolation. The building plans for these residences shall be reviewed by a qualified acoustical professional to identify the acoustical treatments necessary to meet the City's interior noise level requirement.

32. **Mitigation Measure #13:** The applicant shall fund the preparation of a fiscal impact analysis to examine project impacts on the City's general fund. The applicant shall enter into a Development Agreement with the City that includes provisions acceptable to the City Council for mitigating any projected fiscal deficit. This may include an on-going Mello-Roos Community Facilities District (CFD) to fund eligible services, a Lighting and Landscaping District which could fund eligible park and landscaping expenses, establishment of an annuity the interest proceeds of which would cover the projected deficit, or other acceptable mechanisms.
33. **Mitigation Measure #14:** The applicant shall pay park mitigation fees to satisfy the obligation for 0.62-acre of developed parkland. Fees shall include both the value of the land and improvements that would otherwise be constructed if the parkland was provided on-site.
34. **Mitigation Measure #15:**
- a. Install a traffic signal at the intersection of Grant Avenue/I-505 Northbound Ramps. The traffic signal would need to be installed after construction and occupancy of 40 single family dwelling unit "equivalents" citywide (i.e., multi-family housing units are 0.6 single family dwelling units "equivalents"); and
  - b. Install a traffic signal at the intersection of Grant Avenue/West Main Street. The traffic signal would need to be installed after construction and occupancy of 50 single family dwelling unit "equivalents" from this project and/or Winters Highlands, Hudson/Ogando, Callahan Estates, or Creekside (i.e., multi-family housing units are 0.6 single family dwelling unit "equivalents").

35. **Mitigation Measure #16:** The proposed systems for conveying project sewage, water, and drainage shall be finalized and approved by the City Engineer prior to final map. The project is required to fund and construct off-site improvements necessary to support the development. Such improvements could include, but not be limited to a water well, water lines, sewer lines and storm drainage lines. Should property acquisition or additional CEQA clearance be required for off-site improvements, this will be the responsibility of the developer.
36. **Mitigation Measure #17:** The City shall issue building permits only after the new water well is in service.

### **Community Development**

37. Construction activities shall be limited to 7:00 am to 7:00 pm, Monday through Friday only (holidays excluded) in compliance with the City's Noise Ordinance and Standard Specifications. The Applicant shall submit a Construction Noise Control Plan for review and approval by the City prior to acceptance of Final Map. This plan shall address job site noise control and establish protocols for addressing noise complaints. Job site signage with 24-hour contact information for noise complaints shall be included.
38. Foundations shall be poured in place, onsite. No pre-cast foundations will be permitted. This shall be stipulated in all construction contracts.
39. All address numbering shall be clearly visible from the street fronting the property. All buildings shall be identified by either four (4) inch illuminated numbers or six (6) inch non-illuminated numbers on contrasting background. Naming of streets shall be completed by the Street Naming Committee and the addressing shall be completed by a committee comprised of the Community Development Department, the Fire District, the Police Department, and the Postal Service.
40. The Applicant shall pay all development impact fees, fees required by other entities, and permit fees.
41. The Applicant shall be responsible for any additional costs associated with the processing of this project including but not limited to: plan check, inspections, materials testing, construction monitoring, and other staff review and/or oversight including staff time necessary to ensure completion/satisfaction of all conditions of approval and mitigation measures. The Applicant shall, on a monthly basis, reimburse the City for all such costs. Project Applicant shall pay all development impact fees adopted by the City Council and shall pay fees required by other entities.
42. The Developer shall obtain the following approvals from the Central Valley Regional Water Quality Control Board, as appropriate: 1) coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activities; 2) compliance with post construction storm water Best Management Practices pursuant to the NPDES General Permit for Small Municipal Separate Storm Sewers Systems; 3) 401 Water Quality Certification for wetlands impacts; 4) Dewatering Permit under Waste Discharge Requirements General Order for Dewatering and Other Low Threat Discharges to Surface Waters Permit.
43. The main electrical panel for each residence shall be located at the exterior of the residence and capable of total electrical disconnect by a single throw.
44. A minimum one-hour occupancy separation shall be required for common walls separating residential units. Wall construction shall be approved by the Fire and Community Development Departments.
45. All wall assemblies separating dwelling units shall comply with Sound Transmission Control per 2001 California Building Code Section 1208.
46. The Developer shall preserve the Valley Oak trees identified at locations #56 and #58 in the March 8, 2006 Tree Protection Report.

47. The Developer shall repair the fencing on the existing emergency vehicle access/overland flood release located adjacent to the project site in the Carter Ranch project. The Developer shall also install fencing to close off the opening of the emergency vehicle access/overland flood release at its entrance to Cemetery Lane. The extent of the fencing work and type of materials shall be shown on the subdivision improvement plans and shall be approved by the City Engineer.

### **Design Review**

48. Prior to recordation of the Final Map, a deed restriction shall be recorded against each property that precludes conversion of garage area to livable areas. A separate deed restriction shall be recorded against Lots 13, 14, and 15 to prevent the installation of gates in the rear yard fences.
49. The residential units constructed for Lots 12A and 12B shall utilize different frontages.
50. Each residential driveway shall have a minimum depth of 20-feet.
51. Units on opposing sides of a street shall be compatible in terms of design and color.
52. Lights along local streets shall not exceed 20-feet in height and shall be spaced to meet illumination/safety requirements. Lights along collector and arterial streets shall be as low as feasible in order to maintain pedestrian scale. Historic-style street lamps shall be used along all streets including the private internal streets.
53. Exterior colors on residential units shall not be restricted.
54. Landscaping and signage shall be consistent with the applicable requirements of Chapters 17.76 (Landscaping and Design) and 17.80 (Signs) of the Winters Municipal Code.
55. The developer shall offer universal design features in residential units pursuant to State Law and shall provide prospective buyers with a copy of the State's most current "New Home Universal Design Option Checklist". A copy of the checklist shall be provided to the Winters Community Development Department prior to its use.
56. Details for the sound barrier and landscaping along West Grant Avenue shall be provided for City review and approval during a subsequent Site Plan (Design Review) for the project.

### **Affordable Housing**

57. Prior to recordation of the Final Map, an inclusionary housing agreement shall be prepared and executed for the identified income-restricted units/properties. Deed restrictions shall be recorded against the four affordable units, Lots 1, 12A, 12B, and 24. Of the four affordable units, two shall be restricted to very low-income households, one shall be restricted to a low-income household, and one shall be restricted to a moderate-income household.
58. The construction of the affordable units shall keep pace or exceed the construction of the market rate units.
59. Pursuant to Policy II.A.13 of the Housing Element, the affordable units shall be visually indistinguishable from the market-rate units.

### **Street Improvements**

60. All proposed public roads or their improvements for the subdivision shall comply with the City's Public Works Improvement Standards and Construction Specifications, dated September 2003 and as amended, unless otherwise approved by the City Engineer.

61. Grant Avenue:

a) The Developer shall construct improvements on Grant Avenue from Cemetery Road to West Main Street to support the project; the improvements shall be constructed per the Laugenour & Meikle Grant Avenue Interim Phase I Plan Line drawings dated March 28, 2006 with modifications yet to be approved by the City and Caltrans. Final limits of construction and street roadway cross sections will be determined and approved with the Final Map and Improvement Plans. Developer shall construct final improvement should the improvements not be constructed with the West Main Street at Avenue Traffic Signal Project. The West Main Street at Grant Avenue Traffic Signal Project is currently under design with the Callahan Estates Development and is anticipated to be constructed with the development.

b) The Developer shall construct pedestrian and landscape improvements on the south side of Grant Avenue along the frontage of the Waggoner Elementary School. Final frontage improvement shall be determined with the approval of the Final map and Improvement Plans for the Project.

c) A bus turnout shall be constructed on the north side of Grant Avenue along the frontage of the development. Limits of location yet to be determined.

d) No parking shall be allowed on Grant Avenue.

62. Local Streets: Local streets shall provide for ADA compliant sidewalk turnouts where sidewalk widths do not meet ADA requirements. All sidewalks at driveway locations shall be 6-inch thick Portland Cement Concrete (PCC).

63. The Grant Avenue Street Cross Sections on the Tentative Map dated February 13, 2006 do not apply. Conditions and Changes shall be made as follows: Street Cross Sections shall comply with final Laugenour and Meikle Grant Avenue Interim Phase I Plan Line drawings dated March 28, 2006 with modifications as approved by the City and Caltrans. Final limits of construction and street roadway cross sections will be determined and approved with the Final Map and Improvement Plans.

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

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

c) Street light types shall be those historic types as approved by the City.

**Storm Drainage and Site Grading**

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

65. A topographic survey of the entire site and a comprehensive grading and drainage plan prepared by a registered civil engineer, shall be required for the development. The plan shall include topographic information on adjacent parcels. In addition to grading information, the grading plan shall indicate all existing trees, and trees to be removed as a result of the proposed development, if any. A statement shall appear on the site grading and drainage plan, which shall be signed by a registered civil engineer or land surveyor and shall read, "I hereby state that all improvements have been substantially constructed as presented on these plans". Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.
66. The Tentative map Grading and Drainage plan showing grading and drainage information including topographic information, drainage routing, pipe slopes and sizing and locations and excluding topographic information, and overland drainage routing are preliminary only and do not constitute approval in any way. Final approval for the grading and Drainage Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval.
67. Construction materials for storm drainpipes within the water table shall be pre-cast rubber-gasket reinforced concrete pipe (RGRCP).
68. The differential in elevation between rear and side abutting lot lines shall not exceed twelve inches (12") without construction of concrete or masonry block retaining walls. Deviation from this condition may be allowed subject to approval by the City Engineer.
69. Drainage fees shall be paid prior to issuance of a building permit.
70. All perimeter parcels and lots shall be protected against surface runoff from adjacent properties in a manner acceptable to the City Engineer.
71. If disposal and sharing of the excavated soil from the construction of the Development occurs, prior to approval of the first Final Map, Applicant shall prepare a written agreement with the other participating property owners and submit to the City.
72. All projects shall include implementation of post-construction best management practices (BMP). Post construction BMP's shall be identified on improvement plans and approved by the City Engineer.
73. Construction of projects disturbing more than one acre of soil shall require a National Pollution Discharge Elimination System (NPDES) construction permit.
74. Applications/projects disturbing less than one acre of soil shall implement BMP's to prevent and minimize erosion. The improvement plans for construction of less than one acre shall include a BMP to be approved by the City Engineer.
75. An erosion and sedimentation control plan shall be included as part of the improvement plan package. The plan shall be prepared by the Applicant's civil engineer and approved by the City Engineer. The plan shall include but not be limited to interim protection measures such as benching, sedimentation basins, storm water retention basins, energy dissipation structures, and check dams. The erosion control plan shall also include all necessary permanent erosion control measures, and shall include scheduling of work to coordinate closely with grading operations. Replanting of graded areas and cut and fill slopes is required and shall be indicated accordingly on plans, for approval by City Engineer.
76. Where possible landscaped slopes along streets shall not exceed 5:1; exceptions shall require approval of the City Engineer. All other slopes shall comply with the City of Winters Public Works Improvements Standards. Level areas having a minimum width of two (2) feet shall be required at the toe and top of said slopes.
77. All inactive portions of the construction site, which have been graded will be seeded and watered until vegetation is grown.

78. Grading shall not occur when wind speeds exceeds 20 MPH over a one hour period.
79. Construction vehicle speed on unpaved roads shall not exceed 15 MPH.
80. Construction equipment and engines shall be properly maintained.
81. If air quality standards are exceeded in May through October, the construction schedule will be arranged to minimize the number of vehicles and equipment operating at the same time.
82. Construction practices will minimize vehicle idling.
83. Potentially windblown materials will be watered or covered.
84. Construction areas and streets will be wet swept.

#### **Wastewater and Sewer Collection System**

85. The Applicant shall obtain a no-cost Wastewater Discharge Permit from the Public Works Department prior to the issuance of a Building Permit.
86. The property shall be connected to the City of Winters sewer system, with a separate sewer lateral and cleanout required for each parcel, in accordance with City of Winters Public Improvement Standards and Construction Standards.
87. A Tentative Map Sewer Collection System Plan shall be submitted for approval by the City Engineer prior to submittal of the final map and/or construction drawings for checking. A registered civil engineer for project shall prepare the sewer collection system plan. The plan shall include final sizing and location of on-site conveyance facilities, structures, and engineering calculations.
88. The Tentative Map Sewer Plan showing sewer routing, pipe slopes and sizing and locations, are preliminary only and do not constitute approval in any way. Final approval for the Sewer Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval.
89. Construction of sewer mains deeper than 16-feet at the bottom of the pipe shall be connected to laterals by parallel mains and connections at manholes.

#### **Water Infrastructure**

90. Based on City water modeling, a new well is needed to serve the development. Per Mitigation Measure #17, no building permits shall be issued until the new well is in service.
91. The Tentative Map Water Plan showing water routing, sizing and locations, are preliminary only and do not constitute approval in any way. Final approval for the Water Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval. Applicant shall comply with making changes to water system distribution pipe sizes and alignments based on the results of the specific water modeling performed for the development. If required, Applicant shall pay for all required water modeling for identifying water infrastructure needs to serve its development and shall construct offsite water improvements to connect to the City water distribution system.
92. At the time the Final Map is approved, the Applicant will be required to pay the appropriate City connection fees. All domestic water services will be metered. Water meters shall be installed on all water services to the satisfaction of the City Engineer.
93. Per City of Winters Cross Connection Control Program, all types of commercial buildings and landscape irrigation services are required to maintain an approved backflow prevention assembly, at the Applicant's expense. Service size and flow-rate for the backflow prevention assembly must be submitted. Location of the backflow prevention assembly shall be per the City of Winters Public Improvements Standards and

Construction Standards. Prior to the installation of any backflow prevention assembly between the public water system and the owner's facility, the owner or contractor shall make application and receive approval from the City Engineer or his designated agent.

94. Per the City of Winters Cross Connection Control Program, fire protection systems are required to maintain approved backflow prevention, at the Applicant's expense. Required location, service size and flow-rate for the fire protection system must be submitted. Actual location is subject to the review and approval of the Public Works Department, Fire Department, and Community Development Department.
95. The City of Winters Plan Review Fee applies and is due upon submittal of the maps and plans for review.
96. **FINAL PLANS, PERIODIC TESTS FOR FIRE HYDRANTS:** All final plans for fire hydrant systems and private water mains supplying a fire hydrant system shall be submitted to the City of Winters Fire Department for approval prior to construction of the system. The Applicant shall install one or more fire hydrants on the project's West Grant Avenue frontage and one or more fire hydrants along the project's internal roadway. The number and location of the fire hydrants shall be determined by the Fire Chief. All fire protection systems and appurtenances thereto shall be subject to such periodic tests as required by the City of Winters Fire Department.
97. **WATER PRESSURE:** All water lines and fire hydrant systems must be approved by the Fire Chief and operating prior to any construction taking place on the site. Prior to issuance of building permits, water flow must be measured and certified for adequacy by the Winters Fire District. The minimum residual pressure shall be 20 PSI.
98. **REFLECTORS FOR FIRE HYDRANTS:** Any fire hydrant installed will require, in addition to the blue reflector noted in Standard Drawings, an additional blue reflector and glue kit that is to be supplied to the City of Winters Fire Department for replacement purposes.
99. All construction, new or remodeling, shall conform to the most current Uniform Fire Codes, the Winters Fire Prevention Code, and section of the National Fire Codes that the Winters Fire Chief or his/her agent may find necessary to apply.
100. Forty-eight hours notice shall be given to the Winters Fire District prior to any site inspections.
101. A hydrant use permit shall be obtained from the Public Works Department, for water used in the course of construction.
102. When the fire protection facilities are in the City of Winters, the Developer shall contact the Winters Fire District Chief or his/or agent prior to construction for a pre-construction meeting.
103. All required fire accesses that are to be locked shall be locked with a system that is approved by the Fire Chief or his/her agent.
104. Submit four sets of plans for each fire suppression sprinkler system to the Fire Department for review and approval prior to the issuance of each building permit.
105. All residences shall have fire suppression sprinkler systems meeting or exceeding NFPA 13-D. Water laterals shall be appropriately sized to accommodate sufficient water flows for fire suppression sprinkler systems. Each residence shall have its own horn and strobe unit.

#### **General Public Works and Engineering Conditions**

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

107. Closure calculations shall be provided at the time of initial map check submittal. All calculated points within the map shall be based upon one common set of coordinates. All information shown on the map shall be directly verifiable by information shown on the closure calculation print out. The point(s) of beginning shall be clearly defined and all lot acreage shall be shown and verifiable from information shown on the closure calculation print out. Additionally, the square footage of each lot shall be shown on the subdivision map. Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.
108. A subdivision map shall be processed and shall be recorded prior to issuance of a building permit. The Developer shall provide, to the City Engineer, one recorded Mylar copy and four print copies of the Final Map from the County, prior to issuance of the first building permit.
109. U.S. Post Office mailbox locations shall be shown on the improvement plans subject to approval by the City Engineer and Postmaster.
110. A registered landscape architect shall design public landscape and privacy wall improvements and improvements shall be per City Standards, as applicable.
111. Applicant shall make every attempt to submit joint trench/utility/composite plans for review, prior to approval of the Final Map and improvement plans. Construction will not be allowed to proceed prior to submittal of the joint trench/utility/composite plans for City review.
112. All existing and proposed utilities (electric, phone/data, and cable) shall be installed underground per the subdivision ordinance and shall meet the policies, ordinances, and programs of the City of Winters and the utility providers.
113. Street lighting location plan shall be submitted and approved by the City Engineer, prior to approval of improvement plans and final recordation of Map.
114. Roads must be constructed and paved prior to issuance of any building permit. Under specific circumstances, temporary roads may be allowed, but must be approved by the City Engineer and Fire Department.
115. Occupancy of residential units shall not occur until on-site and off-site improvements have been accepted by the City Council and the City has approved as-built drawings, unless otherwise approved by the City Engineer and Community Development Director. Applicants, and/or owners shall be responsible to so inform prospective buyers, lessees, or renters of this condition.
116. If relocation of existing facilities is deemed necessary, the Applicant shall perform the relocation, at the Applicant's expense unless otherwise provided for through a reimbursement agreement. All public utility standards for public easements shall apply.
117. A Subdivision Improvement Agreement shall be entered into and recorded prior construction of improvements, issuance of any building permits, or recordation of a Final Map.
118. At the time of making the survey for the Final Map, the engineer or surveyor shall set sufficient durable monuments to conform to the standards described in Section 8771 of the Business and Professions Code. All monuments necessary to establish the exterior boundaries of the subdivision shall be set or referenced prior to recordation of the Final Map.

#### **Easements and Right of Way**

119. Appropriate easements shall be required for City maintained facilities located outside of City owned property or the public right-of-way.
120. The Applicant shall facilitate, with City cooperation, the abandonment of all City easements and dedications currently held but no longer necessary as determined by the City.

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

#### **Reimbursements for Applicant Installed Improvements**

122. Applicant shall pay appropriate reimbursements for benefiting improvements installed by others, in the amount and at the time specified by existing reimbursement agreements.

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

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

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

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

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

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

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

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

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

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

**MRG/TM COAs CC 6Mar07**



Economic &  
Planning Systems

Public Finance  
Real Estate Economics  
Regional Economics  
Land Use Policy

## MEMORANDUM

To: Dan Sokolow, *Community Development Director, City of Winters*

From: Dave Sanders, *Vice President*

Subject: City of Winters – Mary Rose Gardens Fiscal Impact Analysis; EPS# 16626

Date: January 23, 2007

At the request of the City of Winters (City), Economic & Planning Systems, Inc. completed a fiscal impact analysis of the proposed new residential subdivision, i.e., Mary Rose Gardens (Project) in the City through the buildout time frame of the current General Plan. The current City General Plan was adopted in May 1992. It is estimated that buildout of the General Plan will occur by 2010. The objective of this analysis is to determine whether this specific project will generate adequate revenues to meet the costs of providing City services to the new development through the time frame of the current General Plan, that is, whether the net effect of development is likely be a positive or negative one to the fiscal well being of the City.

The Project is located within the current City boundaries and in the RDA project area. The development schedule used for this analysis assumes the construction of 26 single-family detached and 1 duplex unit, for a total of 28 residential units, by the year 2012. Of these new residential units, 6 percent, or 2 units, needs to meet the very-low income affordable housing needs, and 2 percent, or 2 units, need to meet the low- to moderate-income affordable housing needs of the City.

If these development plan assumptions are changed, results of the analysis will vary. The development schedule is based on information provided by the City, combined with historical and projected demographic data from the DOF, EDD, and SACOG.

The analysis is based on the current adjusted FY 2005–06 City Budget, current tax regulations and statutes, and general assumptions shown in the fiscal impact analysis appendices.

**SACRAMENTO**

2150 River Plaza Drive, Suite 400  
Sacramento, CA 95833  
www.epsys.com

phone: 916-649-8010  
fax: 916-649-2070



**BERKELEY**

phone: 510-841-9190  
fax: 510-841-9268

**DENVER**

phone: 303-623-3537  
fax: 303-623-9049

## FISCAL IMPACT SUMMARY

As shown on **Table 1**, the Project development will result in a net fiscal deficit for the City's General Fund (i.e., development generated revenues will not be sufficient to fund expenditures for this Project), assuming no additional revenues are generated specifically from the new residential and nonresidential construction.

**Table 1**  
**Fiscal Impact Summary of the Project - FY 2012 (2006 \$'s)**

	With RDA		Without RDA	
	Fiscal Year	Residential	Fiscal Year	Residential
	<u>2012 Totals</u>	<u>Per Unit Cost</u>	<u>2012 Totals</u>	<u>Per Unit Cost</u>
<b><u>General Plan Service Levels</u></b>				
Annual Revenues	\$33,800	\$1,200	\$61,000	\$2,200
Annual Expenses	\$56,000	\$2,000	\$56,000	\$2,000
Operating Surplus / (Deficit)	(\$22,300)	(\$800)	\$5,000	\$200
<b><u>Redevelopment Agency Revenues</u></b>	\$119,500	\$4,300	\$0	\$0

*"RDA\_Impact"*

The analysis projects that, despite paying the existing municipal services tax and citywide assessment tax, the proposed development will result in a net fiscal deficit for the General Fund (i.e., development-generated revenues will not be sufficient to fund expenditures for this project), assuming that no additional revenues are generated specifically from the new residential construction and that services are increased to the General Plan Service Levels. This finding is based on the City having a moderate increase in service levels for police protection and a substantial service level increase in fire protection by FY 2011-12.

**Table 2** shows the \$22,300 annual deficit in 2012 represents about \$800 per new unit for the General Fund. However, the RDA \$119,500 annual revenues in 2012 represent about \$4,300 per unit. The following four primary reasons result in the projected deficit from the Project to the City's General Fund

1. The property tax revenues from the Project flow to the RDA since the Project is in the redevelopment area.
2. The fiscal analysis includes increased per capita and per persons served costs for police protection and fire protection to meet the following future City General Plan service levels:
  - Police Services—providing 1.8 sworn officers per 1,000 population.

- Fire Services—providing full-time staffing on a 24-hour basis at the fire station.
3. Winters' estimated "capture rate" of per capita taxable sales from the new residents is approximately \$4,400, or 32 percent of the statewide 2004 average per capita taxable sales of approximately \$13,700. The City's weakness in the capture rate of the per capita taxable sales will not improve until more retail construction occurs within the City's boundaries. The importance of taxable sales and the resulting sales tax revenues in funding City services is illustrated by the fact that if Winters captured the average per capita taxable sales equal to the statewide average at its current population of approximately 6,900, an additional \$641,000 in General Fund sales tax revenues would be available.
  4. The construction of 4 affordable housing single-family units dilutes the total property tax revenue flow from the Project. The affordable housing units will have an estimated taxable AV of 46 percent compared to the market rate housing units. The affordable housing units generate less property tax revenues to the RDA, while the cost of services provided to these units is the same as those services provided to the market-rate housing units.

Table 2  
 City of Winters  
 Fiscal Impact Analysis  
 Mary Rose Gardens  
 Annual Fiscal Impact Summary (Constant 2006 Dollars)

DRAFT

General Plan Services Levels

ITEM	Fiscal Year Ending						
	2006	2007	2008	2009	2010	2011	2012
<b>GENERAL FUND</b>							
Total Revenues	\$0	\$0	\$42,024	\$34,062	\$33,930	\$33,829	\$33,755
Total Expenditures	\$0	\$0	(\$56,037)	(\$56,037)	(\$56,037)	(\$56,037)	(\$56,037)
Operating Surplus (Deficit)	\$0	\$0	(\$14,013)	(\$21,975)	(\$22,107)	(\$22,208)	(\$22,282)
<b>SUMMARY FIGURES ON A PER DWELLING UNIT BASIS</b>							
<i>Est. Cumulative New Dwelling Uni</i>	0	0	28	28	28	28	28
<b>GENERAL FUND</b>							
Total Revenues	\$0	\$0	\$1,501	\$1,216	\$1,212	\$1,208	\$1,206
Total Expenditures	\$0	\$0	(\$2,001)	(\$2,001)	(\$2,001)	(\$2,001)	(\$2,001)
Operating Surplus (Deficit)	\$0	\$0	(\$500)	(\$785)	(\$790)	(\$793)	(\$796)
<b>Redevelopment Agency Funds</b>							
Total Tax Increment	\$0	\$0	\$123,896	\$122,309	\$121,193	\$120,245	\$119,528
<b>RDA Revenues per Unit</b>							
80 Percent RDA Funds	\$0	\$0	\$3,508	\$3,466	\$3,432	\$3,405	\$3,385
20 Percent Housing Funds	\$0	\$0	\$885	\$874	\$866	\$859	\$854

\*summary2\*

## MITIGATION MEASURES

If the City decides to require mitigation measures from the Project to achieve the General Plan service levels, possible funding mechanisms include a one-time fee from new development to fund a portion of service costs or an ongoing Mello-Roos Community Facilities District (CFD) to fund eligible services related to future development. A combination of mitigation measures may be used to reduce this deficit.

If a one-time building permit fee was collected for each dwelling unit to offset the fiscal deficits of the General Fund for the 2006–2012 period, the fee would amount to approximately \$3,700 per dwelling unit. The operating revenues produced by this mitigation measure, however, are finite. When the last dwelling unit is built, the one-time service impact fee revenues stop, leaving the cost of the increased operating service levels unfunded.

If an ongoing Mello-Roos CFD was formed to fund eligible services, the maximum annual special tax would amount to approximately \$800 per dwelling unit. While this operational revenue source would be permanent, it does create a higher tax burden for residents in the new developing areas of the City that is not paid by the existing city residents. In addition, the Mello-Roos CFD revenues would not fund the portion of the increased police and fire protection service levels that would be needed to bring the existing population of the City up to the General Plan service levels.

Another, mitigation alternative could recognize the beneficial impact of the RDA Funding for Housing, while partially mitigating the long-term impact on the General Fund. As shown on Table 3, a one-time building permit fee of \$7,350 per unit, depending on the annual interest earnings rate, would fund the annual General Fund deficit per residential unit under the General Plan service levels, recognizing the 20% RDA Housing Funding, for an indefinite time period.

**Table 3**  
**Summary of Fee Analysis to Finance General Fund Expenses**  
**For the Mary Rose Gardens Sub-Division**

ITEM	Total	Fiscal Year Ending						
		2006	2007	2008	2009	2010	2011	2012
Population - Estimated Growth	88	0	0	88	88	88	88	88
Households - Estimated Growth	28	0	0	28	28	28	28	28
One-Time Fee per Dwelling Unit to	\$7,327							
<b>Summary Cashflow All Funds - Inflated \$'s</b>								
Beginning Balance		\$0	\$0	\$0	\$231,315	\$244,501	\$257,950	\$271,745
Fee Revenues	3.5% Inflation	\$0	\$0	\$219,782	\$0	\$0	\$0	\$0
Deficit Expenses	3.5% Inflation	\$0	\$0	\$11,533	\$2,777	\$2,446	\$2,187	\$1,996
Interest Revenue	4.5% Interest	\$0	\$0	\$0	\$10,409	\$11,003	\$11,608	\$12,229
Ending Balance		\$0	\$0	\$231,315	\$244,501	\$257,950	\$271,745	\$285,969

*\*for summary\**

If the City implemented a citywide funding mechanism to fund the higher General Plan service levels for the existing city residents, the separate special taxes imposed on new development could be reduced to avoid double charging the new city residents.

## SUMMARY AND ASSUMPTIONS

### FISCAL IMPACT SUMMARY

**Table A-1** summarizes the City's projected annual revenues and expenditures for the Project subdivision for fiscal years 2006 through 2012. The development is projected to generate an annual fiscal deficit (i.e., projected expenditures exceeding projected revenues) each year ranging from approximately \$14,000 in 2008 to of approximately \$22,300 by 2012. **Table A-2** summarizes the City's projected annual revenues and expenditures for the Project subdivision was built outside of the RDA project area.

### GENERAL ASSUMPTIONS

**Figure A-3** shows the fiscal study's general assumptions such as the estimated inflation rate, legislated property tax escalation rate, property appreciation rate, and general City demographics.

Some revenues and expenses are impacted by both residents and employees. A persons-served methodology that accounts for both residents and employees is used to estimate the impact of revenues and expenses that are impacted by both groups. Persons served methodology is defined as the population plus half of the employees.

The City's population data was provided by the State DOF. Total employees in the City were estimated by EPS based on SACOG's employee estimates and projections.

## LAND USE ASSUMPTIONS

### **Residential Development**

**Figure A-4** shows the land use assumptions used in this study for each of the different land use categories.

### **Development Plan**

**Figures A-5 and A-6** show the estimated land use development plan and the estimated absorption schedule for the residential subdivision. Residential valuations are based on the preliminary estimates furnished by the developer. The City furnished the estimated valuations of the potential Affordable Housing units. The persons per dwelling unit estimate was obtained from the California DOF data. **Figure A-7** shows the estimated population growth resulting from the completion of the residential units.

Table A-1  
 City of Winters  
 Fiscal Impact Analysis  
 Mary Rose Gardens  
 Annual Fiscal Impact Summary -- with RDA Impact (Constant 2005-06 dollars)

General Plan Service Levels

ITEM	Fiscal Year Ending						
	2006	2007	2008	2009	2010	2011	2012
<b>General Fund Revenues</b>							
Property Tax	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Real Property Transfer Tax	\$0	\$0	\$8,662	\$875	\$883	\$892	\$900
Sales and Use Tax (inc. Public Safety)	\$0	\$0	\$2,486	\$2,487	\$2,489	\$2,490	\$2,492
Property Tax in Lieu of Sales Tax	\$0	\$0	\$729	\$730	\$730	\$731	\$731
Property Tax in Lieu of Motor Vehicle Fees	\$0	\$0	\$14,576	\$14,400	\$14,258	\$14,146	\$14,062
Municipal Services Tax	\$0	\$0	\$3,360	\$3,360	\$3,360	\$3,360	\$3,360
Other Taxes	\$0	\$0	\$7,234	\$7,234	\$7,234	\$7,234	\$7,234
Other Licenses and Permits	\$0	\$0	\$177	\$177	\$177	\$177	\$177
Motor Vehicle in Lieu	\$0	\$0	\$732	\$732	\$732	\$732	\$732
Current Service Charges-Offsetting Costs	\$0	\$0	\$197	\$197	\$197	\$197	\$197
Rents and Concessions	\$0	\$0	\$846	\$846	\$846	\$846	\$846
Other Revenue	\$0	\$0	\$715	\$715	\$715	\$715	\$715
Citywide Assessment District	\$0	\$0	\$2,310	\$2,310	\$2,310	\$2,310	\$2,310
<b>Total General Fund Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$42,024</b>	<b>\$34,062</b>	<b>\$33,930</b>	<b>\$33,829</b>	<b>\$33,755</b>
<b>General Fund Expenditures</b>							
City Council	\$0	\$0	\$3	\$3	\$3	\$3	\$3
City Manager	\$0	\$0	\$234	\$234	\$234	\$234	\$234
Contingency Appropriation	\$0	\$0	\$0	\$0	\$0	\$0	\$0
City Clerk	\$0	\$0	\$132	\$132	\$132	\$132	\$132
City Attorney	\$0	\$0	\$175	\$175	\$175	\$175	\$175
Finance and Treasurer	\$0	\$0	\$27	\$27	\$27	\$27	\$27
Police Services	\$0	\$0	\$21,188	\$21,188	\$21,188	\$21,188	\$21,188
Fire Services	\$0	\$0	\$15,891	\$15,891	\$15,891	\$15,891	\$15,891
Comm. Development & Building Insp.	\$0	\$0	\$5,229	\$5,229	\$5,229	\$5,229	\$5,229
Public Works - Admin and Engineering	\$0	\$0	\$2,875	\$2,875	\$2,875	\$2,875	\$2,875
Streets	\$0	\$0	\$2,571	\$2,571	\$2,571	\$2,571	\$2,571
Gen. Recreation, Swimming, and Comm. Center	\$0	\$0	\$2,572	\$2,572	\$2,572	\$2,572	\$2,572
Administrative Services	\$0	\$0	\$1,624	\$1,624	\$1,624	\$1,624	\$1,624
City Wide Assessment Fund No. 211	\$0	\$0	\$3,516	\$3,516	\$3,516	\$3,516	\$3,516
<b>Total General Fund Expenses</b>	<b>\$0</b>	<b>\$0</b>	<b>\$56,037</b>	<b>\$56,037</b>	<b>\$56,037</b>	<b>\$56,037</b>	<b>\$56,037</b>
<b>General Fund Operating Surplus (Def.)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$14,013)</b>	<b>(\$21,975)</b>	<b>(\$22,107)</b>	<b>(\$22,208)</b>	<b>(\$22,282)</b>
<b>General Fund Surplus (Deficit) per unit</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$500)</b>	<b>(\$785)</b>	<b>(\$790)</b>	<b>(\$793)</b>	<b>(\$796)</b>
<b>Winters Redevelopment Agency Funding</b>	<b>\$0</b>	<b>\$0</b>	<b>\$123,896</b>	<b>\$122,399</b>	<b>\$121,193</b>	<b>\$120,245</b>	<b>\$119,528</b>
<b>Total Municipal Surplus (Deficit)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$109,883</b>	<b>\$100,424</b>	<b>\$99,086</b>	<b>\$98,037</b>	<b>\$97,246</b>

\*summary\*

**Table A-2**  
**City of Winters**  
**Fiscal Impact Analysis**  
**Mary Rose Gardens**  
**Annual Fiscal Impact Summary -- without RDA (Constant 2005-06 dollars)**

General Plan Service Levels
-----------------------------

ITEM	Fiscal Year Ending						
	2006	2007	2008	2009	2010	2011	2012
<b>General Fund Revenues</b>							
Property Tax	\$0	\$0	\$28,552	\$28,207	\$27,929	\$27,711	\$27,546
Real Property Transfer Tax	\$0	\$0	\$8,662	\$875	\$883	\$892	\$900
Sales and Use Tax (inc. Public Safety)	\$0	\$0	\$2,486	\$2,487	\$2,489	\$2,490	\$2,492
Property Tax in Lieu of Sales Tax	\$0	\$0	\$729	\$730	\$730	\$731	\$731
Property Tax in Lieu of Motor Vehicle Fees	\$0	\$0	\$14,576	\$14,400	\$14,258	\$14,146	\$14,062
Municipal Services Tax	\$0	\$0	\$3,360	\$3,360	\$3,360	\$3,360	\$3,360
Other Taxes	\$0	\$0	\$7,234	\$7,234	\$7,234	\$7,234	\$7,234
Other Licenses and Permits	\$0	\$0	\$177	\$177	\$177	\$177	\$177
Motor Vehicle in Lieu	\$0	\$0	\$732	\$732	\$732	\$732	\$732
Current Service Charges-Offsetting Costs	\$0	\$0	\$197	\$197	\$197	\$197	\$197
Rents and Concessions	\$0	\$0	\$846	\$846	\$846	\$846	\$846
Other Revenue	\$0	\$0	\$715	\$715	\$715	\$715	\$715
Citywide Assessment District	\$0	\$0	\$2,310	\$2,310	\$2,310	\$2,310	\$2,310
<b>Total General Fund Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$70,576</b>	<b>\$62,269</b>	<b>\$61,860</b>	<b>\$61,540</b>	<b>\$61,301</b>
<b>General Fund Expenditures</b>							
City Council	\$0	\$0	\$3	\$3	\$3	\$3	\$3
City Manager	\$0	\$0	\$234	\$234	\$234	\$234	\$234
Contingency Appropriation	\$0	\$0	\$0	\$0	\$0	\$0	\$0
City Clerk	\$0	\$0	\$132	\$132	\$132	\$132	\$132
City Attorney	\$0	\$0	\$175	\$175	\$175	\$175	\$175
Finance and Treasurer	\$0	\$0	\$27	\$27	\$27	\$27	\$27
Police Services	\$0	\$0	\$21,188	\$21,188	\$21,188	\$21,188	\$21,188
Fire Services	\$0	\$0	\$15,891	\$15,891	\$15,891	\$15,891	\$15,891
Comm. Development & Building Insp.	\$0	\$0	\$5,229	\$5,229	\$5,229	\$5,229	\$5,229
Public Works - Admin and Engineering	\$0	\$0	\$2,875	\$2,875	\$2,875	\$2,875	\$2,875
Streets	\$0	\$0	\$2,571	\$2,571	\$2,571	\$2,571	\$2,571
Gen. Recreation, Swimming, and Comm. Center	\$0	\$0	\$2,572	\$2,572	\$2,572	\$2,572	\$2,572
Administrative Services	\$0	\$0	\$1,624	\$1,624	\$1,624	\$1,624	\$1,624
City Wide Assessment Fund No. 211	\$0	\$0	\$3,516	\$3,516	\$3,516	\$3,516	\$3,516
<b>Total General Fund Expenses</b>	<b>\$0</b>	<b>\$0</b>	<b>\$56,037</b>	<b>\$56,037</b>	<b>\$56,037</b>	<b>\$56,037</b>	<b>\$56,037</b>
<b>General Fund Operating Surplus (Def.)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$14,539</b>	<b>\$6,232</b>	<b>\$5,823</b>	<b>\$5,503</b>	<b>\$5,264</b>
<b>General Fund Surplus (Deficit) per unit</b>	<b>\$0</b>	<b>\$0</b>	<b>\$519</b>	<b>\$223</b>	<b>\$208</b>	<b>\$197</b>	<b>\$188</b>
<b>Winters Redevelopment Agency Funding</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Total Municipal Surplus (Deficit)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$14,539</b>	<b>\$6,232</b>	<b>\$5,823</b>	<b>\$5,503</b>	<b>\$5,264</b>

"summary"

**Table A-3  
Mary Rose Gardens  
General Assumptions**

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**General Assumptions**

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Fiscal Year of Analysis	2006
Fiscal Year Dollars Discounted to	2006
Cash Flow Base Year	2006
Inflation (Discount) Rate [1]	3.5%
Interest Earnings	4.5%
Legislated Tax Escalation Rate	2.0%
Property Turnover Rate (% per year)	
Residential - Single-Family	10.0%
Residential - Affordable Housing	10.0%
Residential - Multifamily	5.0%
Property Appreciation Rate [2]	4.5%
General Government Services Weighting Factor	100.0%

**General Demographic**

**As of  
Jan. 1, 2006**

Yolo County Population	190,344
Winters Population [3]	6,867
Employees in Winters [4]	1,847
Winters Persons Served [5]	7,791

---

*"general\_assumptions"*

[1] The discount rate is the factor used in taking the present value of any inflated dollars.

[2] 1% annual real market appreciation is assumed over the base rate of inflation.

[3] The January 1st population estimate for each year shown is from the State Department of Finance.

[4] Employees were 1,415 in 1/1/2000 based on SACOG data.

216 additional employees per year have been added to estimate new company growth by 2006.

[5] Persons served is defined as population plus 50% of employees.

Sources: State Department of Finance, SACOG, and EPS.

**Table A-4**  
**Mary Rose Gardens**  
**Land Use Development Plan**

Land Use	Buildout Acreage	Buildout	
		Dwelling Units	Commercial Square Footage
<b>Residential:</b>			
Single-Family Low-Density	5.27	24	--
Single-Family High-Density	0.00	0	--
Multifamily High-Density	0.00	0	--
Affordable Housing - Very Low Income (6%)	0.00	2	--
Affordable Housing - Low to Moderate Income (9%)	0.00	2	--
not used	0.00	0	--
<b>Subtotal Residential</b>	<b>5.27</b>	<b>28</b>	
<b>Nonresidential:</b>			
Business Park	0.00	--	--
Village Commercial	0.00	--	--
Commercial	0.00	--	--
Recreation Club	0.00	--	--
Private Golf Course	0.00	--	--
<b>Subtotal Nonresidential</b>	<b>0.00</b>		<b>0</b>
<b>Public and Other Use:</b>			
Schools	0.00	--	--
Green-space	0.00	--	--
Cemetery	0.00	--	--
Other Public Facilities	0.00	--	--
Park/Open Space/Wetlands	0.42	--	--
Landscape Medians	0.00	--	--
Major Street Right-of-Way	0.00	--	--
<b>Subtotal Public Use</b>	<b>0.42</b>		
<b>Total</b>	<b>5.69</b>	<b>28</b>	<b>0</b>

"land\_use\_plan"

Source: City of Winters, and EPS

**Table A-5  
Mary Rose Gardens  
Land Use Assumptions**

Land Use	Descriptive Units	Estimated Number of Units	Secured Value per Unit	Unsecured Val. per Unit	Turnover Rate	Persons per DU	Sq. Ft. per Employee	Vacancy Rate
Single-Family Low-Density	dwelling unit	24	\$597,000	\$0	10.0%	3.153	0	3.0%
Single-Family High-Density	[1] dwelling unit	--	\$0	\$0	10.0%	3.153	0	3.0%
Multifamily High-Density	dwelling unit	--	\$0	\$0	5.0%	2.000	0	8.0%
Affordable Housing - Very Low Income (6%)	[1] dwelling unit	2	\$247,500	\$0	10.0%	3.153	0	3.0%
Affordable Housing - Low to Moderate Income (9%)	[1] dwelling unit	2	\$313,500	\$0	10.0%	3.153	0	3.0%
Not Used	square feet	--	\$0	\$0	5.0%	0.000	300	7.5%
Not Used	square feet	--	\$0	\$0	5.0%	0.000	350	7.5%
Commercial	square feet	0.0	\$240	\$20	5.0%	0.000	500	3.5%
Not Used	square feet	--	\$0	\$0	0.0%	0.000	300	7.5%
Not Used	courses	--	\$0	\$0	0.0%	0.000	30	7.5%
Not Used	--	--	\$0	\$0	0.0%	0.000	0	N/A
Not Used	--	--	\$0	\$0	0.0%	0.000	0	0.0%

"Land Use Assumptions"

Source: State of California, Department of Finance, City of Winters, and EPS

[1] Based on an average estimated sales price of \$275 per square foot for the market price units.

**Table A-6  
Mary Rose Gardens  
Development Schedule**

Land Use	Total	Fiscal Year Ending						
		2006	2007	2008	2009	2010	2011	2012
Single-Family Low-Density (units)	24	0	0	24	0	0	0	0
Single-Family High-Density (units)	0	0	0	0	0	0	0	0
Multifamily High-Density (units)	0	0	0	0	0	0	0	0
Affordable Housing - Very Low Income (6%) (units)	2	0	0	2	0	0	0	0
Affordable Housing - Low to Moderate Income (9%) (units)	2	0	0	2	0	0	0	0
Business Park (sq. ft.)	0	0	0	0	0	0	0	0
Village Commercial (sq. ft.)	0	0	0	0	0	0	0	0
Commercial (sq. ft.)	0	0	0	0	0	0	0	0
Recreation Club (sq. ft.)	0	0	0	0	0	0	0	0
Private Golf Course (course)	0	0	0	0	0	0	0	0
Other Public Facilities	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

**Cumulative Development Schedule**

Single-Family Low-Density (units)	24	0	0	24	24	24	24	24
Single-Family High-Density (units)	0	0	0	0	0	0	0	0
Multifamily High-Density (units)	0	0	0	0	0	0	0	0
Affordable Housing - Very Low Income (6%) (units)	2	0	0	2	2	2	2	2
Affordable Housing - Low to Moderate Income (9%) (units)	2	0	0	2	2	2	2	2
<b>Total Residential Units</b>	<b>28</b>	<b>0</b>	<b>0</b>	<b>28</b>	<b>28</b>	<b>28</b>	<b>28</b>	<b>28</b>
Business Park (sq. ft.)	0	0	0	0	0	0	0	0
Village Commercial (sq. ft.)	0	0	0	0	0	0	0	0
Commercial (sq. ft.)	0	0	0	0	0	0	0	0
Recreation Club (sq. ft.)	0	0	0	0	0	0	0	0
Private Golf Course (course)	0	0	0	0	0	0	0	0
Other Public Facilities	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

"dev\_schedule"

Source: Winters Planning Department, and EPS

**Table A-7**  
**Mary Rose Gardens**  
**Resident Population and Employees by Land Use**

Land Use	Total	Fiscal Year Ending						
		2006	2007	2008	2009	2010	2011	2012
<b>Resident Population</b>								
Single-Family Low-Density	76	0	0	76	0	0	0	0
Single-Family High-Density	0	0	0	0	0	0	0	0
Multifamily High-Density	0	0	0	0	0	0	0	0
Affordable Housing - Very Low Income (6%)	6	0	0	6	0	0	0	0
Affordable Housing - Low to Moderate Income (9%)	6	0	0	6	0	0	0	0
<b>Annual Total Population</b>	<b>88</b>	<b>0</b>	<b>0</b>	<b>88</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Cumulative Total Population</b>	<b>88</b>	<b>0</b>	<b>0</b>	<b>88</b>	<b>88</b>	<b>88</b>	<b>88</b>	<b>88</b>
<b>Employees</b>								
Business Park	0	0	0	0	0	0	0	0
Village Commercial	0	0	0	0	0	0	0	0
Commercial	0	0	0	0	0	0	0	0
Recreation Club	0	0	0	0	0	0	0	0
Private Golf Course	0	0	0	0	0	0	0	0
Not Used	0	0	0	0	0	0	0	0
Not Used	0	0	0	0	0	0	0	0
<b>Annual New Employees</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Cumulative Total Employees</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Annual Persons Served [1]</b>	<b>88</b>	<b>0</b>	<b>0</b>	<b>88</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Cumulative Persons Served [1]</b>		<b>0</b>	<b>0</b>	<b>88</b>	<b>88</b>	<b>88</b>	<b>88</b>	<b>88</b>

"population"

## RESOLUTION NO. 2007-xx

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS FINALIZING AND APPROVING THE MITIGATED NEGATIVE DECLARATION FOR THE MARY ROSE GARDENS SUBDIVISION

WHEREAS, the Mary Rose Gardens Subdivision site (APN 003-524-19) consists of approximately 5.69 acres located north of Grant Avenue (State Route 128), south of the Carter Ranch Phase II Subdivision, east of the of the Carter Ranch Phase I Subdivision, and west of Cemetery Lane and the Kaiser-Aetna Subdivision at 415 West Grant Avenue, Winters, California 95694;

WHEREAS, on May 19, 1992 the city adopted the General Plan and certified the General Plan EIR. The General Plan identifies that future residential growth will occur on this parcel and others in the area;

WHEREAS, on February 14, 2006 the applicant submitted an application for the Mary Rose Gardens Project which was subsequently found to be complete;

WHEREAS, on September 28, 2006 a draft Mitigated Negative Declaration was released for public review for a 22-day period during which time two timely comment letters were received;

WHEREAS, pursuant to Section 15070(b)(2) of the CEQA Guidelines, the applicant has agreed to the mitigation measures identified in the Final Mitigation Monitoring Plan.

WHEREAS, all comments received on the Mitigated Negative Declaration have been fully addressed;

WHEREAS, two neighborhood workshops were held on the project on January 25, 2006 and January 28, 2006 and a public workshop was held on the project on March 28, 2006;

WHEREAS, two legally noticed public hearings on the project have been held before the Planning Commission (October 30, 2007 and November 28, 2006) in order to receive input and testimony;

WHEREAS, four legally noticed public hearings on the project have been held before the City Council (February 6, 2007, and February 20, 2007, March 6, 2007, and March 20, 2007) in order to receive input and testimony;

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

1. The City Council has considered the proposed Mitigated Negative Declaration (original and revised before making a decision on the project.
2. The City Council has considered comments received on the Mitigated Negative Declaration during the public review process;
3. The City Council finds that the environmental checklist/initial study identified potentially significant effects, but: a) mitigation measures agreed to by the applicant before the mitigated negative declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant impact would occur; and b) there is no substantial evidence, in light of the whole record before the City, that the project as revised to include the mitigation measures may have a significant effect on the environment.
4. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Winters.

5. The Mitigated Negative Declaration has been prepared in compliance with CEQA and the State CEQA Guidelines, and is determined to be complete and final.
6. The custodian of the documents, and other materials, which constitute the record of proceedings is the Community Development Director. The location of these items is the office of the Community Development Department at City Hall, 318 First Street, Winters, California 95694.
7. The Mitigation Monitoring Plan in Exhibit A, attached hereto and incorporated herein by this reference is hereby adopted to ensure implementation of mitigation measures identified in the Mitigated Negative Declaration. The City Council finds that these mitigation measures are fully enforceable as conditions of approval of the project, and shall be binding on the applicant, future property owners, and affected parties.
8. The City Council has determined that no special findings related to proximity to public use airports, pursuant to Section 15074(e) of the CEQA Guidelines, are required.
9. The City Council hereby adopts the Mary Rose Gardens Subdivision Mitigated Negative Declaration in Exhibit B, attached hereto and incorporated herein by this reference.
10. The City Council hereby confirms that the modified mitigation measures have been made conditions of approval and are incorporated fully into the project approval.
11. A Notice of Determination (NOD) shall be filed with the County Clerk immediately following approval of the project. Appropriate Department of Fish and Game fees shall be filed.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted by the City Council of the City of Winters, County of Yolo, State of California, on the 20th day of March, 2007 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Woody Fridae, Mayor

ATTEST:

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

**Exhibits:**

A – Final Mitigation Monitoring Plan  
B – Mitigated Negative Declaration

MRG/TM ND CC Res 20Mar07

**RESOLUTION NO. 2007-xx**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS  
APPROVING THE MARY ROSE GARDENS SUBDIVISION**

WHEREAS, the Mary Rose Gardens Subdivision site (APN 003-524-19) consists of approximately 5.69 acres located at 415 West Grant Avenue and north of Grant Avenue (State Route 128), south of the Carter Ranch Phase II Subdivision, east of the Carter Ranch Phase I Subdivision, west of Cemetery Lane in the City of Winters in Yolo County, California;

WHEREAS, on May 19, 1992 the city adopted the General Plan and certified the General Plan EIR. The General Plan identifies that future residential growth will occur on this parcel and others in the area;

WHEREAS, on February 14, 2006 the applicant submitted an application for the Mary Rose Gardens Project which was subsequently found to be complete;

WHEREAS, a public workshop on the project was held March 28, 2006 before the Planning Commission;

WHEREAS, a legally noticed public hearing on the project was held November 28, 2006 before the Planning Commission at which time the Commission voted unanimously to recommend approval of the project;

WHEREAS, a legally noticed public hearing on the project was held March 20, 2007 before the City Council to take final action on the project;

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

- 1) Tentative Subdivision Map No. 4851 is hereby approved (Exhibit x).
- 2) Site Plan for the design of residential units and conceptual landscape plan for the 0.503-acre park ("Parcel X") is hereby approved.
- 3) The demolition permit to remove approximately seven existing on-site structures is hereby approved.
- 4) All actions herein are subject to the Findings of Fact and Conditions of Approval in Exhibit x, attached hereto and incorporated herein by this reference.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted by the City Council of the City of Winters, County of Yolo, State of California, on the 20th day of March, 2007 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Woody Fridae, Mayor

ATTEST:

---

Nanci G. Mills, City Clerk

**Exhibits:**

- A – Findings of Fact and Conditions of Approval
- B – Tentative Map No. 4851

**MRG/TM CC Approval Res 2007-xx 20Mar07**

**CITY COUNCIL  
ORDINANCE NO. 2007-xx**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS  
REZONING THE MARY ROSE GARDENS PROPERTY  
AND ADOPTING PLANNED DEVELOPMENT PERMIT 2007-01  
(APN 003-524-19)**

The City Council of the City of Winters, State of California, does hereby ordain as follows:

1. Purpose. The purpose of this ordinance is to rezone the Mary Rose Gardens property as specified below and to adopt Planned Development Permit 2007-01.
2. Authority. The City of Winters has authority to adopt this ordinance pursuant to the general police power granted to cities by Article 11, Section 7 of the California Constitution.
3. Rezoning. The subject property is hereby rezoned as shown on Exhibit B, attached hereto and incorporated herein by this reference.
4. Planned Development Permit. Planned Development Permit No. 2007-01 is hereby adopted as a part of the rezoning to allow for Lots 12A and 12B to utilize a zero lot line, Lot 12B to fall below the minimum lot size for the R-2 Zone, Lots 12A and 12B to utilize tandem parking, and the sound barrier for Grant Avenue to exceed the maximum fence/wall height for residential zones.
5. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City of Winters.

**INTRODUCED** at a regular meeting on March 20, 2007 and **PASSED AND ADOPTED** at a regular meeting of the Winters City Council, County of Yolo, State of California, on the 3rd day of April 2007, by the following roll call vote:

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

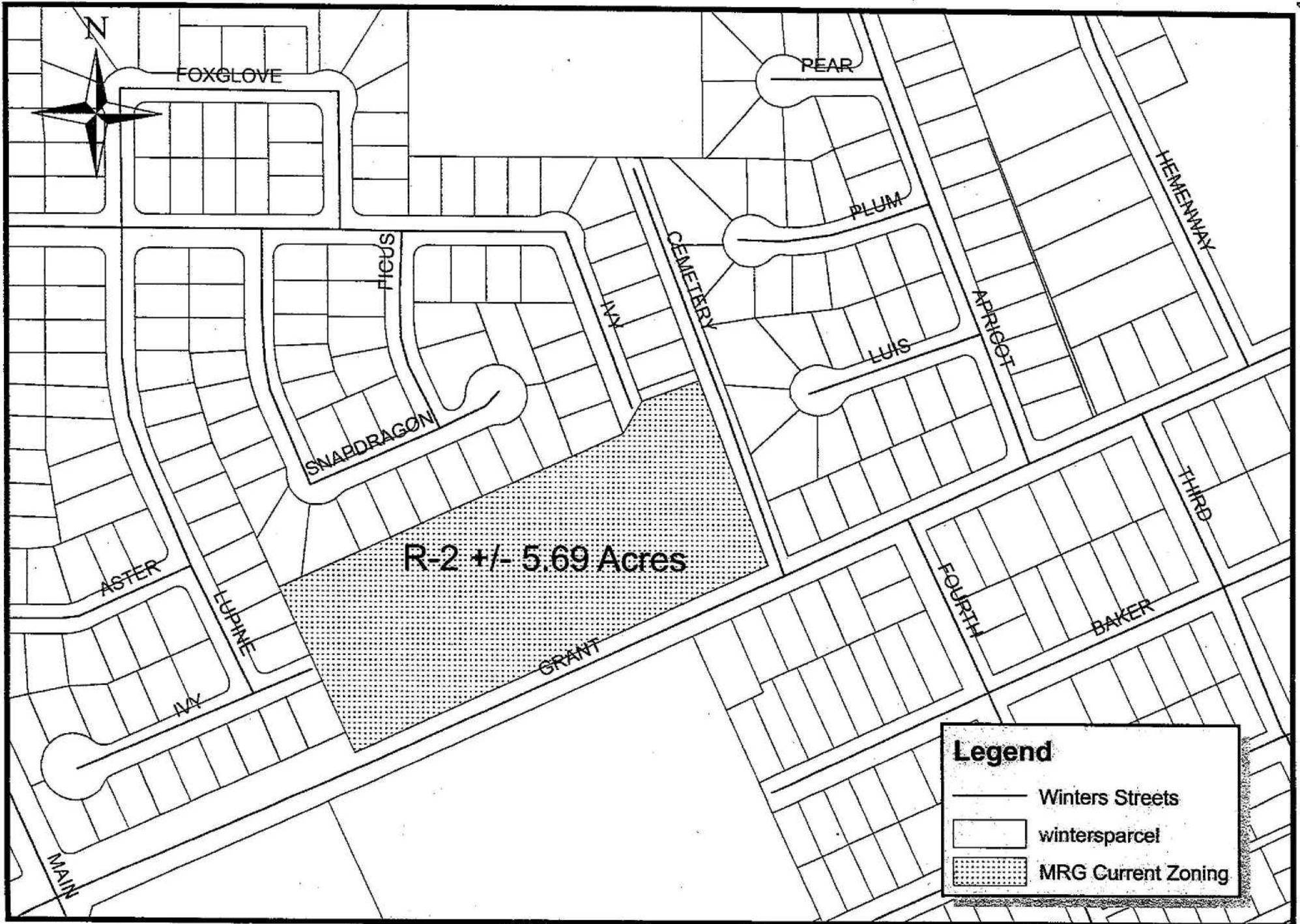
\_\_\_\_\_  
**Woody Fridae, MAYOR**

**ATTEST:**

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

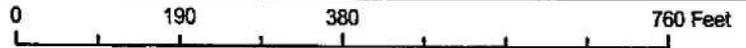
**Exhibits**  
Rezoning Exhibits (2)  
Planned Development Permit No. 2007-01

Mary Rose Gardens: Exhibit "A", Current Zoning Plan Exhibit

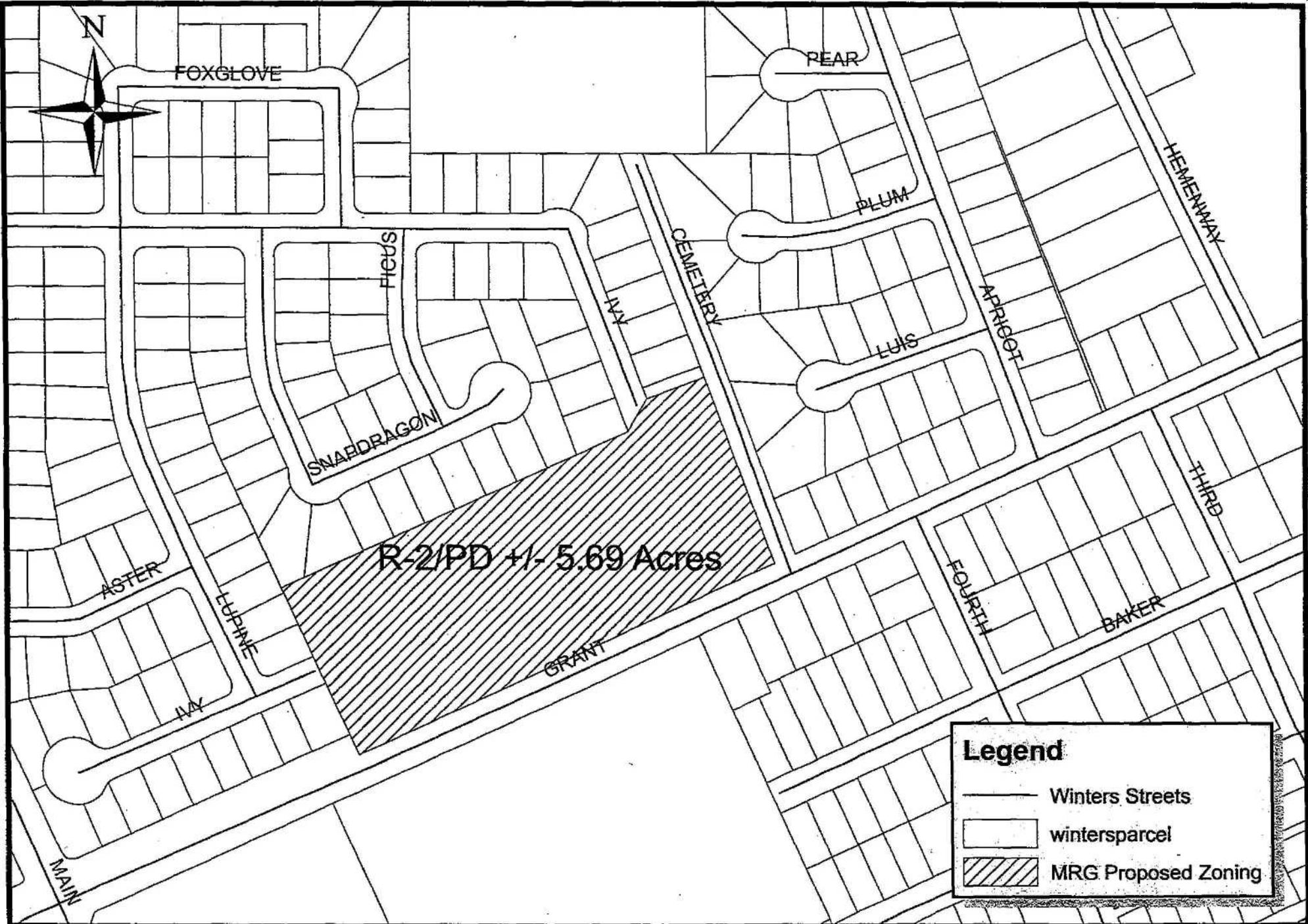


**Legend**

- Winters Streets
- wintersparcel
- ▨ MRG Current Zoning



Mary Rose Gardens: Exhibit "B", Proposed Zoning Plan Exhibit



R-2/PD +/- 5.69 Acres

**Legend**

- Winters Streets
- wintersparcel
- ▨ MRG Proposed Zoning

0 190 380 760 Feet

**PLANNED DEVELOPMENT (PD) PERMIT No. 2007-01**

**MARY ROSE GARDENS SUBDIVISION**

APN 003-524-19

Approved April 3, 2007

TERM: Unlimited term pursuant to the requirements of Section 17.48.050 of the Winters Municipal Code (Title 17, Zoning) and subject to compliance with the conditions of approval.

SETBACKS: Lots 12A and 12B will utilize a zero long line, which does not meet the required rear yard setback (20 feet) for Lot 12A and side yard setback (either 5 or 10 feet) for Lot 12B.

LOT SIZE: Lot 12B at 4,181 square feet, which does not meet the minimum lot size (5,000 square feet).

OFF-STREET PARKING: Lots 12A and 12B to utilize tandem parking, which does not meet the minimum off-street parking requirement (two spaces each residence with two or more bedrooms).

SOUND BARRIERS: In excess of the maximum height for fences/walls located in non-residential zones as detailed in the Mitigation Monitoring Plan for the project.

**ORDINANCE NO. 2007-xx**

**AN ORDINANCE OF THE  
CITY COUNCIL OF THE  
CITY OF WINTERS  
ADOPTING A DEVELOPMENT AGREEMENT  
(MARY ROSE GARDENS PROPERTY)**

THE CITY COUNCIL OF THE CITY OF WINTERS HEREBY ORDAINS  
AS FOLLOWS:

Pursuant to the provisions of Government Code §65864 et seq. and Chapter 2 of Title 11 of the Winters City Code, the City Council of the City of Winters hereby:

1. Adopts and approves that certain document entitled "**AN AGREEMENT BETWEEN THE CITY OF WINTERS AND DAS HOMES, INCORPORATED RELATING TO THE DEVELOPMENT OF THE PROPERTY COMMONLY KNOWN AS THE MARY ROSE GARDENS PROPERTY.**"

2. Authorizes and directs the Mayor to sign the document on behalf of the City after the second reading of this ordinance and after it has first been signed by a duly authorized representative of DAS Homes, Inc.

3. Authorizes and directs the City Clerk to record the document, after it is signed by both parties, in the Office of the Recorder of Yolo County.

PASSED AND ADOPTED THIS 3rd day of April, 2007 on the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**Woody Fridae, MAYOR**

Attest:

**Nanci G. Mills, CITY CLERK**

**A DEVELOPMENT AGREEMENT**  
**BETWEEN THE CITY OF WINTERS AND DAS HOMES,**  
**INCORPORATED**  
**RELATING TO THE DEVELOPMENT OF THE PROPERTY**  
**COMMONLY KNOWN AS THE MARY ROSE GARDENS PROPERTY**

**THIS DEVELOPMENT AGREEMENT** ("Agreement") is entered into between the CITY OF WINTERS, a municipal corporation (the "City"), and DAS Homes, Inc., a California corporation (the "Developer"), under the authority of § 65864 *et seq.* of the Government Code of the State of California and Chapter 2 of Title 11 of the Winters Municipal Code. This Agreement is effective on the date it is recorded in the Office of the County Recorder of Yolo County. The City and the Developer are sometimes referred to herein as the Parties.

**FACTS AND CIRCUMSTANCES**

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

1. The City of Winters is a small city in Yolo County which, among other things, prides itself in being a clean, safe, and family-friendly place to live.
2. The Developer is in the business of developing residential projects in Northern California, including the development of property in a manner which promotes the goals envisioned by the City for its residents.
3. In order to meet the needs of the City and the Developer, the Parties agree that the best method of planning the residential development of the Property owned by the Developer, commonly known as the Mary Rose Gardens Property and further described in Exhibits A and B to this Agreement, is through the use of a

Development Agreement as authorized by the Planning and Zoning Law, Division 1, Chapter 4, Article 2.5(commencing with California Government Code § 65864) [entitled "Development Agreements"] and Title 11, Chapter 2 of the Winters Municipal Code [entitled "Development Agreements"].

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

**THE PARTIES AGREE AS FOLLOWS:**

**TABLE OF CONTENTS**

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

Article 1. Definitions

Article 2. General Provisions

Article 3. Development of the Property

Article 4. Special Development Obligations

Article 5. Default, Remedies, and Dispute Resolution

Article 6. Hold Harmless and Indemnification

**ARTICLE 1**  
**DEFINITIONS**

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

Section 1.1 "Agreement" means this Development Agreement.

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

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

Section 1.4 "Mary Rose Gardens Property" or "The Property" means the real property which is the subject of this Agreement. It is legally identified as Yolo County Assessor's Parcel No. 003-524-19, and is more specifically shown and described in Exhibits A and B.

Section 1.5 "Mary Rose Gardens Tentative Subdivision Map" means the tentative map, and the Conditions of Approval, approved for the Property in accordance with the Subdivision Map Act and the City's Subdivision Ordinance. A copy of the Mary Rose Gardens Tentative Subdivision Map #4851 is attached as

Exhibit C.

Section 1.6 "Mary Rose Gardens Subdivision" means the single-family residential development created by the Mary Rose Gardens Tentative Subdivision Map.

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

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

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

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

Section 1.11 "Developer" means DAS Homes, Inc., a California corporation and/or its successor(s) in interest.

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

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

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

Section 1.15 "Land Use Entitlement" means either a Discretionary Approval or Ministerial Approval.

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

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

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

Section 1.19 "On-site improvement" means a public improvement constructed

within the physical boundaries of the Property.

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

Section 1.21 "Public Improvements" or "Infrastructure" means facilities constructed for use in accommodating residential use on the Property.

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

Section 1.23 "Affiliated Entity" means any entity where members of the Developer are officers, shareholders or employees of such entity.

## **ARTICLE 2**

### **GENERAL PROVISIONS**

Section 2.1 All Exhibits Deemed Incorporated By Reference.

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

Section 2.2 Property to be Developed.

The Property to be developed under this Agreement is the property commonly known in the City of Winters as the Mary Rose Gardens Property, Yolo County Assessor's Parcel No. 003-524-19 (consisting of approximately 5.69 acres). A map showing the location and boundaries of the Property is attached as Exhibit

A and a legal description describing the Property is attached as Exhibit B. In this Agreement the Mary Rose Gardens Property will, in most instances, be referred to simply as "the Property."

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

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

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

Section 2.4 Equitable Servitudes and Covenants Running With the Land.

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

Section 2.5 Right to Assign; Non-severable obligations.

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

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

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

2. The proposed assignee has adequate experience with residential developments of comparable scope and complexity to that being undertaken on the Property and has successfully completed such developments.

c. The provisions of subsection b. do not apply to the sale of three (3) or fewer finished residential lots to individual buyers or builders.

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

Section 2.6 Amendment of the Agreement.

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

Section 2.7 Whole Agreement; Conflict with Municipal Code.

a. This Agreement, together with any subsequent addenda, amendments, or modifications, shall constitute the entire agreement of the Parties as to the development of the Property. All prior agreements of the Parties, whether written or oral, are of no further force or effect.

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

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

a. This Agreement shall be interpreted according to the laws of the State of California. Any litigation concerning its meaning shall be venued in the

Superior Court of Yolo County. The prevailing Party in such litigation, as determined by the court, shall be awarded reasonable attorneys' fees in addition to statutory costs.

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

Section 2.9 Notices.

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

1. Via certified U.S. Mail, return receipt requested.
2. Via an overnight mail service of the type normally used by the business community, such as Federal Express, UPS Overnight, and California Overnight.
3. By facsimile, provided a "hard" copy is sent at the same time by regular U.S. Mail.

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

City of Winters  
318 First Street  
Winters, CA 95694

Attn: City Manager  
Telephone (530) 795-4910 x 110  
FAX (530) 795-4935

- c. Notices to the Developer shall be given as follows:

DAS Homes, Inc.  
1310 West Street  
Woodland, CA 95695  
Attn: Dave Snow  
Telephone (530) 666-0506  
FAX

### **ARTICLE 3**

#### **DEVELOPMENT OF THE PROPERTY**

##### Section 3.1 Land Use Entitlements.

a. The Property shall be developed under the following land use entitlements, all of which have been adopted or approved by the City Council:

1. Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Resolution No. 2007-xx adopted on March 20, 2007).
2. This Development Agreement (Ordinance No. 2007-x adopted April 3, 2007 and effective on xxx x, 2007, (the "Enacting Ordinance")).
3. Zoning Ordinance amendment to rezone 5.69 acres from R-2 to R-2 PD Overlay (Ordinance No. 2007-xx adopted April 3, 2007 and effective on xxx x, 2007).

4. Mary Rose Gardens Tentative Subdivision Map, with Findings of Fact and Conditions of Approval, dividing The Property into 28 single-family residential lots and "Parcel X", a 0.503-acre park (Resolution No. 2007-xx adopted on March 20, 2007).

5. A Planned Development Permit (Ordinance No. 2007-xx adopted April 3, 2007 and effective on xxx x, 2007).

b. Under the provisions of Government Code § 66452.6(a), the term of the Mary Rose Gardens Subdivision Tentative Subdivision Map is co-terminus with the term of this Agreement.

### Section 3.2 Consistency with General Plan.

The City finds that the provisions of this Agreement and the development of the Property are consistent with and conform to the General Plan of the City of Winters, as amended.

### Section 3.3 Vested Rights of Developer.

a. Unless otherwise provided in this Agreement, the Developer shall have the vested right to develop the Property in accordance with the land use entitlements described in Section 3.1 above, and in conformity with the City rules, regulations, policies and ordinances in effect on the date of adoption of the Enacting Ordinance, regardless of subsequent amendments to the General Plan, the Zoning Ordinance, the Subdivision Ordinance, or any other ordinance, rule, or regulation adopted by the City. This vested right shall include:

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

2. Exclusion from:

a) Subsequently enacted building moratoria.

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

4. The cross-section of streets (including sidewalks, trails, and other thoroughfares) as established in the Conditions of Approval for the Mary Rose Gardens Tentative Subdivision Map.

5. The Mitigation Measures.

b. The vested rights set forth in Subdivision a. do not apply to changes effecting development of the Property as mandated by state and/or federal laws effective after the date this Agreement is recorded. In the event of such changes, the City will permit the development of the Property as originally permitted by this Agreement to the greatest extent reasonably feasible taking into consideration the changes in the law.

#### Section 3.4 Rights Retained by the City.

a. Except as specifically provided in section 3.2, all regulations of the City as expressly provided by state law, federal law, and/or local ordinance,

resolution, or rule shall pertain to the development of the Property. Such regulations include, but are not limited to:

1. Discretionary approvals. (The only discretionary approval contemplated at this time is site plan review (design review) pursuant to the Zoning Code.)

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

3. The California Building Code, National Fire Protection Act, and local building code standards in effect at the time a building permit for a specific dwelling unit is issued.

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

b. The City may make and enforce ordinances, resolutions, and other rules and regulations pertaining to the Property under its general police power, provided they are of general applicability to all developments of a similar nature in the City of Winters.

Section 3.5 Other Vesting Laws Inapplicable.

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

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

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

Section 3.6 Commencement of Development.

a. Unless excused by the City for circumstances beyond the control of the Developer, the Developer shall, within 150 days after this Agreement is recorded, submit for review/approval by the City the final map for the Mary Rose Gardens Subdivision and accompanying subdivision improvement plans. For purposes of this subsection a., "circumstances beyond the control of the Developer" shall include, but are not limited to, inclement weather, acts of God,

natural disasters, acts of the state and/or federal government, a referendum of the ordinance adopting this Agreement, or third party litigation challenging the validity of this Agreement. However, "circumstances beyond the control of the Developer" do not include a change in economic conditions which affect either the Developer individually or the land development/building industry generally.

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

Section 3.7 Installation of Public Improvements.

Public improvements (infrastructure) in the nature of roads, sidewalks, trails, sewers, water service, third party utilities, and similar items will be constructed both on-site and off-site during the development of the Mary Rose Gardens Subdivision. When the final map for the Mary Rose Gardens Subdivision is approved, the Developer shall enter into a separate written agreement with the City by which it contracts to build and dedicate the public improvements required. Security for the construction of the improvements shall be provided as required by law.

Section 3.8 Property for Public Improvements; Offsite Improvements.

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

b. In any instance where the Developer is required to construct any public improvement on land in which neither the Developer nor City has sufficient title or interest, the Developer shall, at its sole cost and expense, obtain the real property interests necessary for the construction of such public improvements. The Developer shall exercise all reasonable efforts, as determined by the City, to acquire the real property interests necessary for the construction of such public improvements by the time the final subdivision map for the Mary Rose Gardens Subdivision is filed with the City.

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

Section 3.9 Reimbursement for Oversizing of Public Improvements; Advanced Funding of Certain Improvements; Credit for Improvements Installed.

a. In some instances, the Developer, through the process commonly referred to as "oversizing," will be required to install public improvements to a size

and/or capacity greater than that which is required to serve only the residents of the Mary Rose Gardens Subdivision. These improvements will benefit other properties. In such an instance, the Developer shall be entitled to reimbursement for such oversizing from fees paid by other properties.

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

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

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

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

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

2. When the Developer will receive reimbursement from mitigation fees paid by developing properties, the City Engineer shall provide to

the Developer a statement of the amount the Developer will receive and the approximate time when that amount will be paid.

d. The Developer understands and agrees that reimbursement for a particular oversized improvement will come only from other developing properties or from mitigation fees as described in subsection b.1. When reimbursement is from mitigation fees, such fees shall come only from the fund into which fees for that type of improvement are made. (Example: If an oversized sewer main is reimbursed through mitigation fees, only those fees collected for sewer improvements, and not fees from any other fund, including, but not limited to, the City's General Fund, will be used.)

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

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

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

f. In the event the Developer installs an improvement for which a fee is normally collected at the time of the issuance of a building permit, the Developer shall be deemed to have paid that fee for the number of building permits which is equal to the cost of the installed improvement as determined by the City Engineer. (Example: If a fee of \$1,000 is normally collected at the time a building permit is issued for improvement X, and the Developer installs improvement X at a cost of \$20,000, then the Developer will be credited with having paid that fee for 20 building permits.)

1. The City Engineer shall have the exclusive right to interpret this section in case of any disagreements concerning its applicability.

Section 3.10 Subsequent Discretionary Approvals.

a. To the extent any discretionary approvals are required to develop The Property after this Agreement is recorded, the Developer shall apply for those approvals in the same manner as any other person applying for land use entitlements from the City. All application fees then applicable for the type of land use entitlement(s) sought shall apply. The City will review these applications in good faith within a reasonable time to insure that the Developer may proceed to develop The Property in the manner contemplated by this Agreement.

b. The only remaining discretionary approval which is contemplated at this time is site plan review (design review) under the Zoning Ordinance.

Section 3.11 Review of Agreement.

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

Section 3.12 Compliance with Government Code § 66006.

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

**ARTICLE 4**

**SPECIFIC DEVELOPMENT OBLIGATIONS**

Section 4.1 Schools.

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

b. The Developer shall enter into an agreement with the Winters Joint Unified School District ("School District"), substantially in the form of Exhibit E

that provides, among other matters, that the Developer will pay to the School District:

1. for each of the 28 residential units in the Mary Rose Gardens Subdivision, Level 2 fees, payable at the time of issuance of a building permit; and
2. for all units in the Mary Rose Gardens Subdivision (including the units referenced in subparagraph 1 above), except the very low income and low income affordable units, the difference between Level 3 and Level 2 fees, payable at the close of escrow.

The Developer has represented to the City that it intends to fully and faithfully perform this agreement with the School District, and the City has relied upon this representation in entering into this Development Agreement. A failure to perform the agreement, or amendments thereto, with the School District by the Developer shall be deemed to be a default of this Development Agreement and subject to the provisions of Article 5.

Section 4.2 0.618 +/- Acre Park.

a. Developer shall provide a 0.618 +/- acre neighborhood park ("the Park Obligation"). The Park Obligation consists of three components:

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

b. The applicant intends to construct a 0.503-acre on-site park and the the Parties acknowledge that it is in the best interests of the community that the City accept a sum of money which represents the monetary value of the Park Obligation after factoring the on-site park rather than have the Developer include a fully operational 0.618 +/- acre park within the Mary Rose Gardens Subdivision. The payment of the Park Obligation by the Developer is in lieu of the payment of any park impact fees as provided by City ordinance.

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

1. At the time of filing the final map for the Mary Rose Gardens Subdivision a payment of one hundred percent (100%) of the amount calculated by the City Engineer as set forth in e., below.

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

a) The additional fifty percent (50%) shall be divided by the number of market rate units in the Mary Rose Gardens Subdivision (24 units). The resulting amount shall be paid each time a building permit is issued for one of the 24 market rate units.

b) If at the end of thirty (30) months from the recording of the final map for the Mary Rose Gardens Subdivision, the full amount under this subsection 2. has not been fully paid, then the Developer shall pay the remaining amount owing within ten (10) business days of being notified by the City to do so. (Example: If at the end of thirty (30) months, the Developer has obtained ten (10) building permits for market rate units and has paid fees under this subsection, then

the Developer, upon notice from the City, shall pay the fees owed under this subsection for the remaining four (4) market rate units.)

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

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

1. The land value will be determined by an appraisal made at the Developer's expense. The Developer shall provide to the City the names of three (3) qualified appraisers acceptable to the City who are both licensed by the State of California and members of the Appraisal Institute (MAI) and knowledgeable in appraising property similar in nature to The Property. The City shall select the appraiser to be used from the list and notify the Developer of its decision. The appraisal shall be presented to the City within ninety (90) days thereafter, unless the Parties agree to a different date. The appraisal shall determine the fair market value of 0.115 +/- acres of The Property with the development entitlements specified in this Agreement. The date of value shall be the date of the recording of this Agreement.

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

3. The estimated cost of the development of a park (including planning, developing, and equipping the same) will be calculated by the City

Engineer using the per acre cost of Two Hundred Twenty-Nine Thousand Five Hundred Dollars (\$229,500).

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

Section 4.3 Advance Funding of Fees For Construction of New Water Well.

a. The Parties acknowledge that the City intends to construct a new water well near the northwest corner of the intersection of West Grant Avenue and West Main Street. In order to provide sufficient funds for the City to commence construction of this facility, the Developer shall, concurrently with the filing of the final subdivision map for the Mary Rose Gardens Subdivision pay to the City the following development fee.

1. A water facilities fee at its then current rate for all 28 residential units in the Mary Rose Gardens Subdivision.

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

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

Section 4.4 Advance Funding of Street and Highway Impact Fees.

a. The Parties acknowledge that the City intends to construct new traffic signals at the intersections of Grant Avenue/West Main Street and Grant Avenue/Interstate 505 Northbound Ramps. In order to provide sufficient funds for the City to commence construction of these facilities, the Developer shall, concurrently with the filing of the final subdivision map for the Mary Rose Gardens Subdivision pay to the City the following development fee.

1. A street and highway impact fee at its then current rate for all 28 residential units in the Mary Rose Gardens Subdivision.

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

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

#### Section 4.5 Annuity in Lieu of Mello-Roos District.

a. The Developer agrees that the City will establish, and the Developer will fund, an annuity to offset the projected fiscal deficit to the General Fund of the City created by the development of The Mary Rose Gardens Subdivision per the Economic & Planning Systems reports titled "City of Winters – Mary Rose Gardens Fiscal Impact Analysis", dated January 23, 2007. Such an annuity is in lieu of the creation of a Mello-Roos Community Facilities District or other similar financing device.

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

1. Subject to the provisions of b.3., below, from the escrow for the sale of each residential unit to a third party the Developer will pay to the City the sum of Seven Thousand Three Hundred Fifty Dollars (\$7,350.00).

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

Section 4.6 Payments to Library Fund and Fire Department.

a. Prior to recording of the final map for the Mary Rose Gardens Subdivision the Developer shall pay to the City the sum of Twenty-Five Thousand Dollars (\$25,000.00). This amount shall be kept in a specific designated account and used solely for constructing, maintaining, and/or improving a public library facility in the City of Winters.

b. Prior to recording of the final map for the Mary Rose Gardens Subdivision the Developer shall pay to the City the sum of Forty-Nine Thousand Two Hundred Dollars (\$49,200.00). This amount shall be kept in a specific designated account and used solely for the purchase of a Type 1 fire engine or other Fire Department vehicle.

Section 4.7 Pedestrian Improvements.

a. The Developer shall construct pedestrian and landscape improvements on the south side of Grant Avenue along the frontage of the Waggoner Elementary School.

Section 4.8 Energy Efficiency.

In order to obtain energy efficiency in each unit with the Mary Rose Gardens Subdivision, to the maximum extent possible the techniques identified in the July 27, 2004 Planning Commission staff report on the "Proposed Energy Resolution" shall be utilized; provided, however, that the following techniques are mandatory:

- a. Fifty percent (50%) of the 24 market rate units shall be built with: a photovoltaic solar energy system capable of producing 2.4 peak rated direct current (DC) kilowatts. The remaining market rate units shall be pre-wired to accommodate such a system.
- b. All units shall be constructed to the Energy Star Standards as defined by the U. S. Environmental Protection Agency.
- c. All units shall be built with low emission furnaces.
- d. No unit shall be built with any dark colored roofing material.

## ARTICLE 5

### DEFAULT, REMEDIES, AND DISPUTE RESOLUTION

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

Section 5.2 City's Remedies.

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

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

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

3. Specific performance as provided in subsection c.

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

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

b. Default by the Developer.

1. Notice of Default. With respect to a default by the Developer under this Agreement, the City shall first submit to the Developer a

written notice of default identifying with specificity those obligations of the Developer which have not been performed. Upon receipt of the notice of default, the Developer shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default. The Developer shall complete the cure of the default(s) not later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy the default(s), provided Developer has continuously and diligently pursued such remedy at all times until such default(s) is cured.

2. Procedure After Failure to Cure Default. If, after the cure period has elapsed, the City finds and determines that the Developer remains in default and the City wishes to terminate or modify this Agreement, the City Manager shall make a report to that effect to the City Council and set a public hearing before the City Council in accordance with the notice and hearing requirements of Government Code section 65868 and Section 11-2.802 of the Winters Municipal Code.

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

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

1. To complete or demolish any uncompleted improvements which are located on public property or property which has been offered for dedication to the public, with the choice of whether to demolish or complete such

improvements and the method of such demolition or completion of such improvements to be selected by the City in its sole discretion.

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

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

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

### Section 5.3 Developer's Remedies.

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

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

2. An action for injunctive relief to preserve the physical or legal status quo of the development of The Mary Rose Gardens Subdivision

pending a judicial determination of the rights of the Parties in the event of a dispute between the Parties as to their rights and obligations under this Agreement.

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

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

c. Waiver of Damage Remedy. The Developer understands and agrees that the City would not be willing to enter into this Agreement if it created any monetary exposure for damages (whether actual, compensatory, consequential, punitive or otherwise) in the event of a breach by City. For the above reasons, the Parties agree that the remedies listed in subsection a. are the only remedies available to the Developer in the event of the City's failure to carry out its obligations hereunder. The Developer specifically acknowledges that it may not seek monetary damages of any kind in the event of a default by the City under this Agreement, and the Developer hereby waives, relinquishes and surrenders any right to any monetary remedy. The Developer covenants not to sue for, or claim

any monetary remedy for, the breach by the City of any provision of this Agreement, except for attorneys' fees for actions under a., above, and hereby agrees to indemnify, defend and hold the City harmless from any cost, loss, liability, expense or claim (including attorneys' fees) arising from or related to any claim brought by the Developer inconsistent with the foregoing waiver.

## **ARTICLE 6**

### **HOLD HARMLESS AND INDEMNIFICATION**

#### **Section 6.1     Limitation of Legal Relationship.**

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

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

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

#### **Section 6.2     No Liability for Acts of the Developer.**

a.     It is expressly understood that the development of The Mary Rose Gardens Subdivision is an undertaking that may create for the Developer liability

to third parties, including, but not limited to, assignees of all or part of this Agreement, buyers and lessees of residential units, building contractors and sub-contractors, and suppliers. The Developer understands and agrees that the City would not execute this Agreement if, in so doing, it created for the City any liability to any third party.

b. Consequently, the Developer, its successors, heirs, and assigns agrees to defend, indemnify, and hold harmless the City, and all its officers, agents, and employees from any claim of injury to person or property arising out of the operations of the Developer in the development of The Mary Rose Gardens Subdivision under the terms of this Agreement or otherwise.

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

#### Section 6.3 Duty to Defend Challenges to this Agreement.

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

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

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

d. Should the court, in any action challenging this Agreement or the ordinance adopting it, award attorneys' fees, costs and any other litigation expenses

against the City, the Developer shall be responsible for the payment of those fees, costs, and expenses, and shall hold the City harmless from any claim thereto.

e. Notwithstanding subsection b., the City may, at its sole discretion, tender the defense of any action or proceeding brought to challenge this Agreement or the ordinance adopting it to the Developer, in which event the Developer shall have the sole responsibility to defend, on behalf of itself and the City, the matter. However, nothing herein obligates the Developer, should the City tender its defense to the Developer, to defend the action if it determines that it is in its best interests not to do so.

**REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK**

**SIGNATURE PAGE TO FOLLOW**

**DEVELOPER  
DAS HOMES, INCORPORATED**

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

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

Dated: \_\_\_\_\_

**CITY OF WINTERS**

By: \_\_\_\_\_  
Mayor

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
John Wallace, City Attorney

\_\_\_\_\_  
XXX XXX  
XXX,  
Attorney for Developer

.....

## LIST OF EXHIBITS

- EXHIBIT A      Map of Mary Rose Gardens Property
- EXHIBIT B      Legal Description of Mary Rose Gardens Property
- EXHIBIT C      Mary Rose Gardens Tentative Subdivision Map
- EXHIBIT D      Conditions of Approval, including Mitigation Measures
- EXHIBIT E      School Agreement

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This Agreement was adopted by Ordinance No. 2007-xx of the City Council of the City of Winters. Ordinance No. 2007-xx was adopted on April 3, 2007 and is effective on the date it is recorded with the Yolo County Recorder.



**COMMUNITY DEVELOPMENT AGENCY  
STAFF REPORT**

**TO:** Honorable Chair and Members of the Board  
**DATE:** March 20, 2007  
**FROM:** John W. Donlevy, Jr., Executive Director   
**SUBJECT:** Downtown Streetscape Improvements- Request for Proposals

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**RECOMMENDATION:**

That the Community Development Agency Board of Directors authorize the release of a Request for Proposals for Engineering and Design Services for the Downtown Streetscape Improvement Project.

**BACKGROUND:**

In October, 2006, Staff brought forth a recommendation for Design and Engineering Services for the Downtown Streetscape Improvement Program. The direction from the Agency was for a competitive bid through a request for proposals.

Attached is the RFP for said services. Staff is anticipating the process to take approximately 5 weeks and will present a recommendation on a consultant in May, 2007.

**FISCAL IMPACT:**

None by this action.

**INVITATION TO SUBMIT A PROPOSAL  
TO PROVIDE PROFESSIONAL DESIGN SERVICES  
FOR**

**CITY OF WINTERS DOWNTOWN  
STREETSCAPE IMPROVEMENTS PHASE 1,  
PROJECT NO. 06-07**

**CLOSING DATE FOR RECEIVING PROPOSALS:**

**2:00 PM, MAY 17, 2007**

**SUBMIT PROPOSALS TO:**

**ASA UTTERBACK, P.E.  
PROJECT MANAGER  
CITY OF WINTERS  
318 FIRST STREET  
WINTERS, CA 95694-1923**

CITY OF WINTERS  
REQUEST FOR PROPOSALS

**DOWNTOWN STREETScape IMPROVEMENTS PHASE 1,  
PROJECT NO. 06-07**

**PROJECT OVERVIEW**

The City recently completed its downtown visioning process and Council adopted the resulting Downtown Master Plan, which was prepared for the City by Bottomley Associates. While the Downtown Master Plan is the foundation and framework for the City's vision for its downtown, the more detailed definition of the appearance and ambiance of the downtown through design guidelines was left for subsequent definition.

The project is funded by Redevelopment Agency funds with a total project budget of \$2,086,000.

**PROJECT DESCRIPTION**

The City is seeking a design consultant to provide the professional services required to develop Streetscape Design Guidelines for the downtown public rights of way, and a Preliminary Streetscape Design for the Phase 1 project. The Streetscape Design Guidelines are to be based upon the adopted City of Winters Downtown Master Plan, and coordinated with the Rotary Park Master Plan currently being prepared by Cunningham Engineering. Public involvement will be paramount to the success of the process.

The initial contract authorization will extend through the completion of the Streetscape Design Guideline development and the Preliminary Streetscape Design. The City intends to extend the contract services with the same Consultant to prepare the PS&E for implementation of the Downtown Streetscape Improvements, Phase I, Project No. 06-07.

Concurrently through another selection process, the City will be hiring an architectural firm for the development of the Downtown Site Development Design Guidelines to be used as a form-based code for the Downtown area. Public involvement will be emphasized in the development of both sets of guidelines. The preparation of the Preliminary Streetscape Design will be utilized as the graphic example in the process of developing the Streetscape Design Guidelines and as the first and foremost implementation of those guidelines.

Phase 2 of the streetscape improvements is anticipated to include work on the alley north of Main Street from Railroad Avenue to First Street which includes water and sewer system replacement, overhead utility undergrounding, resurfacing and construction of a new interior parking lot. Concurrent redevelopment of the existing City parking lot along the east side of Railroad Avenue between Main and Abbey Streets is also planned.

**DESIGN COMPONENTS**

Architectural/Landscape Architecture  
Civil Engineering / Land Surveying  
Public Relations/Presentations  
Geotechnical Engineering (minor)  
Electrical Engineering (related to 2<sup>nd</sup> phase utility undergrounding)  
Structural Engineering (related to a few buildings which may encroach under the sidewalk)  
CEQA Documentation

The purpose and need as defined to-date for the guidelines and ensuing projects is boiled down to the following points:

- ✓ Create a sense of arrival...make it a place to "be", not just a place to go to.
- ✓ Emphasize creation of sitting areas (inclusion of seatwalls is preferred)
- ✓ Enhance pedestrian & bicycle friendliness
- ✓ Emphasize addition of landscape areas (probably will replace barrel planters)
- ✓ Addition of tree planting wells without requiring the added elimination of parking stalls

The design guidelines and preliminary design are expected to consider and include all of the following features:

- ✓ Large sidewalk bulb-outs at the corners and mid-block paseos
- ✓ Seatwalls in bulb-outs and various other areas
- ✓ Additional landscape planters and trees
- ✓ Additional street furniture
- ✓ Patio table seating on west corners of Main and Railroad intersection
- ✓ Grade matching of street and sidewalk at crossings to minimize loss of sidewalk area to ramping with associated drainage

**A mandatory pre-proposal meeting will be held on March 24, 2007 at 10:00 a.m. in the Winters City Council Chambers. All interested consultants are asked to attend and must have attended to be considered responsive to the RFP. Representatives from the City will discuss the project vision and a tour of the project limits will be taken.**

#### **PROPOSAL SUBMITTAL:**

Five (5) copies of the following information shall be submitted. The following format is required to allow easier comparison of proposals. Additional information, in the form of brochures, etc., may be submitted as appendices. Return of any material, if desired, must be arranged by the Consultant at his/her expense.

1. Date; Legal name of firm; Year firm was established; Firm's address and Telephone number.
2. Names and qualifications of proposed personnel, including sub-consultants.
3. Include a Scope of Services. Discuss firm's understanding of the City's needs and the firm's design approach to addressing those needs for this project.
4. A list of pertinent projects completed in the past 5 years, with reference contact information. Specify if the personnel and/or sub-consultant's proposed above were involved in these projects.
5. Any other information that might assist the City in ascertaining the firm's and/or the staff's qualifications for the proposed project.
6. Include a Scope of Services. Discuss firm's understanding of the City's needs and the

firm's approach to addressing those needs for this project.

7. List any other information that might aid in ascertaining your firm's qualifications.
8. In a separate sealed envelope provide one copy each of your 2007 Rate Schedule and a "not to exceed" fee for the project. The "not to exceed" fee shall include all costs, both direct and indirect including any reimbursable expenses. These costs will be paid on a time and material basis.

Once a Consultant has been selected, the cost proposal will be opened, and negotiations may begin for the final costs to be included in the contract.

**TENTATIVE SCHEDULE:**

While the successful Consultant will be required to prepare a project schedule, the following are tentative dates scheduled for approval of the City's agreement with selected Consultant:

<u>Description of Task</u>	<u>Date(s)</u>
Requests for Proposals sent to Consultants .....	3/22/07
Mandatory Pre-Proposal Meeting.....	4/24/07
Deadline to submit proposals.....	5/17/07
Selection of "Short List" for oral interviews.....	5/25/07
Oral Interviews.....	6/5/07 – 6/8/07
Final selection of Consultant.....	6/15/07
Negotiate and finalize Consultant Services Agreement (CSA).....	6/11/04 – 6/22/07
Council to approve CSA.....	7/3/07

**SELECTION PROCESS:**

The selection process will consist of the following:

1. A selection committee will review and evaluate the submitted proposals and develop a list of finalists. The evaluation will take into consideration the criteria below
2. Finalists will then be invited to make an oral presentation to the committee. We anticipate that the number of finalists will be limited to three to five consultants.
3. After negotiation of a mutually satisfactory agreement, the final selection will be submitted to the City Council with a recommendation for award of contract.

**EVALUATION CRITERIA:**

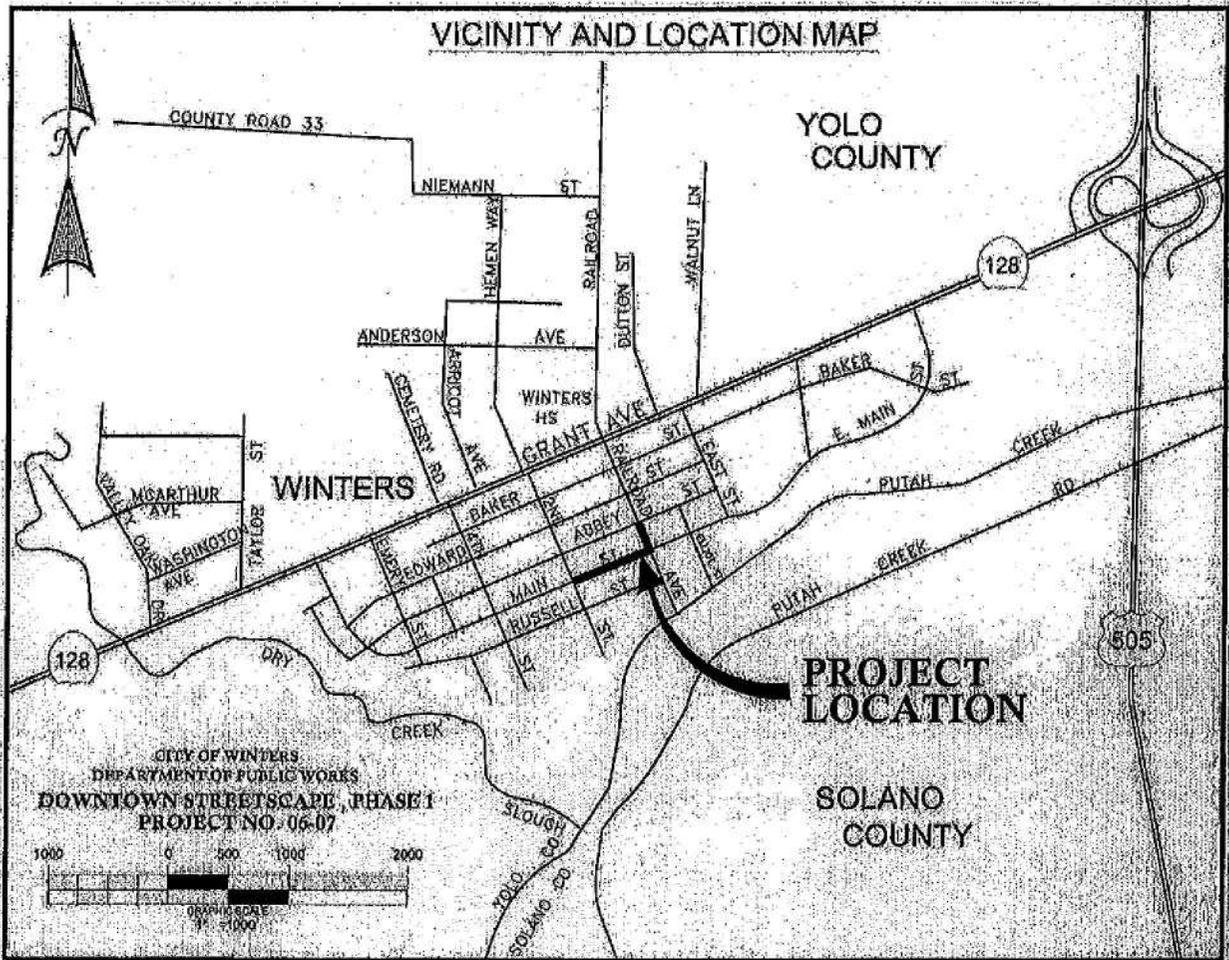
Firms will be evaluated using the following criteria. Each criterion will be weighed according to its importance to the particular services required for the project.

<b><u>Technical Criteria</u></b>	<b><u>Points</u></b>
1. Demonstrates a clear understanding of the requirements for the site and the work to be performed.	25
2. The overall quality of the technical proposal.	10
3. Relevant experience and technical competence of the consultant and the proposed sub-consultants, the personnel assigned to this project, and the degree of participation in the project by the key personnel.	30
4. Experience providing similar services for downtown streetscape projects.	25
5. Local Preference – Firm is within 50 miles of Winters	10
<b>Total Points:</b>	<b>100</b>

**APPENDIX**

DOWNTOWN MASTER PLAN ..... EXHIBIT "A"  
VICINITY MAP..... EXHIBIT "B"  
SAMPLE CONSULTANT SERVICES AGREEMENT ..... EXHIBIT "C"  
LIST OF CONSULTANTS RECEIVING RFP ..... EXHIBIT "D"





**EXHIBIT "C"**  
**SAMPLE**

**CONSULTANT SERVICES AGREEMENT**

THIS AGREEMENT is made at Winters, California, as of \_\_\_\_\_, by and between the City of Winters ("the CITY") and \_\_\_\_\_ "(CONSULTANT)", who agree as follows:

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

EXECUTED as of day first above-stated.

CITY OF WINTERS  
a municipal corporation

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

CONSULTANT

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

ATTEST:

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

## GENERAL PROVISIONS

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

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

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

(4) INSURANCE.

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

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

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

(d) CERTIFICATES OF INSURANCE. CONSULTANT shall file with CITY'S \_\_\_\_\_ upon the execution of this agreement, certificates of insurance which shall provide that no cancellation, major change in coverage, expiration, or nonrenewal will be made during the term of this agreement, without thirty (30) days written notice to the \_\_\_\_\_ prior to the effective date of such cancellation, or change in coverage.

CONSULTANT shall file with the \_\_\_\_\_ concurrent with the execution of this Agreement, the City's standard endorsement form (attached hereto) providing for each of the above requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LIST OF CONSULTANTS RECEIVING RFP ..... EXHIBIT "D"

<u>Consultant</u>	<u>Location of Office</u>
Bottomley Design & Planning	Oakland, CA
Callander Associates	Rancho Cordova, CA
Cunningham Engineering Corporation	Davis, CA
David Volz Design	Sacramento, CA
Gretchen Stranzl McCann	Napa, CA
HLA Group Landscape Architects & Planners	Sacramento, CA
Moore Iacofano Goltsman	Davis, CA
VanderToolen Associates, Inc.	Napa, CA



**COMMUNITY DEVELOPMENT AGENCY  
STAFF REPORT**

**TO:** Honorable Chair and Members of the Board  
**DATE:** March 20, 2007  
**FROM:** John W. Donlevy, Jr., Executive Director   
**SUBJECT:** Main Street Mini Park Improvements

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**RECOMMENDATION:**

That the Community Development Agency Board of Directors authorize the development of an interim landscaping plan for the property located at 23 Main Street.

**BACKGROUND:**

Staff has been approached by Kris Kelsch, the Executive Director of the Winters Healthcare Foundation to assist in the development of park improvements for the 23 Main Street property and an expanded "mini park". Kris envisions a coordinated volunteer/Agency project for the site.

Attached is a letter outlining his idea for the consideration of the Agency Board.

**FISCAL IMPACT:**

None by this action.