



Special Meeting of the Winters City Council
City Council Chambers
318 First Street
Tuesday, November 17, 2015
4:00 p.m.
AGENDA

Members of the City Council

*Cecilia Aguiar-Curry, Mayor
Woody Fridae, Mayor Pro-Tempore
Harold Anderson
Wade Cowan
Pierre Neu*

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

Executive Session

AGENDA

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

Pursuant to Government Code Section 54957.6 – CONFERENCE WITH LABOR NEGOTIATORS – John W. Donlevy, Jr., City Manager and Nanci G. Mills, Director of Administrative Services

Regular Session

AGENDA

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

Roll Call

Pledge of Allegiance

Approval of Agenda

COUNCIL/STAFF COMMENTS

PUBLIC COMMENTS

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

CONSENT CALENDAR

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

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, November 3, 2015 (pp. 5-9)
- B. Appointment to Sacramento-Yolo Mosquito and Vector Control District (p. 6)
- C. Re-Assignment of City Note for Community Housing Opportunities Corporation (CHOC) Owned Property, Winters 1; In Conjunction with Rehabilitation Project. (pp. 11-29)
- D. Authorize the City Manager to file a Notice of Completion for the Construction Services Contract with Vaca Valley Excavation for Contaminated Soil Placement, Site Restoration and Grading at City-Owned Parking Lot (pp. 30-32)
- E. Authorize Addendum to the Professional Services Contract with Melton Design Group for Design and Engineering Services for Phase 2 for the Walnut Park Construction Project (APN # 003 360 025) (pp. 33-60)

PRESENTATIONS

DISCUSSION ITEMS

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

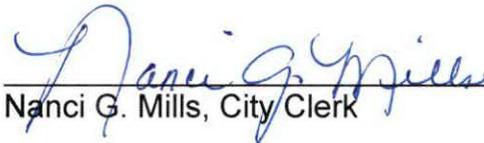
1.

CITY MANAGER REPORT

INFORMATION ONLY

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the November 17, 2015 regular meeting of the Winters City Council was posted on the City of Winters website at www.cityofwinters.org and Councilmembers were notified via e-mail of its' availability. A copy of the foregoing agenda was also posted on the outside public bulletin board at City Hall, 318 First Street on November 12, 2015, and made available to the public during normal business hours.


Nanci G. Mills, City Clerk

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

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

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

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

How to obtain City Council Agendas:

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

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

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

Winters Library – 708 Railroad Avenue

City Hall – Finance Office - 318 First Street

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

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

Wednesday at 10:00 a.m.

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



**Minutes of the Winters City Council Meeting
Held on November 3, 2015**

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

Present: Council Members Harold Anderson, Wade Cowan, Woody Fridae, Pierre Neu and Mayor Cecilia Aguiar-Curry
Absent: None
Staff: City Manager John Donlevy, City Attorney Ethan Walsh, Fire Chief Aaron McAlister, Building Official Gene Ashdown, and Management Analyst Tracy Jensen.

Winters High School students Daisy and Jasmine led the Pledge of Allegiance.

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

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

COUNCIL/STAFF COMMENTS

PUBLIC COMMENTS: State Farm Agent Andy Pignataro thanked the Mayor, Council Members and City of Winters for supporting the "Celebrate My Drive" campaign for the last two years and said November 9th – 13th is National Teen Driver Safety Week. Andy explained how the "Celebrate My Drive" program has changed and now Winters High School has to be selected to participate, where 22 schools will be awarded a grant for \$100,000. Winters High School submitted

a video showing support of the program and should find out soon whether they have been chosen to participate. If chosen, the students will reach out via social media, asking everyone to visit www.celebratemydrive.com, take a "Safe Driving" pledge, and cast their vote daily from November 9th – 13th for Winters High School! (post #WintersCMD on Facebook, Instagram or Twitter). Mayor Aguiar-Curry suggested all "Celebrate My Drive" materials be distributed in Spanish.

Jon Tice, 1041 Kennedy Dr., stressed the need for a signal at the Main & Grant intersection, as well as lighted crosswalk indicators similar to those found on Hutchison Blvd. in Davis. He also requested that a center line and bike lanes be installed on Kennedy Drive once the street goes through, asked whether solar panels will be installed at the new Winters PG&E GOTTC and if the City was considering LED streetlights.

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, October 20, 2015
- B. Street Closure Request and Parade Permit Application by the Winters Chamber of Commerce for the Annual Tree Lighting Ceremony and Tractor Parade to be Held on Saturday, December 5, 2015
- C. FEMA Grant Acceptance and Purchase Authorization
- D. Amplified Sound Permit Application by Winters High School for the Celebrate My Drive Campaign to be Held on Wednesday, November 11, 2015 in Rotary Park

City Manager Donlevy gave an overview and noted that since the City of Winters entered into a shared services agreement with the City of Dixon's Fire Department four years ago, the Winters Fire Department has received \$1.4 million dollars in grants. Council Member Anderson asked whether the breathing apparatus equipment being replaced by the recent FEMA grant is in good enough shape to ship to Mexico. Fire Captain McAlister said the breathing apparatus being replaced has outlived its' service life and has been declared as surplus with no value.

Motion by Council Member Neu, second by Council Member Cowan to approve the Consent Calendar. Motion carried with the following vote:

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

PRESENTATIONS

None

DISCUSSION ITEMS

1. Waive the Second Reading and Adoption of Ordinance 2015-04, an Ordinance of the City of Winters Amending Home Occupation Regulations; and
Waive the Second Reading and Adoption of Ordinance 2015-05, an Ordinance of the City of Winters Amending Second Residential Unit Regulations

City Manager Donlevy gave an overview.

Motion by Council Member Cowan, second by Council Member Neu to adopt Ordinance 2015-04, deleting Section 17.60.070 (Home Occupations), Amending Section 17.52.020 (Land Use Regulations: Zoning Matrix), and adding Section 17.94 (Home Occupations) to the Winters Municipal Code. Motion carried with the following vote:

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

Motion by Council Member Fridae, second by Council Member Neu to adopt Ordinance 2015-05, deleting section 17.60.070 (Second Residential Units), amending Section 17.16.050 (Ministerial Projects), amending Section 17.52 (Land Use Regulations/Zoning Matrix) and adding Section 17.98 (Second Residential Units) to the Winters Municipal Code. Motion carried with the following vote:

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

2. Contract with 4-LEAF, Inc. to Complete Plan Check and Inspection Services for the PG&E Gas Operations Technical Training Center

Council Member Anderson recused himself due to a possible conflict of interest.

Building Official Gene Ashdown gave an overview and said PG&E has requested an on-site and full-time inspector to be available 8 hours a day, 5 days a week. As staff cannot accommodate this request, a contract inspector is needed.

Council Member Cowan asked if building inspection included public works and Building Official Ashdown said the contract will include on-site civil inspection services. Mayor Aguiar-Curry asked about the 2013 Building Code referenced in the staff report and Building Official Ashdown said the 2013 Building Code is the most recent edition and is good through 2017. He also confirmed the Winters Fire Department will inspect the fire suppression system.

Motion by Council Member Cowan to approve the Consultant Services Agreement No. 022-15 between the City of Winters and 4LEAF, Inc. for an amount not to exceed \$315,104 and authorize the City Manager to execute the Agreement. Motion carried with the following vote:

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

Council Member Anderson returned to the dais at this time.

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

1. None

CITY MANAGER REPORT: The Winters Ranch ribbon cutting will take place on Thursday @ 10am. The agenda for the 11/17 City Council meeting is extremely light, although staff needs to schedule a closed session regarding upcoming labor negotiations. The Putah Creek car bridge was closed today and will remain closed throughout 11/21 and shouldn't be re-opened until the intersection at Russell & Railroad has been constructed. The Berryessa Forum is taking place tomorrow night. The various City departments are being visited regarding the nuts and bolts of each department and to see what things are being worked on. Some things are coming together pretty well regarding the transition from Southwest Water to a staff-maintained wastewater system. Staff is stepping up and getting a lot done. They have been very efficient with their budget and we expect the same efficiency during the next two-year budget cycle. Staff has stepped up and completed the water valve exercising throughout the entire city. We have an exceptional team and they are ahead of schedule regarding cross

training and cross certifying. The City started with one operator and now we have four staff members that can be operators.

Council Member Cowan expressed his disappointment with the bridge construction and wants to have Solano County explain how the rock pockets will be fixed to make the bridge look presentable. Council Member Anderson said the bridge renderings showed that portions of the bridge were color coded. City Manager Donlevy said that staff has regular partnering meetings with Disney Construction and an update will be given at the next City Council meeting.

The Winters Firefighters Assn. will be hosting the annual Shrimp Feed on November 11th, with Toys for Tots being a large benefactor of the event.

ADJOURNMENT: Mayor Aguiar-Curry adjourned the meeting at 7:20 p.m.

Cecilia Aguiar-Curry, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: November 17, 2015
THROUGH: John W. Donlevy, Jr., City Manager *JD*
FROM: Nanci G. Mills, Director of Administrative Services/City Clerk *Nanci*
SUBJECT: Sacramento-Yolo Mosquito Vector Control District Vacancy

RECOMMENDATION:

Staff recommends that the City Council approve the re-appointment of Greg Lanzaro to represent the City of Winters as a member of the Board of Trustees of the Sacramento-Yolo Mosquito Vector Control District.

BACKGROUND:

On June 18, 1946, the Sacramento County-Yolo County Mosquito Abatement District was formed by joint resolution of the Board of Supervisors for Sacramento and Yolo Counties. The motivating force for the formation of the District was the desire of the people for protection against mosquito-borne diseases and relief from serious pest nuisance. In July of 1990, the District Board voted by resolution to change the name of the District to the Sacramento-Yolo Mosquito and Vector Control District to better reflect the expanded services and responsibilities the District assumed regarding ticks, yellowjackets, and other vectors. Within the District boundaries are 2,013 square miles, encompassing both Sacramento and Yolo Counties.

The Board of Trustees consists of twelve members from Yolo and Sacramento Counties, and the cities of Woodland, Sacramento, Galt, Folsom, Isleton, West Sacramento, Elk Grove, Davis, Citrus Heights and Winters.

Marie Heilman, who served as trustee for over two years, retired from service on the Board effective 8/18/09.

Greg Lanzaro, who is a Winters resident, has volunteered to continue to represent the City of Winters as a member of the Board of Trustees of the Sacramento-Yolo Mosquito Vector Control District.

FISCAL IMPACT: None by this action.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: November 21, 2015
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Dan Maguire, Economic Development and Housing Manager *DM*
SUBJECT: Winters Apartments Amended and Restated Regulatory Agreement and Amended and Restated Promissory Note (property located at 116 E Baker Street, APN # 003 370 034)

RECOMMENDATION:

Staff recommends the City Council: 1) receive the staff report updating the status of the Winters Apartments, and 2) authorize the City Manager to execute an Amended and Restated Regulatory Agreement and an Amended and Restated Promissory Note; and any other documents needed in conjunction with the reassignment of the existing Community Housing Opportunity Corporation ("CHOC") note on the Winters Apartments.

BACKGROUND:

In December of 2003, the City Council approved a loan and grant agreement with CHOC in conjunction with their purchase of the 44 unit multi-family complex at 116 East Baker. The loan and grant, in the amount of \$185,000, provided critical gap funding to the acquisition and rehabilitation project and resulted in a significantly rehabilitated 44 unit project, with a 55 year affordability covenant also recorded as a result of the CHOC acquisition.

Staff has been working over the past year with senior management of CHOC to assist them in securing funding for additional rehabilitation needed at the property, which was originally built in the 1980's. In the first quarter of 2015, staff assisted CHOC in completing required forms for a 9% California Tax Credit Committee ("TCAC") Allocation application. Concurrent with that effort, CHOC pursued additional funding through USDA. Both efforts were ultimately successful and the funding and attendant documents are scheduled for a December 1, 2016 closing.

FISCAL IMPACT:

In the event City Council authorizes the City Manager to execute the new agreements, the existing loan principal of \$94,350.00 would be rolled into a new Promissory Note, with

terms very similar to the existing terms. This "re-subordination" is critical to secure the funds being brought in from USDA and TCAC. This will also result in a new 55 year regulatory agreement being recorded on the property, in essence adding 12+ years of affordability covenants to the existing covenants on the property.

RECORDING REQUESTED BY &
AFTER RECORDING, MAIL TO:

City of Winters
318 First Street
Winters, CA 95694
Attn: Housing Manager

No fee for recording pursuant
to Government Code Section 27383

**REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

(Winters Apartments, 116 East Baker Street, Winters, CA)

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is entered into as of November 1, 2015, by and between the City of Winters, a California municipal corporation (the "City") and Winters Apartments, Inc., a California nonprofit public benefit corporation (the "Owner"), in connection with the following facts:

A. The Owner acquired from Community Housing Opportunities Corporation, a California nonprofit public benefit corporation ("CHOC") that 44-unit rental housing development known as Winters Apartments located at 116 East Baker Street, Winters, CA 95694, described in Exhibit A attached hereto (the "Property") to provide affordable housing for very low and lower income households as described below.

B. The City and CHOC entered into a Regulatory Agreement and Declaration of Restrictive Covenants dated March 1, 2003 and recorded against the Property on April 3, 2003 as instrument number 2003-18526, as assigned to the Owner pursuant to an Assignment, Assignment and Release Agreement dated November 19, 2003 (the "Original City Regulatory Agreement").

C. The Original City Regulatory Agreement related to a \$94,350.00 loan and \$90,650.00 grant from the City to CHOC to assist CHOC in acquiring and rehabilitating the Property in order to increase and improve the supply of low income housing in the City of Winters.

D. The Community Development Agency of the City of Winters (the "Agency") and CHOC entered into a Regulatory Agreement and Declaration of Restrictive Covenants dated March 1, 2003 and recorded against the Property on April 3, 2003 as instrument number 2003-18527, as assigned to the Owner pursuant to an Assignment, Assignment and Release Agreement dated November 19, 2003 (the "Original Agency Regulatory Agreement").

E. The Original Agency Regulatory Agreement related to a \$250,000.00 grant from the Agency to CHOC to assist CHOC in acquiring and rehabilitating the Property in order to increase and improve the supply of low income housing in the City of Winters.

F. This Agreement supersedes in their entirety the Original City Regulatory Agreement and Original Agency Regulatory Agreement. Concurrently with the recordation of this Agreement the City will terminate the Original City Regulatory Agreement and Original Agency Regulatory Agreement.

Now, therefore, in consideration of the City's loan and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Use of the Property. The Owner hereby covenants and agrees, for itself and its successors and assigns, that the Owner shall use the Property for the operation of a low-income rental housing project in compliance with this Agreement.

2. Occupancy Requirement. The Owner shall operate the Property in accordance with the following criteria.

2.1. Very Low Income Units. Twenty percent (20%) of the units (nine units) shall be rented to and occupied by, or if vacant, held available for occupancy by, Very Low Income Households. "Very Low Income Household" shall mean a household whose income does not exceed fifty percent (50%) of the Median Income for Yolo County, adjusted for household size. "Median Income" shall mean the median gross yearly income published from time to time by the State of California. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the City shall provide the Owner with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by the State.

2.2. Lower Income Units. The remaining units (excluding the resident manager's unit) shall be rented to and occupied by, or if vacant, held available for occupancy by, Lower Income Households. "Lower Income Household" shall mean a household whose income does not exceed eighty percent (80%) of the Median Income for Yolo County, adjusted for household size.

2.3. Intermingling of Units. The Very Low Income Units shall be intermingled with, and shall be of comparable quality to, the Lower Income Units. Tenants in all units shall have equal access to and enjoyment of all common facilities of the Property.

3. Rent Restrictions. The Owner shall comply with the following rents restrictions:

3.1. Very Low Income Rent. Subject to the provisions of Section 4 below, the rent charged to tenants of the Very Low Income Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of the Median Income for Yolo County, adjusted for Assumed Household Size. "Assumed Household Size" shall mean a household of 1.5 persons in the case of a one-bedroom unit, 3 persons in the case of a two-bedroom unit, and 4.5 persons in the case of a three-bedroom unit.

3.2. Lower Income Rent. Subject to the provisions of Section 4 below, the rent charged to Tenants of the Lower Income Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of eighty percent (80%) of the Median Income for Yolo County, adjusted for Assumed Household Size.

4. Increased Income of Tenants. If, upon recertification of a tenant's income, the Owner determines that a former Very Low Income Household's income has increased and exceeds the qualifying income for a Very Low Income Household set forth in Section 2.1 above, but has an income that does not exceed the qualifying income for a Lower Income Households set forth in Section 2.2 above, such tenant's unit shall continue to be considered a Very Low Income Unit) but upon expiration of the tenant's lease the tenant may be charged rent equal to one-twelfth of thirty percent (30%) of eighty percent (80%) of Median Income, adjusted for Assumed Household Size and the Owner shall rent the next available unit to a Very Low Income Household at a rent not exceeding the maximum rent specified in Section 3.1 to comply with the requirements of Section 2.1 and Section 3.1 above. In the event that recertification of a tenant's income indicates that a former Lower Income Household's Adjusted Income has increased and exceeds the qualifying income for a Lower Income Households set forth in Section 2.2 above, upon expiration of the tenant's lease:

(a) Such tenants rent may be increased to a market rent, upon thirty (30) days written notice to the tenant; and

(b) The Owner shall rent the next available unit to a Very Low Income Household or Lower Income Household at a rent not exceeding the maximum rent specified in Sections 3.1 or 3.2 as applicable to comply with the requirements of Sections 2.1 and 2.2 above.

5. Termination of Occupancy. Upon termination of occupancy of a unit by a tenant, such unit shall be deemed to be continuously occupied by a household of the same income level (e.g., Very Low Income Household or Lower Income Household) as the initial income level of vacating tenant, until such unit is reoccupied, at which time the income character of the unit (e.g., Very Low Income Household or Lower Income Household) shall be redetermined.

6. Compliance with Regulatory Agreements. So long as the Property is encumbered by any senior regulatory agreement between the Owner and any state or federal agency, the Owner's compliance with the terms of such regulatory agreement(s) shall be deemed to be in compliance with the rent and income restrictions set forth above.

7. Reporting Requirements.

(a) The income status of each eligible household shall be determined by the Owner at the time of initial occupancy of a unit and recertified annually by the Owner using such forms and requiring such supporting information as reasonably required or approved by the City. The Owner shall retain the original or copies of all certifications and recertifications and supporting information for not less than three (3) years. The City shall have the right to inspect and copy the Owner's records relating to the Property during business hours upon reasonable prior written notice.

(b) Annual reports shall be submitted to the City in writing. The reports, at a minimum, shall include: (1) the number of persons per unit; (2) initial occupancy date; (3) monthly rent charged; and (4) household income. Upon request by the City, the annual reports shall include the annual income recertification and those documents used to certify eligibility. The City may from time to time during the term of this Agreement reasonably request additional or different information, and the Owner shall promptly supply such information in the reports required hereunder.

8. Duration. The covenants contained in this Agreement shall remain in effect for a fifty-five (55) year term which shall commence from the date this Agreement is recorded. Upon the termination of this Agreement, the parties agree to execute and record appropriate instruments to release and discharge the covenants contained in this Agreement; provided, however, that the execution and recording of such instruments shall not be necessary or a prerequisite to the termination of this Agreement in accordance with its terms.

9. Property Repair and Maintenance. The Owner agrees to maintain the Property, which includes all improvements thereon, in good physical condition and in accordance with the standards prescribed by applicable codes. The Owner further agrees to maintain the Property in a condition free of all waste, nuisance debris, unmaintained vegetation and/or landscaping graffiti, disrepair, abandoned vehicles/appliances, disturbances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property.

10. No Transfer. The Owner shall not sell transfer, convey, assign or lease the whole or any part of the Property without the prior written approval of the City. The Owner shall request City's approval by written notice at least ninety (90) days prior to any proposed transfer. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Property, or to prohibit or restrict the leasing of units, or to prohibit the transfer of the Property from Owner to Community Housing Opportunities Corporation ("CHOC"), a wholly controlled affiliate of CHOC, or a limited partnership in which a wholly controlled affiliate of CHOC is the general partner; provided that Owner delivers to the City a copy of the transferee's organizational documents and a signed and acknowledged original of an assignment, assumption and release agreement. Nothing herein shall limit and/or prohibit the transfer or encumbrance of any ownership, membership and/or partnership interest in Owner or any successor or assign of Owner.

11. Covenants to Run with the Land. The Owner hereby subjects the Property to the covenants and restrictions set forth in this Agreement. The City and Owner hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner upon conveyance of the Property to the Owner and upon Owner's successors in title to the Property. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants and restrictions are set forth in such contract, deed or other instrument. Upon conveyance of the Property the Owner or the successors in interest to Owner shall be released from any further obligations hereunder, and the covenants and restrictions set forth herein shall pass to and be binding upon the Owner's successors in interest to the Property.

12. Enforcement by the City. If the Owner fails to perform any of its obligations under this Agreement and fails to cure the default within thirty (30) days after the City has notified the Owner in writing specifying the nature of the Owner's default, or if the Owner has failed to commence to cure within the 30 days and thereafter diligently pursue such cure provided such cure is completed within 120 days of Owner's receipt of notice, the City shall have the right to bring an action at law or in equity to compel the Owner's performance of its obligations under this Agreement, or the City may exercise any other remedy provided by law.

13. Subordination. Subject to the provisions of Health and Safety Code Section 33334.14 to the extent applicable, and upon written request by Owner, the City shall agree that the terms and conditions of this Regulatory Agreement shall be subject and subordinate to the terms and conditions of rehabilitation and permanent loan deeds of trust and regulatory agreements in favor of lenders acceptable to the City ("Approved Lender") securing a loan by the Approved Lender to Owner. The City further agrees to execute and acknowledge such documents as may be reasonably required to subordinate this Agreement to the deeds of trust and regulatory agreements, if any, required by the Approved Lenders.

14. No Impairment of Lien. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument.

15. Amendments. This Agreement may be changed only by an agreement in writing and signed by both parties.

16. Governing Law. This Agreement shall be construed according to the laws of the State of California.

17. Headings; Construction. The headings to the various sections and paragraphs of this Agreement have been inserted for convenient reference only and shall not be used to construe this Agreement. The language of this Agreement will be construed as a whole according to its fair meaning and not strictly for or against any party. Time is of the essence in the performances of this Agreement by the parties.

18. Notices. Any notice required by or given pursuant to this Agreement shall be made in writing and shall be served personally or sent by certified mail, return receipt requested, or faxed with the original mailed by USPS on the next business day:

If to the City, addressed to:

City of Winters
318 First Street
Winters, CA 95694
Attention: Housing Manager
Fax No. _____

If to the Owner, addressed to:

Winters Apartments, Inc.
Green Valley Executive Center
5030 Business Center Drive #260
Fairfield, CA 94534
Attention: Chief Executive Officer
Fax No: 707.759.6053

Any notice given in accordance with the provisions of this Section shall be deemed to be effective, if delivered, on the date of such delivery or, if mailed, three (3) days after the date of the postmark, or if faxed and mailed, on the date faxed. Each party may give notice to the other party of a change or its address for the purpose of giving notice under this Section.

19. No Discrimination. The Owner covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual preference, age, marital status, physical or mental handicap, medical condition, national origin, ancestry, disability, or source of income to protected persons in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Owner itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Property.

20. Rights of Third Parties to Enforce Covenants. Notwithstanding any other provisions of law, all covenants and restrictions contained herein which implement Health and Safety Code Sections 33334.3 and/or 33413(b)(4), or successor provisions, run with the land and are enforceable by the City, and any of the parties listed in Health and Safety Code Section 33334.3(f)(7), so long as such provision or successor provision remains in effect.

21. Mandatory Language in All Subsequent Deeds, Leases and Contracts. All deeds, leases or contracts made or entered into by the Owner, its successors or assigns, as to any portion of the Property shall contain therein the following language:

(a) In Deeds:

"(1) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed, nor shall the grantee or any person claiming under or through the grantee, establish or permit any practice or

practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

(b) In Leases:

"(1) Lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee or any person claiming under or through the lessee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

(c) In Contracts:

"(1) There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision

(m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

22. Hazardous Materials.

(a) Except as expressly disclosed in the environmental reports and other documents delivered to the City, to the best of Owner's knowledge, the Property is in compliance with all laws, ordinances and regulations relating to Hazardous Materials. Owner agrees not to release, use, manufacture, handle, generate, store, treat, discharge, bury or dispose of any Hazardous Materials on, under, in or about the Property, or transport to or from the Property any Hazardous Materials. Owner agrees to indemnify and hold the City, its officers, employees and agents, harmless from and against any and all loss, claim liability, damage, injunctive relief, injuries to person, property or natural resources, cost, expense (including reasonable fees of attorneys, expert witnesses, and other professionals advising or assisting the City), action or cause of action, arising in connection with the actual or alleged release or presence of any Hazardous Material on, under, in or about the Property whether foreseeable or unforeseeable, regardless of the source of such release or when such release occurred or such presence is discovered; provided, however this indemnity shall not apply if the source of the release is caused by the City or its agents. The foregoing indemnity includes, without limitation, all costs in law or in equity of investigation, assessment, containment, removal, remediation of any kind, and disposal of such Hazardous Materials, all costs of determining whether the Property is in compliance, and causing the Property to be in compliance, with all applicable Hazardous Materials Laws, all costs associated with claims for damages to persons, property, or natural resources and court costs.

(b) The term "Hazardous Materials Law" means all federal, state, and local laws, and ordinances and regulations and standards, rules, policies and other governmental requirements and any court judgments applicable to Owner or to the Property relating to industrial hygiene, environmental or unsafe conditions, or human health, including but not limited to, those relating to the general, manufacture, storage, handling, transportation, disposal, release, emission or discharge of Hazardous Materials. The term "Hazardous Materials" includes

petroleum and petroleum products, flammable explosives, radioactive materials (excluding radioactive materials in smoke detectors), polychlorinated biphenyls, lead, asbestos in any form that is or could become friable, hazardous waste, toxic or hazardous substances or other related materials regulated by Hazardous Materials Law in any manner whatsoever. The term shall not, however, apply to those materials commonly used in accordance with all applicable laws in the rehabilitation of the improvements on the Property and in the operations of a residential rental development.

23. Indemnity Regarding Rehabilitation. Owner agrees to indemnify, defend and hold the City, its officers, employees and agents harmless from and against any and all costs, losses, claims, liability, damage, injuries to person or property, expenses (including reasonable attorneys' fees) (collectively "Liabilities"), directly or indirectly arising out of or resulting from the rehabilitation of any improvements on the Property. Owner's indemnity obligations shall not apply to any Liabilities caused solely by the willful misconduct or gross negligence of the City, its officers, employees, or agents.

24. Insurance. Owner shall maintain and keep in force, at Owner's or its Contractor's cost and expense, the following insurance applicable to the Property in a form acceptable to the City with evidence of such coverage provided to the City within ten (10) days of execution of this Agreement:

- (a) Worker's Compensation insurance, in scope and amount required by law.
- (b) Comprehensive General Liability insurance with limits not less than \$1,000,000 each occurrence.
- (c) Comprehensive Automobile Liability insurance with limits not less than \$1,000,000 each occurrence.

Owner shall name the City as an additional insured on all insurance policies it obtains covering the Property and its activities in connection with the Property.

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Winters
318 First Street
Winters, CA 95694
Attn: Housing Manager

No fee document pursuant to
Government Code Section 27383

THIS SPACE FOR RECORDERS USE ONLY

**TERMINATION AND RELEASE OF
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

THIS TERMINATION AND RELEASE OF REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (the "Release"), dated as of November 1, 2015 and effective as of recordation, is made by the City of Winters, a California municipal corporation and the City of Winters, a California municipal corporation, as Successor to the Housing Assets of the Former Community Development Agency of the City of Winters (collectively, the "City"). This Release pertains to that certain real property located at 116 East Baker Street in the City of Winters, County of Yolo, State of California (the "Property") described in Exhibit A attached hereto, which exhibit is incorporated herein by this reference.

WHEREAS, the City previously made a \$94,350.00 loan and two grants in the amount of \$90,650.00 and \$250,000.00 (the "Funding") to Community Housing Opportunities Corporation, a California nonprofit public benefit corporation ("CHOC"). The Funding was evidenced in part by a Regulatory Agreement and Declaration of Restrictive Covenants dated March 1, 2003 by and between the City and CHOC, and recorded against the Property on April 3, 2003 as instrument number 2003-18526, as assigned to Winters Apartments, Inc., a California nonprofit public benefit corporation ("Winters, Inc.") pursuant to an Assignment, Assignment and Release Agreement dated November 19, 2003 (the "Original City Regulatory Agreement"), and a Regulatory Agreement and Declaration of Restrictive Covenants dated March 1, 2003 by and between the Community Development Agency of the City of Winters and CHOC and recorded against the Property on April 3, 2003 as instrument number 2003-18527, as assigned to Winters, Inc. pursuant to an Assignment, Assignment and Release Agreement dated November 19, 2003 (the "Original Agency Regulatory Agreement").

WHEREAS, Winters, Inc. intends to transfer the Property to Winters Community Housing One LP, a California limited partnership and in connection with the transfer, the City and Winters, Inc. will enter into a new regulatory agreement which will be recorded against the Property prior to the transfer, restricting the occupancy of the improvements on the Property (the "New Regulatory Agreement");

WHEREAS, the City has agreed to release the Original City Regulatory Agreement and the Original Agency Regulatory Agreement concurrently with the recordation of the New Regulatory Agreement against the Property;

WHEREAS, in order to cause the removal of the Original City Regulatory Agreement and the Original Agency Regulatory Agreement from the Property, the City has agreed to enter into this Release.

NOW, THEREFORE, the City hereby acknowledges and agrees that the Original City Regulatory Agreement and the Original Agency Regulatory Agreement are terminated and the City hereby releases the Property from the restrictions of Original City Regulatory Agreement and the Original Agency Regulatory Agreement and directs that Original City Regulatory Agreement and the Original Agency Regulatory Agreement be removed as encumbrances on the Property.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the City hereby executes this Release as of the date first written above.

CITY OF WINTERS, a California municipal corporation

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

CITY OF WINTERS, a California municipal corporation, as Successor to the Housing Assets of the Former Community Development Agency of the City of Winters

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

Approved as to form:

Ethan Walsh
City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A

(Legal Description of the Property)

Real property in the City of Winters, County of Yolo, State of California, described as follows:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF PARCEL 2, AS SAID PARCEL IS SHOWN UPON PARCEL MAP NO. 2726, FILED ON JULY 25, 1980 IN BOOK 5 OF PARCEL MAPS AT PAGE 56, YOLO COUNTY RECORDS, FROM WHICH POINT THE NORTHWESTERLY CORNER OF PARCEL 2 BEARS SOUTH 65° 00' 00" WEST 24.67 FEET;

THENCE ALONG THE NORTHERLY LINE OF PARCEL 2 NORTH 65° 00' 00" EAST 458.82 FEET TO THE NORTHEASTERLY CORNER THEREOF;

THENCE ALONG THE EASTERLY LINE OF PARCEL 2 SOUTH 14° 58' 17" EAST 366.65 FEET TO THE SOUTHEASTERLY CORNER THEREOF;

THENCE ALONG THE SOUTHERLY LINE OF PARCEL 2 SOUTH 65° 41' 42" WEST 420.81 FEET TO THE SOUTHWESTERLY CORNER OF PARCEL 2 AS DESCRIBED IN THE CERTIFICATE OF CORRECTION FILED ON JUNE 11, 1982 IN BOOK 1527 OF OFFICIAL RECORDS AT PAGE 327 AND AS SHOWN UPON THAT CERTAIN RECORD OF SURVEY FILED ON JULY 6, 1982 IN BOOK 12 OF MAPS & SURVEYS AT PAGE 2, YOLO COUNTY RECORDS;

THENCE ALONG THE WESTERLY LINE OF PARCEL 2 AS DESCRIBED IN SAID CERTIFICATE OF CORRECTION AND SHOWN UPON SAID RECORD OF SURVEY NORTH 24° 48' 58" WEST 250.11 FEET;

THENCE NORTH 65° 11' 02" EAST 24.67 FEET;

THENCE PARALLEL WITH SAID WESTERLY LINE OF PARCEL 2 NORTH 24° 48' 58" WEST 105.92 FEET TO THE NORTHERLY LINE OF PARCEL 2 AND THE POINT OF BEGINNING.

THIS LEGAL DESCRIPTION IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED AUGUST 29, 2006 AS INSTRUMENT NO. 2006-0033780-00, OF OFFICIAL RECORDS.

APN: 003-370-034-000

FIRST AMENDED AND RESTATED
PROMISSORY NOTE

\$94,350.00

Winters, California
November 1, 2015

FOR VALUE RECEIVED, Winters Apartments, Inc., a California nonprofit public benefit corporation ("Borrower"), hereby promises to pay to the City of Winters (the "City"), or order, the principal amount of Ninety-four Thousand Three Hundred Fifty and No/100th Dollars (\$94,350.00) (the "Loan") or such lesser amount as may be advanced under this Note, with interest on the unpaid balance at the rate or rates specified below, in accordance with the terms and conditions stated herein.

1. This First Amended and Restated Promissory Note ("Note") replaces in its entirety that promissory note executed by Community Housing Opportunities Corporation, a California nonprofit public benefit corporation ("CHOC") for the benefit of the City dated March 1, 2003 in the principal amount of Ninety-four Thousand Three Hundred Fifty and No/100th Dollars (\$94,350.00), as assigned to Borrower (the "Original Note"). Upon execution of this Note by Borrower, the Original Note will be cancelled and returned to Borrower.

2. This Note evidences a loan from the City to CHOC made for the purpose of financing the acquisition of a low income rental housing development known as Winters Apartments (the "Development") located at 116 East Baker Street in Winters.

3. The City or anyone who takes this Note by transfer or assignment and who is entitled to receive payments under this Note is called the "Holder."

4. The outstanding principal balance of the Loan evidenced by this Note shall bear simple interest at the rate of three percent (3%) per annum from the date of disbursement until the Loan is paid in full (including the dates of disbursements made under the Original Note).

5. Commencing on November 1, 2015 and on the first day of each succeeding month until the entire indebtedness has been paid, installments of principal and interest shall be paid in the amount of Three Hundred Ninety-Seven Dollars and 78/100th Dollars (\$397.78) each. The balance of principal, if any, remaining unpaid, plus accrued interest shall be due and payable on March 1, 2070.

6. Each payment received by Holder shall be credited as of the date of receipt by Holder, first to any unpaid late charges and other costs and fees then due under this Note, then to accrued interest and then to principal. In no event shall any amount due under this Note become subject to any rights of offset, deduction or counterclaim on the part of Borrower.

7. Payments on this Note shall be made in lawful money of the United States to the City of Winters, 318 First Street, Winters, CA 95694, or at such other place as the Holder may

inform the Borrower in writing. This Note may be paid in whole or in part, without any prepayment penalty or charge.

8. Borrower shall be in default under this Note if Borrower does not make the payments described in Paragraph 5 within the 10 calendar days of the date due and receipt of notice thereof from Holder. During the time that Borrower is in default under this Note, interest shall automatically be increased without notice from the applicable rate set forth on page 1 of this Note (the "non-default rate") to the default rate of six percent (6%) (the "Default Rate") and shall accrue and be due and payable in lieu of the non-default rate. When Borrower is no longer in default, the Default Rate shall no longer apply and the interest rate shall once again be the non-default rate. Notwithstanding the foregoing provisions, if the interest rate charged exceeds the maximum legal rate of interest, the rate shall be the maximum rate permitted by law. The imposition or acceptance of the Default Rate shall in no event constitute a waiver of a default under this Note or prevent Holder from exercising any of its other rights or remedies.

9. Borrower waives presentment, demand, protest, notices of dishonor and of protest, and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. The Borrower hereby agrees to pay attorney's fees and expenses, which may be incurred by Holder, in the enforcement of this Note. This Note is executed and delivered in the State of California and shall be governed by the laws of the State of California.

10. Concurrently herewith Borrower is executing a Deed of Trust for the benefit of the City to secure this Note (the "Deed of Trust"). From and after the time that this Note is secured by the Deed of Trust, notwithstanding anything to the contrary in this Note, the Deed of Trust or any other instrument evidencing or securing the obligations of Borrower under this Note, Holder expressly agrees that there shall be no personal liability of Borrower or any partner of Borrower under this Note, the Deed of Trust or any other instrument given to evidence or secure the obligations of Borrower under this Note. The liability of Borrower shall be strictly and absolutely limited to the property conveyed by the Deed of Trust and the rents, profits, issues, products and proceeds thereof. In the event a default occurs under this Note or with respect to the indebtedness evidenced by this Note, Holder shall not seek any judgment for a deficiency against Borrower, any partner of Borrower, legal representatives, successors or assigns of Borrower. Nothing in this paragraph shall preclude Holder from foreclosing the lien of the Deed of Trust securing this Note. The limitations in this paragraph shall not apply to any losses incurred by Holder as a result of Borrower's application of security deposits, insurance proceeds or condemnation awards in a manner prohibited by the Deed of Trust, waste or willful damage to the Development, or fraud or willful misrepresentation made under or in connection with the Loan.

11. This Note may be assigned as part of a sale or transfer of the Development to CHOC, a wholly controlled affiliate of CHOC, or a limited partnership in which a wholly controlled affiliate of CHOC is the general partner at the time of the transfer.

IN WITNESS WHEREOF, Borrower is executing this Promissory Note as of the day and year first above written.

Winters Apartments, Inc., a California nonprofit
public benefit corporation

By: _____
Manuela Silva
Chief Executive Officer



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: November 17, 2015
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Dan Maguire, Economic Development and Housing Manager *DM*
SUBJECT: Authorize City Manager to file a Notice of Completion for the Construction Services Agreement with Vaca Valley Excavating for Contaminated Soil Placement, Site Restoration and Grading at City-Owned Parking Lot (APN #s 003 204 002 & 003 204 018)

RECOMMENDATIONS:

1) Receive the report from staff recommending the filing of a Notice of Completion for the Construction Services Contract with Vaca Valley Excavating for the Construction Services Contract for Contaminated Soil Placement, Site Restoration and Grading at City-Owned Parking Lot on First Street across from City Hall, and 2) Authorize the City Manager to execute a Notice of Completion for the contract with Vaca Valley Excavating for the Construction Services Agreement, and have said Notice of Completion recorded with the Yolo County Recorder's Office.

BACKGROUND:

As part of the City's Development Agreement with AKM Railroad LLC for the Downtown Hotel project, the City is required to provide a "clean site" as a condition of the sale of the property. At the October 20, 2015 City Council meeting, the City Council authorized a contract award to Vaca Valley Excavation for soil placement of the stockpiled, contaminated soil in the City-owned parking lot, and authorized the City Manager to execute a contract with Vaca Valley Excavation as the low responsive bidder for the project bid. The work outlined in the agreement has been completed.

FISCAL IMPACTS:

Total contract cost is not to exceed \$23,495.00.

ATTACHMENTS:

Notice of Completion

Recording requested by:

CITY OF WINTERS

And when recorded mail to:

City of Winters
318 First Street
Winters, CA 95694

NOTICE OF COMPLETION

NOTICE is hereby given that I, the undersigned, City Manager of the City of Winters, the agent of the owner, City of Winters, of that certain area of land situated in the County of Yolo, State of California, and described as follows, to-wit: City of Winters Parking Lot, 311 First Street, Winters, CA (APN #s 003 204 002 & 003 204 018)

DESCRIPTION OF WORK TO BE DONE – Excavation of site, placement of contaminated soil, Site Restoration and Grading at the City-Owned parking lot located at 311 First Street, Winters, CA 95694 (APN #s 003 204 002 & 003 204 018).

and, as owner of said land, did on the 22nd day of October, 2015, enter into an agreement with Vaca Valley Excavating for construction work of the above-described improvements upon the land above-described.

That on October 30, 2015, the above-referenced agreement, as a whole, was completed by the above Contractor.

That the name and address of the owner of the above-described property is as follows: City of Winters, 318 First Street, Winters, CA 95695.

CITY OF WINTERS

John W. Donlevy, Jr., City Manager



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council members
DATE: November 17, 2015
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Dan Maguire, Housing Programs Manager *DM*
SUBJECT: Authorize Execution of an Addendum to the Professional Services Contract to Melton Design Group for Design and Engineering Services to be Used as a Basis for Construction Drawings/Documents for the Walnut Park Construction Project (APN # 003 360 025)

RECOMMENDATIONS:

1) Receive the report from staff updating City Council on the status of the Phase Two Construction of Walnut Park, and 2) Authorize the City Manager to execute an addendum to the Professional Services Contract with Melton Design Group ("MDG") for Design and Engineering Services for the Walnut Park Construction Project.

BACKGROUND:

The City is under contract to receive Prop 84 grant funds from the California State Parks and Recreation Department, and previously received CDBG grant funds from the State's CDBG General Allocation Program. Funding from both sources will be utilized for the development of a new city park to be located on the 5 acre parcel (APN # 003 360 025) between Dutton Street and Walnut Lane due east of the new Orchard Village Apartments.

At the July 3, 2012 City Council meeting, the Council authorized the City Manager to execute a professional services contract with Melton Design Group for Design and Engineering Services for Walnut Park (previously referred to as Orchard Village Park).

At the City Council and Planning Commission Joint Workshop on January 22, 2013, a plan for phasing the park construction was presented. The phasing was necessitated by the expenditure deadline differences between the CDBG Grant and the Prop 84 Grant, coupled with the timeframe needed for the environmental mitigation of the seasonal wetlands located on the property. At the April 16, 2013 City Council meeting,

Council authorized a Contract Amendment with MDG to reflect the additional costs associated with splitting the project into two phases.

The Prop 84 grant provides \$865,191 in funding for the park project, including \$200,000 for environmental mitigation. On July 1, 2014, the City was awarded \$117,275 in grant funds for the project from the Housing Related Parks Program ("HRPP"), based on the City's contributions to the Almondwood Apartments rehabilitation project. These grant funds are designated for the Walnut Park project.

The City finally successfully completed the required habitat mitigation for the seasonal wetlands on the park property, purchasing land bank credits in September of 2015. The project has now begun the process of revising the Phase 2 Master Plan and Phase 2 cost estimates. The revised Phase 2 Master Plan and Phase 2 Cost Estimates were presented as an update to the Planning Commission at the Planning Commission meeting on October 27, 2015. Melton will begin the preparation of construction bid documents, with those bid documents being finalized over the last quarter of 2015. It is anticipated the construction of remainder of the park put out to bid in the first quarter of 2016; with construction to begin in early Spring, 2016, as weather conditions allow.

FISCAL IMPACTS:

Total addendum contract cost is \$15,325. The issuance of the Addendum to the Professional Services Contract will have no impact on City's General Fund or other City funds as expenses incurred in providing Design and Engineering Services are eligible for reimbursement under the terms of the Grants. Design and Engineering services are an eligible construction cost under the terms of the Prop 84 Grant.

ATTACHMENTS:

Proposal to Update Design Services Agreement (Addendum dated 10/19/2015)
Original Contract
Phase 2 Master Plan update
Updated Cost Estimates for Phase 2



Dan Maguire
Economic Development & Housing Manager
City of Winters
318 First Street
Winters, CA 95694

October 19, 2015

Re: Proposal to Update Design Services Agreement
From 2012 to 2016

Dear Dan;

This letter is in reference to the design services for Walnut Park discussed at our meeting last week. It is our understanding that the City requests that Melton Design Group complete Phase 2 Design Services, including additional services to revise the Phase 2 Master Plan, present the Plan to the Planning Commission and update the Plan according to input from the Commission. Phase 2 Construction Documents will be complete according to the same guidelines.

In addition, our experience has been construction does not occur exactly per plan, so we would recommend that at a minimum the Phase 1/Phase 2 edge condition be surveyed along with the soil stockpile in order to match the as-built improvements determine an accurate quantity of available soil.

The following Scope of Work will outline these additional services as a Proposal to amend the current Agreement, including an update to the attached Schedule of Rates from the initial 2012 – 2013 rates to current 2015 – 2016 rates.

SCOPE OF WORK

Task 1 – Master Plan Update

- 1.1 Coordination with City Staff – review of new Phase 2 parameters; City input, budget, schedule, permit and grant requirements.
- 1.2 Review Environmental Documents – inquire on site permit requirements for existing wetland on site. Coordinate with City's environmental consultant.
- 1.3 Project Team Meetings – provide direction for changes to preliminary design.
- 1.4 Revise Master Plan – update existing Phase 2 Master Plan to new parameters.
- 1.5 Provide Opinion of Probable Construction Cost
- 1.6 Review Phasing Plan and Cost Estimate with City Staff – verify elements to include in Phase 2 construction.
- 1.7 Present Phase 2 Master Plan to Planning Commission
- 1.8 Update Master Plan according to input from City and Planning Commission

Task 2 – Topographic Survey and Base Map Update for Phase 1/Phase 2 edge and soil stockpile.

Task 3 – Schedule of Rates Update; from 2012 to 2016

When our consultant team updates the Phase 2 scope of work with our 2015/2016 schedule of rates, we find the following adjustments:

Melton Design Group +\$4,375

Cunningham Engineering +\$2,325



FEE PER TASK SUMMARY

Task 1 – Master Plan Update	\$5,750
Task 2 – Topographic Survey / Base Update	\$2,875
<u>Task 2 – Schedule of Rates Update</u>	<u>\$6,700</u>
TOTAL PROPOSED AMENDMENT	\$15,325

Please let us know if you have any questions regarding this proposal. If agreed, I'll email the proposal as an amendment to our existing Agreement with the City.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Melton', is written over a horizontal line.

Greg Melton, Principal, RLA #4217
Melton Design Group



2015 SCHEDULE OF RATES

PERSONNEL

Principal Landscape Architect	\$135.00/hour
Associate Landscape Architect	\$110.00/hour
Project Manager	\$100.00/ hour
Irrigation Specialist	\$95.00/ hour
Irrigation Associate	\$75.00/ hour
Graphic Technician	\$85.00/ hour
Drafting Technician I	\$75.00/ hour
Drafting Technician II	\$65.00/ hour
Administration	\$55.00/ hour
Clerical	\$45.00/ hour

REIMBURSABLE EXPENSES

Plotting Ink Jet (HP800)	\$1.75 / square foot
Plotting, Color Ink Jet	\$8.00 / square foot
Premium Color Glossy Ink Jet	\$12.00 / square foot
Mylar plots	\$4.00 / square foot
Large Format Xerox Prints (Kip 5000)	\$.75 / square foot
Foam Core	\$10.00
Copies, 8.5 X 11 (Canon)	\$.20 each
Copies, 11 X 17	\$.40 each
Color Copies, 8.5 x 11 (Phaser 7400)	\$1.00 each
Color Copies, 11 X 17	\$2.00 each
Binding	\$2.50 each
CD – Compact Disk	\$1.50
Overnight Mail	Cost Plus 15%
Courier	Cost Plus 15%
Photography	Cost Plus 15%
Soils analysis	Cost Plus 15%
Travel / Automobile	\$.58 / mile



CONSULTANT SERVICES AGREEMENT
Orchard Village Park Project – Melton Design Group – Design Services
CITY OF WINTERS AGREEMENT No. 006-12

THIS AGREEMENT is made at Winters, California, as of October 29, 2012, by and between the City of Winters ("the CITY") and Melton Design Group (CONSULTANT)", who agree as follows:

CITY is the owner of approximately 5 acres of property, part of the City's Park Master Plan. The western 1.6 acres was previously designated for passive recreation and picnic use. The eastern 3.4 acres is planned as an active sports field area. The acreage is more specifically described on Exhibit A, attached hereto and made a part hereof.

CITY desires to contract with the CONSULTANT to provide design services, construction drawings and specifications, construction contract oversight and construction oversight, and other services as more accurately described in the "Detailed Scope of Work" portion of the CONSULTANT's proposal, shown in Exhibit B, attached hereto and made a part hereof.

CONSULTANT has presented a proposal for such services to the City, and the CONSULTANT is duly Licensed and has the experience to perform those services.

TERMS AND CONDITIONS:

1. **SERVICES.** CONSULTANTS shall provide to the City the Services described in Exhibit "B", the "Detailed Scope of Work", which is the CONSULTANT'S Proposal dated October 7, 2012. CONSULTANT shall provide said services at the time, place, and in the manner specified by CITY, and in accordance the requirements of the CDBG Grant and Proposition 84.

2. **PAYMENT.** CONSULTANT shall be paid for the actual costs, for all time and materials expended, in accordance with the Schedule of Fees included in Exhibit "C", but in no event shall total compensation exceed ONE HUNDRED AND TWENTY-SIX THOUSAND, SIX HUNDRED AND FORTY-FOUR DOLLARS (\$126,644.00), without the City's prior written approval. City shall pay CONSULTANT for services rendered pursuant to this Agreement and described in Exhibit "B", up to the total compensation specified above.

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.

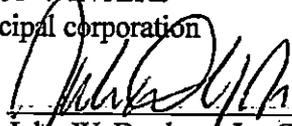
4. GENERAL PROVISIONS. The general provisions set forth in Exhibit "D" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control only insofar as it is inconsistent with general 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.

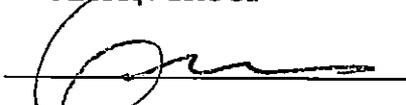
CITY OF WINTERS
a municipal corporation

By:


John W. Donlevy, Jr., City Manager

CONSULTANT
MELTON DESIGN GROUP

By:


Greg Melton, ALSA, Principal

ATTEST:

By:

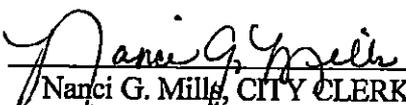

Nanci G. Mills, CITY CLERK

EXHIBIT A – LEGAL DESCRIPTION OF ORCHARD VILLAGE PARK PROPERTY

Escrow No.: 11-42205162-AK
Locate No.: CACTI7734-7754-4422-0031118596
Title No.: 11-31118596-KD

EXHIBIT "A"

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

That portion of real property situate in the City of Winters, County of Yolo, State of California, and being a portion of the Northwest quarter of Section 22, Township 8 North, Range 1 West, Mount Diablo Base and Meridian, and also being a portion of Lot 3 of "J. Hill's Subdivision," filed in Book 44 of Deeds, Page 1, being more particularly described as follows:

Beginning at the Northeast corner of said Lot 3, said point also being the Southeast corner of Parcel B, as it appears in Book 6 of Parcel Maps, at Page 16, and said point being distant the following two (2) courses from a concrete monument marking the Northwest corner of said Section 22: (1) North 89° 31' 53" East 984.12 feet along the North line of said Section 22 of a point on the West line of Walnut Lane, as it appears in Book 2002 of Maps, at Page 149; and (2) along said West line, South 00° 29' 11" East 943.11 feet; thence, from said point of beginning, along said West line, South 00° 29' 11" East 469.14 feet to the Southeast corner of said Lot 3; thence, along the South line of said Lot 3, South 89° 22' 44" West 462.24 feet to the Northeast corner of Parcel 3, as said parcel is shown on Parcel Map No. 3725, filed in Book 9 of Parcel Maps, at Page 52, said point also being North 89° 22' 44" East 30.00 feet from a found 5/8" rebar marking the Northwest corner of Dutton Street right of way, said point also being the centerline of Proposed Dutton Street, as shown on Parcel Map No. 3012, filed in Book 5 of Parcel Maps, at Page 63; thence North 00° 37' 22" West 232.60 feet; thence, along a tangent curve to the left having a radius bearing South 89° 22' 38" West 500.00 feet, a central angle of 13° 40' 16", through an arc length of 119.30 feet to a point of reverse curvature; thence along a curve to the right having a radius bearing North 75° 42' 22" East 500.00 feet, a central angle of 13° 49' 12", through an arc length of 120.60 feet to the point on the North line of said Lot 3, said point also being the Southwest corner of Parcel 3, as said parcel is shown on Parcel Map No. 4592, filed in Book 2002 of Maps, at Page 149, said Southwest corner also being the Southeast corner of Parcel E, as said parcel is shown on Parcel Map No. 3675 filed in Book 9 of Parcel Maps, at Page 14, said point also being the future centerline of Dutton Street; thence, along said North line, North 89° 31' 53" East 491.69 feet to the point of beginning.

Said land is also described in Certificate of Compliance recorded May 19, 2009, Instrument No. 2009-0015525, Official Records.

APN: 003-360-025

EXHIBIT B – DETAILED SCOPE OF WORK TO BE PERFORMED BY CONSULTANT

DETAILED SCOPE OF WORK to be performed by MELTON DESIGN GROUP TEAM

Task 1 – Project Initiation and Site Analysis\$14,313

- 1.1 **Kick off Meeting** – Meet with City Staff to confirm the City's objectives for the project, to establish parameters for the design effort, and to confirm interim and final deliverables.
 - A. Project Team Coordination throughout project. (civil, electrical, Irrigation, environmental)
 - B. Update Project Schedule according to the City's proposed timeline for the Project and the agreed upon scope of work.
 - C. Refine project program and confirm with City Staff.

- 1.2 **Site Analysis**
 - A. Obtain all existing site data, information from City, including historical information and as built plans; existing topography and any recorded locations of exiting utilities developed in the past projects.
 - B. **Existing Topographic Survey Review and Base Map:** Review City-provided topographic survey of site and surrounding area reflective of the property prior to development of the apartment complex, Dutton Street, and excavation of the detention basin. Review existing ACAD files of improvement plans provided by City for Dutton Street, the detention basin and Walnut Lane. Prepare a preliminary base map of the site by combining existing design improvement plans and topographic survey.
 - C. Study complete site water retention or detention requirements.
 - D. Visit site and analyze existing site features, relationships to surrounding environment and outline element features relevant to proposed project design.
 - E. Provide photo documentation of analysis.
 - F. Provide summary of analysis for project records and City review.

1.3 **Confirm all agency, City general plan and grant requirements** Future general plan uses of surrounding areas, grant dates and requirements

1.4 **Coordinate with City to refine park program and elements:** Emerse ourselves into the park concept and relate it directly to the City and the future users of the park.

1.5 **Supplemental Topographic Survey:** Perform supplemental topographic survey as needed for grading and street frontage design. Surveying is limited to spot verification of design improvement plans and previous topographic survey, plus depiction of items not included on said plans.

1.6 **Analysis of site features, constraints and opportunities:** Develop options and creative solutions that will mitigate and take advantage of the existing site conditions and new elements that

Task 2 – Design Development – (30% Completion Submittal).....\$29,811

- 2.1 **Refine Existing Master Plan (hand drawn)** according to results of Site Analysis input from City staff. Prepare master plan, product sketches, perspective renderings, cut sheets and vignettes for key site elements; multi-use field, community garden, playground, shade structure, site furniture and thematic concepts. Meet with City Staff to review the concept design
 - A. Irrigation Calculations for AB 1881.
 - B. Description of park elements and materials
 - C. Drainage Review and Conceptual Design – Review existing detention basin calculations and prepare a technical memo describing existing sizing, requirements for additional volume to serve the Project, and options for expansion and aesthetic improvement parameters (eg. slope and footprint modifications within the intent of the Master Plan).

- D. **Civil Conceptual Plan** – Prepare a single sheet plan to indicate general grading, drainage and civil utility design concepts. Plan will be submitted to Client for review, comment, and discussion.

This plan set will serve as our 30% submittal.

2.2 **Preliminary Cost Estimate** – Research and provide estimated cost of construction.

- A. Coordinate with local contractors to determine “specific area costs”
B. Provide costs for the “HIGH end and the LOW end” of the projects elements.
C. Review cost with City staff and adjust project design as needed to be within budget

2.3 **Develop Digital Master Plan and create Package Representing all Elements (Digitized plan)**

- Master Plan and Renderings (30 x 42 and 11 x 17)
- Preliminary Engineering and Costs / Outline of Technical Specifications
- Element cut sheets and description
- Updated implementation schedule
- Updated cost estimates
- Submittals will be both digital and hard copies

2.4 **Present Refined Master Plan and Preliminary Design Documents** – Each meeting consist of staff coordination prior to meeting, agenda submittal and presentation. Follow up will occur to clarify outcome of meeting.

- A. **Public Workshop** – Facilitate a public meeting communicating with public, relating to past information and moving forward into final design concepts and consensus
B. **Planning Commission** – Present Master Plan and respond to comment
C. **City Council** - Present Master Plan and respond to comment

These presentations will dictate all the value engineering and changes to the plan.

2.5 **Final Master Plan and Design Development** – Implement review comments in final, digital, colored, Master Plan and final cost estimate separated per grant area. (30% CD's)

- A. This document will serve as base document for construction document production along with CEQA and Initial Study support.
B. Assist City staff with document production as needed to gain Grant Agency approval.
C. Acquire approval from City staff to move forward with Construction Documents.

Task 3 – Construction Documents, Specifications and Estimates \$55,975

Prepare Plans and Specifications for Construction of the proposed Park:

3.1 **Data Collection and Analysis**

3.2 **Construction Drawings and Specifications**

Title Sheet – Project Location Maps and Drawing Index – 1 sheet

- A. Demolition Plan – 1 sheet
B. Erosion Control Plan – 1 sheet
C. Storm Water Pollution Prevention Plan (SWPPP) – Report Document
Prepare Notice of Intent and SWPPP as required by the State Water Regional Control Board.
Submit the Notice and SWPPP to the Control Board and acquire Waste Discharge Identification Number (WDID), registering the Project with the Board.

D. Construction Plan - Site dimensioning for detailed areas / Demolition Plan

- Identify all park elements and locations
- Describe materials, size, color and finish
- Layout and dimension park element details only. Site layout will be provided as points file to the Contractor at time of construction.

- a. **Utility Plan:** Prepare on-site water, storm drain and sanitary sewer plan for the site. We assume existing public water, sanitary sewer and storm drainage facilities

within adjacent streets are available and of adequate size, capacity, and depth to serve the site.

- b. **Street Frontage Improvement Plans:** Prepare plan and profile improvements for Walnut Lane. Improvements to be designed per City of Winters Engineering Standards and shall be limited to pavement widening for a Secondary Collector, curb, gutter and sidewalk, storm drainage along the project frontage only, and fire hydrants and water services to the Project where necessary. Excludes other offsite improvements including utility extensions north or south of the project frontage.

E. **Grading and Drainage Plan – 2-3 Sheets**

Prepare grading and drainage plan for site based on site plan; including grades and design of storm drainage system and minor relocations of existing facilities required by the proposed improvements. Scope of work is based on adequate capacity being available in the existing storm drainage facilities in the immediate vicinity of the proposed improvements with the exception of the existing detention basin. Provide accessible access ramp details, accessible path signage and striping as required.

F. **Construction Details – 3 sheets**

Typical details include:

- Monument signage / theme
- Concrete flat work
- Road, curb & gutter section
- Community garden/Orchard
- Picnic shelter (Concept)
- Restroom pad (stub utilities)
- Horse shoes, Bocce, etc...
- Site furniture/ Interpretive signs
- Play areas

Coordination will occur with public and design team with the intent of designing with the local public input as it comes to designing the signage and park monument signage, along with develop

- G. **shade Structure Conceptual Plan – 2-3 sheets**
 - Develop concept plan for shelter with plan sheets, elevations and sections along with materials and all sizes..
 - Structural engineering for custom or pre-manufactured elements such as the shade structures will be provided by the manufacturer or contractor.
- H. **Planting Plan and Installation Details – 2-3 sheets**
- I. **Irrigation Plan and Installation Details – 4-5 sheets**
 - Layout irrigation system, pipe size and product specifications
 - Provide water budget and typical watering schedule and calculations
 - ET based controller giving the facility manager great flexibility and water control
- J. **Electrical and Lighting Plans, Installation Details – 3 to 4 sheets**
 - Site electrical supply and security lighting, panel, connection and routing.
 - Provide technical data and assist staff with PG&E new service application

Technical Specifications - CSI Division 1 through 16 as needed according to project elements, development standards and County standard specifications.

3.3 Cost Estimates – Adjust existing Estimated Cost of Construction as Construction Documents are approved through the Submittal Process.

- A. Compare project elements with available project budget
- B. Provide estimates broken down into the separate funding sources. (1.6 ac and 3.4ac)
- C. Prepare final estimates

3.5 Submittal Process and Final Construction Documents

- A. Construction Drawings and Technical Specifications will be submitted to the City for comment and approval at 65%, 90% and 100% completion.
- B. Adjust Construction Drawings and Technical Specifications per City comments
- C.

Provide Final Bid Set

of Construction Documents; Construction Drawings, Technical Specifications, Cost Estimates and Bid Documents in hardcopy and electronic format to City.

Task 4 – Bid Documents and Administration \$5,882

4.1 Produce Contract Documents – Utilize existing City boiler plate General Conditions, Special Provisions, Bid Form and Contract Forms. Incorporate project Construction Drawings and Technical Specifications to produce project Contract Document package.

- A. Print construction drawings and construction document book sets.
- B. Incorporate all CDBG grant Forms and Specification into the Construction General Conditions

4.2 Provide Bid form of Construction for bidders to use for proposal.

- A. Bid sheet to include all items from cost estimate and alternate or deductive options for bidders to provide additional services if budget allows. Provide (Exhibit B) form for itemized pricing of elements and materials.

- B. Public Bid Notice – provide document needed to advertise bid. City to publish bid advertisement.

4.3 Pre Bid Meeting – Attend Pre-Bid meeting to review plans and specifications with prospective bidders.

4.4 Addendums - After a question and answer period addendums will follow as needed to complete package and clarify bid.

4.5 Award Bid – provide consultation to City in awarding contract according to bids received and contractor qualifications.

Task 5 – Construction Administration \$16,976

5.1 Provide City Record Drawings on full-size Mylar and all Contract Documents in electronic format (Word, PDF and AutoCAD) on DVD.

- 5.2 Pre Construction Meeting / Review submittals and respond as necessary
- 5.3 Amendments to documents – issue as needed throughout project if necessary in response to contractor.
- 5.4 RFI (Requests for Information) – respond to contractor requests
- 5.5 Memorandum Directives and Field Orders- provide to contractor as needed
- 5.6 Change Order Requests – review and provide recommendations to City staff and Issue as needed
- 5.7 Field Observations and Inspections per plans and specifications (10 total)
 Typical observations include site visits to report finish grade work, concrete formwork, concrete finish, irrigation installation, planting, punch lists and final observations. Field Observation reports will follow each observation and be submitted to the Construction Manager, City and contractor with approval of the work or suggested remedies.
- 5.8 Reporting administration documents as needed to the City and Contractor.
- 5.9 Contractor Payment Request – Consultant will review payment requests with Construction Manager and respond as necessary.

TASK 6 - REIMBURSABLE EXPENSES (3%).....\$3,689

MDG will provide digital and hardcopies to the City to review and comment Contract designated submittals. Reproduction of drawings for meetings or submittals will be billed per the attached Schedule of Rates and will be itemized for your review as part of the invoice.

Additional expenses incurred during process such as requests for bid sets or large quantities of copies or additional colored drawings will be approved prior to production and will be billed in addition to Contract Terms of Compensation per the attached Schedule of Rates.

TERMS OF COMPENSATION\$126,644

Compensation for the above services shall be billed on a monthly basis according to the percentage of tasks complete at that time.

EXHIBIT C – CONSULTANT’S SCHEDULE OF FEES/COSTS:

The following is the Fee Schedule to complete the design and construction of the Orchard Village Park project. Work includes all items described in Exhibit B.

Task 1 – Project Initiation and Site Analysis	\$14,313
Task 2 – Design Development – (30% Completion Submittal).....	\$29,811
Task 3 – Construction Documents, Specifications and Estimates.....	\$55,975
Task 4 – Bid Documents and Administration.....	\$5,882
Task 5 – Construction Administration	\$16,976
TASK 6 - Reimbursable Expenses (3%).....	\$3,689

TERMS OF COMPENSATION **\$126,644**

All items will be billed monthly on a lump sum percentage of completion basis. See breakdown of hourly rates per task used to develop lump sum amounts. Hourly rates shown previously are good for duration of the project.

MELTON DESIGN GROUP SCHEDULE OF RATES

Fiscal Years: 2012-2013

Handwritten:
GPEL MELTON - MDG

Note: Rates are subject to 5% increase each year after date of proposal.

PERSONNEL

Principal Landscape Architect	\$125.00/hour
Associate Landscape Architect	\$100.00/hour
Project Manager	\$85.00/ hour
GIS Specialist	\$75.00/ hour
Irrigation Specialist	\$75.00/ hour
Irrigation Associate	\$55.00/ hour
Graphic Technician	\$65.00/ hour
Drafting Technician I	\$65.00/ hour
Drafting Technician II	\$55.00/ hour
Administration	\$45.00/ hour
Clerical	\$35.00/ hour

REIMBURSABLE EXPENSES

Plotting Ink Jet (HP800)	\$1.75 / square foot
Plotting, Color Ink Jet	\$8.00 / square foot
Premium Color Glossy Ink Jet	\$12.00 / square foot
Mylar plots	\$4.00 / square foot
Large Format Xerox Prints (OCE)	\$.75 / square foot
Foam Core	\$10.00
Copies, 8.5 X 11 (cannon)	\$.20 each
Copies, 11 X 17	\$.40 each
Color Copies, 8.5 x 11 (Phaser)	\$1.00 each
Color Copies, 11 X 17	\$2.00 each
Binding	\$2.50 each
CD - Compact Disk	\$1.50
Overnight Mail	Cost Plus 15%
Courier	Cost Plus 15%
Photography	Cost Plus 15%
Soils analysis	Cost Plus 15%
Travel / Automobile	\$.50 / mile

Daniel J. Maguire

From: Greg Melton [greg@meltondg.com]
Sent: Monday, October 15, 2012 3:22 PM
To: Daniel J. Maguire
Subject: Winters - Orchard Village Park Final Contract
Attachments: COST ESTIMATE Winters Park 8a gm.xlsx; Winters Proposed Scope and Fee 8A gm.docx

Dan,

I made all the changes per the new fees... it brought the number down by approximately \$1,850.

I have attached all the agreements and Exhibits.... we can bill directly and track the contract from the excel document that summarizes all the costs.

I also attached the schedule of fees for the Electrical Engineer below.

Call me if you need anything else. I will be coming through your area on Wednesday afternoon if we want to make an appointment to go over the plans

Thanks,

Greg



Greg Melton, Principal
309 Wall Street | Chico, California 95928
www.meltondg.com | c 530-518-7593 | p 530-899-1616

DC ENGINEERING

SCHEDULE OF FEES

- Principal Engineer, PE: \$115 per hour
- Engineer Level II: \$95 per hour
- Project Manager: \$90 per hour
- Engineer Level I: \$85 per hour
- Programmer: \$85 per hour
- Senior Designer: \$80 per hour
- Designer: \$75 per hour
- Drafting: \$60 per hour
- Clerical: \$45 per hour
- Reimbursable expenses will be reimbursed at cost with markup as follows:
 - Reproduction (if required): cost + 10%
 - Reimbursable expenses will be billed separately

Jon Goranson, PE

DC Engineering, PC
440 E Corporate Dr Ste 103
Meridian, ID 83642
direct (208) 493-0009
bus ph (208) 288-2181x109
fax (208) 288-2182
www.dcengineering.net



**SCHEDULE OF FEES
CUNNINGHAM ENGINEERING CORPORATION
September 2011**

<u>Classification</u>	<u>Hourly Rate</u>
Principal Engineer	\$ 206.00
Project Manager II	\$ 182.00
Project Manager I	\$ 171.00
Senior Engineer	\$ 171.00
Sr. Landscape Architect/Planner	\$ 125.00
Project Engineer III	\$ 142.00
Project Engineer II	\$ 130.00
Project Engineer I	\$ 122.00
Staff Engineer II	\$ 111.00
Staff Engineer I	\$ 97.00
Landscape Architect I	\$104.00
Landscape Designer II	\$ 94.00
Landscape Designer I	\$ 83.00
Planning & Sustainability Analyst	\$ 88.00
Project Coordinator II	\$ 99.00
Project Coordinator I	\$ 70.00
Senior Technician	\$ 116.00
Technician/Drafter IV	\$ 114.00
Technician/Drafter III	\$ 111.00
Technician/Drafter II	\$94.00
Technician/Drafter I	\$ 69.00
Operations Manager	\$ 87.00
Clerical	\$ 66.00
Reimbursable Expenses/Outside Services	Cost + 15%

Fees subject to change.
Fee Schedule 98



WaterCounts
Professional Irrigation Consultant
Water Resources Specialist

SCHEDULE OF RATES 2010

Personnel

Irrigation Consultant	\$90.00/ hour
Technical Assistant	\$70.00/ hour
CAD Technician	\$65.00/ hour
Field Technician	\$55.00/ hour
Plan Check Review	\$45.00/ hour
Administration	\$45.00/ hour
Clerical	\$35.00/ hour

Reimbursable Expenses

Printing	Cost Plus 15%
Overnight Mail	Cost Plus 15%
Courier	Cost Plus 15%
Photography	Cost Plus 15%
Soils analysis	Cost Plus 15%
Max. Per Diem Lodging, Meals & Incidental Expenses	\$116/ day
Mileage	\$.55 / mile

EXHIBIT "D"

GENERAL PROVISIONS FOR THIS AGREEMENT

(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. CONSULTANT agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Agreement is based on such independent investigation and research.

(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. The services of CONSULTANT are to commence upon execution of this Agreement by CITY, and CONSULTANT'S written receipt of the Notice to Proceed from CITY, and shall be undertaken and completed in a prompt and timely manner in accordance with the timelines required under Proposition 84 Grant Funding and the CDBG Grant.

(4) INSURANCE.

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

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

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

(d) CERTIFICATES OF INSURANCE. CONSULTANT shall file with CITY'S City Clerk Nanci G. Mills, upon the execution of this agreement, certificates of insurance which shall

provide that no cancellation, major change in coverage, expiration, or non-renewal will be made during the term of this agreement, without thirty (30) days written notice to the Winters City Clerk prior to the effective date of such cancellation, or change in coverage.

- (e) In addition to any other remedy CITY may have, if CONSULTANT fails to maintain the insurance coverage as required in this Section, CITY may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and CITY may deduct the cost of such insurance from any amounts due or which may become due CONSULTANT under this Agreement. The requirement as to types, limits, and CITY's approval of insurance coverage to be maintained by CONSULTANT are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by CONSULTANT under this Agreement.

(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 is a private independent contractor providing park design services. In addition, CONSULTANT possesses no authority with respect to any CITY decision beyond the provision of such services.

(15) MISCELLANEOUS PROVISIONS.

1. The Consultant shall designate an employee to assume local responsibility for the performance of the work and who at all times shall represent the Consultant before the City on all matters relating to this Agreement. The employee shall continue in such capacity unless and until he or she is removed at the request of the City, is no longer employed by Consultant, or replaced with the written approval of the City, which approval shall not be unreasonably withheld.
2. The Consultant shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons employed by it or under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Agreement or the materials used or which in any way affect the conduct of the work.
3. Consultant shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation.

4. The Consultant shall maintain and make available for inspection by the City and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this Agreement.
5. This Agreement constitutes the entire agreement between the parties relative to the services specified herein and no modification hereof shall be effective unless and until such modification is evidenced by a writing signed by both parties to this Agreement. This Agreement may not be assigned by either party without the written consent of the other.
6. All notices that are required to be given by one party to the other under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

City: City of Winters
Attn: Dan Maguire, _____
318 First Street
Winters, CA 95694

Consultant: Melton Design Group
Attn: _____
309 Wall Street.
Chico, CA 95928

7. This Agreement shall be interpreted and governed by the laws of the State of California.
8. Any action arising out of this Agreement shall be brought in Yolo County, California, regardless of where the venue may lie.
9. In any action brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees.

WALNUT PARK - PHASE 2

Winters, CA

Preliminary Estimated Cost of Construction

Project No.: 2046.1

Date: October 20, 2015

BASE BID ITEMS	QUANTITY	UNIT PRICE	TOTAL
1 Mobilization (2%)	1 LS	\$11,230.00	\$11,230.00
2 Erosion control	2.8 AC	\$5,000.00	\$14,000.00
3 Tree Removal (By City)	5 EA	\$0.00	\$0.00
4 Clearing, Grubbing and Removals	2.8 AC	\$2,500.00	\$7,000.00
5 Cut and Fill (on site balance)	5,500 CY	\$8.00	\$44,000.00
6 Grading (fine grading)	108,292 SF	\$0.40	\$43,316.80
7 Walnut Ln - Sawcut and Pavement Widening	510 SF	\$4.36	\$2,223.60
8 Walnut Ln - Concrete Curb and Gutter	497 LF	\$27.25	\$13,529.63
9 Walnut Ln - Curb Ramps	3 EA	\$1,635.00	\$4,905.00
10 Walnut Ln - Curb Inlet	1 EA	\$3,815.00	\$3,815.00
11 ADA Parking - PCC Pavement	520 SF	\$13.08	\$6,801.60
12 ADA Parking - Concrete Barrier Curb	50 LF	\$16.35	\$817.50
13 ADA Parking - Signage and Striping	1 LS	\$817.50	\$817.50
14 12" Storm Drain Pipe	300 LF	\$65.40	\$19,620.00
15 12" Storm Drain Inlet	2 EA	\$2,180.00	\$4,360.00
16 Park Rules Sign	1 EA	\$300.00	\$300.00
17 Community Garden Fence	326 LF	\$35.00	\$11,410.00
18 Entry Gate - to garden	1 EA	\$1,200.00	\$1,200.00
19 Vehicle Gate - to garden	1 EA	\$2,200.00	\$2,200.00
20 Concrete Paths	6,034 SF	\$8.00	\$48,272.00
21 Decomposed Granite Path - (DG) min 3" deep compacted	5,942 SF	\$2.75	\$16,340.50
22 Shade Structure	1 LS	\$51,400.00	\$51,400.00
23 Racing Slides	2 EA	\$8,500.00	\$17,000.00
24 Fall Material for play structure (12" deep wood chips)	15 CY	\$75.00	\$1,125.00
25 Reinforced Edge of Sidewalk (at wood chip area)	35 LF	\$20.00	\$700.00
26 Sand for sand box	3 TON	\$175.00	\$525.00
27 Weed Barrier Fabric (at play area fall material and sand play)	650 SF	\$2.00	\$1,300.00
28 Accessible Ramps at play area	2 EA	\$750.00	\$1,500.00
29 Boulders - play area and landscape - 24" to 60"	24 EA	\$400.00	\$9,600.00
30 Potable Water - to drinking fountain and playground	150 LF	\$10.00	\$1,500.00
31 Install Benches (benches provided by City)	5 EA	\$800.00	\$4,000.00
32 Light Poles - decorative to match existing, includes trenching	2 EA	\$5,000.00	\$10,000.00
33 Bollards on Path	2 EA	\$1,200.00	\$2,400.00
34 Turf (hydroseed and amendments)	50,700 SF	\$0.45	\$22,815.00
35 Trees (15 gal)	53 EA	\$150.00	\$7,950.00
36 Shrubs (1 gal)	99 EA	\$17.00	\$1,683.00
37 Shrubs (5 gal)	160 EA	\$34.00	\$5,440.00
38 No Mow Grass (Sod)	1,468 SF	\$1.00	\$1,468.00
39 Irrigation (turf)	50,700 SF	\$1.75	\$88,725.00
40 Irrigation (shrubs & trees on bubblers)	39,844 SF	\$1.25	\$49,805.00
41 Hydroseed (native grasses and wildflowers)	57,592 SF	\$0.25	\$14,398.00
42 Walnut Shell Mulch 2" in planters	26,936 SF	\$0.44	\$11,851.84
SUB TOTAL			\$561,344.97
5% CONTINGENCY			\$28,067.25
Consultant Fees - MDG, Ponticello and Padilla			\$71,156.00
TOTAL BASE BID ESTIMATE			\$660,568.21

ADD ALTERNATE BID ITEMS

1 Drinking Fountain at playground (one currently on site)	1 EA	\$4,000.00	\$4,000.00
2 Third Light Pole	1 EA	\$5,000.00	\$5,000.00
3 Fence at play area (decorative/safety)	100 LF	\$35.00	\$3,500.00
4 6' DG Paths instead of 5' and Extra Corner Paths	1,500 SF	\$2.75	\$4,125.00
5 Play Area Log - local lumber, sealed and bolted in place	1 LS	\$2,500.00	\$2,500.00
TOTAL ADD ALTERNATES			\$19,125.00

AVAILABLE BUDGET

Prop 84	\$587,301.00
HRP Grant	\$117,000.00
Purchase New Mower	-\$40,000.00
TOTAL BUDGET	\$664,301.00

Note: This estimate is based on the Preliminary Site Plan - Phase 2 dated October 20, 2015.

It is recognized that neither the Landscape Architect nor the client has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid or competitive bidding, market or negotiating conditions. Accordingly, the Landscape Architect cannot warrant or represent that bids or negotiated prices will vary from any statement of probable construction cost.